As filed with the U.S. Securities and Exchange Commission on September 2, 2025.

Registration No. 333-289685

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

AMENDMENT NO. 1
TO FORM S-1

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

Black Rock Coffee Bar, Inc.
(Exact name of registrant as specified in its charter)

Texas	5810	33-5053729
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code Number)	(I.R.S. Employer Identification Number)

9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260
(458) 256-9668
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Mark Davis
Chief Executive Officer
Black Rock Coffee Bar, Inc.
9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260
(458) 256-9668
(Name, address, including zip code, and telephone number, including area code, of agent for service)

Copies to:

Ian D. Schuman Stelios G. Saffos Alex K. Kassai Scott W. Westhoff Latham & Watkins LLP 1271 Avenue of the Americas New York, New York 10020 (212) 906-1200	Sam Seiberling Chief Legal Officer Black Rock Coffee Bar, Inc. 9170 E. Bahia Drive, Suite 101 Scottsdale, AZ 85260 (458) 256-9668	Robert M. Hayward, P.C. Rachel W. Sheridan, P.C. Ben Richards Kirkland & Ellis LLP 333 West Wolf Point Plaza Chicago, Illinois 60654 (312) 862-2000

Approximate date of commencement of proposed sale to the public: As soon as practicable after the effective date of this Registration Statement.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box. ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

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

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

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 7(a)(2)(B) of the Securities Act.

The Registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, or until the registration statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to said Section 8(a), may determine.

The information in this preliminary prospectus is not complete and may be changed. We may not sell these securities until the registration statement filed with the Securities and Exchange Commission is effective. This preliminary prospectus is not an offer to sell these securities and we are not soliciting offers to buy these securities in any jurisdiction where the offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED SEPTEMBER 2, 2025

14,705,882 Shares



Black Rock Coffee Bar, Inc.

Class A Common Stock

This is the initial public offering of Class A common stock of Black Rock Coffee Bar, Inc. We are offering 14,705,882 shares of Class A common stock. Prior to this offering, there has been no public market for our Class A common stock. We anticipate that the initial public offering price per share of our Class A common stock will be between $16.00 and $18.00. We have applied to list our Class A common stock on the Nasdaq Global Market ("Nasdaq") under the symbol "BRCB."

We will have three classes of common stock authorized after this offering: Class A common stock, Class B common stock and Class C common stock. Each share of our Class A common stock entitles its holder to one vote per share. Each share of our Class B common stock entitles its holder to one vote per share. Each share of our Class C common stock entitles its holder to ten votes per share. All holders of our Class A common stock, Class B common stock and Class C common stock will vote together as a single class except as otherwise required by applicable law or our amended and restated certificate of formation. Holders of Class B common stock or Class C common stock do not have any economic rights or any right to receive dividends or distributions upon the liquidation or winding up of Black Rock Coffee Bar, Inc.

This offering is being conducted through an umbrella partnership-C-corporation, or "Up-C" structure, which is often used by partnerships and limited liability companies when they decide to undertake an initial public offering. The Up-C structure will allow certain existing owners of the business to retain their equity ownership in Black Rock Coffee Holdings, LLC ("Black Rock OpCo") and to continue to realize tax benefits associated with owning interests in an entity that is treated as a partnership, or "flow-through" entity, for U.S. federal income tax purposes following the offering. Prior to the consummation of this offering, Black Rock Coffee Bar, Inc. will enter into a Tax Receivable Agreement (as defined herein) with Black Rock OpCo and certain existing owners of the business that will provide for certain cash payments to be made by Black Rock Coffee Bar, Inc. to such owners in respect of certain future tax benefits received by Black Rock Coffee Bar, Inc. utilizing cash for the benefit of such unitholders that otherwise would have been available to us for other uses and for the benefit of all of our shareholders. See "Certain Relationships and Related Party Transactions—Tax Receivable Agreement."

We will be a holding company, and upon consummation of this offering and the application of the net proceeds therefrom, our sole asset will be LLC Units of Black Rock OpCo. Black Rock Coffee Bar, Inc. will be the sole managing member of Black Rock OpCo. Upon completion of this offering, the holders of our Class A common stock will collectively own approximately 32.3% of the economic interests in Black Rock Coffee Bar, Inc. and have approximately 7.4% of the combined voting power of our Class A common stock, Class B common stock, and Class C common stock (or approximately 36.7% of the economic interest in Black Rock Coffee Bar, Inc. and have approximately 8.6% of the combined voting power of our Class A common stock, Class B common stock and Class C common stock if the underwriters exercise in full their option to purchase additional shares of Class A common stock). See "Description of Capital Stock" and "Organizational Structure."

Immediately following the consummation of this offering, our Co-Founders (as defined herein), through certain affiliates, will beneficially own approximately 85.8% of the combined voting power of our Class A common stock, Class B common stock and Class C common stock (or approximately 84.9% if the underwriters exercise in full their option to purchase additional shares of Class A common stock), which will allow our Co-Founders and certain of their affiliates to exercise control over all corporate actions requiring shareholder approval. As a result, we will be a "controlled company" within the meaning of Nasdaq corporate governance standards. See "Management—Controlled Company Exemption" and "Principal Shareholders." Immediately following the consummation of this offering, our Continuing Equity Owners (as defined herein), will beneficially own approximately 92.6% of the combined voting power of our Class A common stock, Class B common stock and Class C common stock (or approximately 91.4% if the underwriters exercise in full their option to purchase additional shares of Class A common stock).

We intend to use all of the net proceeds from this offering to purchase (i) newly issued LLC Units from Black Rock OpCo, (ii) LLC Units from our Sponsor (and retire the corresponding shares of Class B common stock) and (iii) LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B common stock). In the event the underwriters exercise their option to purchase additional shares of Class A common stock, we intend to use any proceeds from such exercise (i) to purchase LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B or Class C common stock, as applicable) and, (ii) to the extent there are remaining proceeds, to purchase newly issued LLC Units from Black Rock OpCo. The foregoing purchases of LLC Units will be at a price per unit equal to the public offering price per share of Class A common stock in this offering, less the underwriting discounts and commissions referred to below. Black Rock OpCo currently intends to use the proceeds it receives from this offering, together with proceeds from the Refinancing (as defined herein) and Co-Founder Contribution (as defined herein) (i) to repay all $113.2 million of outstanding borrowings under the Credit Facility (as defined herein), (ii) to pay estimated offering expenses of $6.5 million and,(iii) to the extent there are remaining proceeds, for general corporate purposes. See "Use of Proceeds" and "Certain Relationships and Related Party Transactions." The number of outstanding LLC Units of Black Rock OpCo will equal the aggregate number of outstanding shares of Class A common stock, Class B common stock and Class C common stock of Black Rock Coffee Bar, Inc. We will own 15,467,125 LLC Units representing an approximately 32.3% economic interest in Black Rock OpCo and we will exclusively operate and control all of the business and affairs of Black Rock OpCo and conduct our business through Black Rock OpCo and its subsidiaries. The Continuing Equity Owners will hold the remaining 32,348,485 LLC Units representing a 67.7% economic interest in Black Rock OpCo. Upon the redemption or exchange of an LLC Unit for a share of Class A common stock or cash, the corresponding share of Class B common stock or Class C common stock will be canceled.

We are an "emerging growth company" as defined under the U.S. federal securities laws and, as such, have elected to comply with certain reduced public company reporting requirements for this prospectus and may elect to do so in future filings. See "Prospectus Summary—Implications of Being an Emerging Growth Company."

Investing in our Class A common stock involves risks. See " Risk Factors" beginning on page 36 to read about factors you should consider before deciding to invest in our Class A common stock.

	Per Share	Total
Public offering price	$	$
Underwriting discounts and commissions (1)	$	$
Proceeds, before expenses, to us	$	$

(1) See "Underwriting" for a description of the compensation payable to the underwriters.

At our request, the underwriters have reserved up to 5% of the shares of Class A common stock to be issued by us and offered by this prospectus for sale, at the initial public offering price, to certain friends and family members of our Co-Founders. See "Underwriting—Directed Share Program" for additional information.

We have granted the underwriters the right to purchase up to an additional 2,205,882 shares of our Class A common stock at the initial public offering price less the underwriting discount.

Wellington Management (the "cornerstone investor") has indicated an interest in purchasing up to $30.0 million in shares of Class A common stock in this offering at the initial public offering price. The shares of Class A common stock to be purchased by the cornerstone investor will not be subject to a lock-up agreement with the underwriters. Because this indication of interest is not a binding agreement or commitment to purchase, the cornerstone investor may determine to purchase more, less or no shares in this offering or the underwriters may determine to sell more, less or no shares to the cornerstone investor. The underwriters will receive the same underwriting discounts and commissions on any of our shares of Class A common stock purchased by the cornerstone investor as they will from any other shares of Class A common stock sold to the public in this offering.

The Securities and Exchange Commission and state securities regulators have not approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.

The underwriters expect to deliver the shares against payment on , 2025.

J.P. Morgan **Jefferies** **Morgan Stanley** **Baird**

Stifel **William Blair**

Raymond James

Prospectus dated , 2025.


BLACK ROCK
COFFEE BAR™

OUR MISSION

At Black Rock Coffee Bar,
we fuel people forward –

one connection,
one moment,
one cup at a time.

BLACK ROCK COFFEE BAR











BLACK ROCK COFFEE BAR

In 2008



we started with a 160 sq ft drive-thru only coffee stand in Beaverton, Oregon.





Today we're pouring coffee and crafting memorable moments in 158 locations across 7 states. [1]

Arizona | California | Colorado | Idaho | Oregon | Texas | Washington





[1] As of June 30, 2025.







BLACK ROCK COFFEE BAR



...at the heart of our company is more than just a great cup of coffee – it's the people who bring it to life.

Because in the end, it's not just what's in the cup – it's who's behind it.

BLACK ROCK COFFEE BAR

Our Baristas Make Things Better









BLACK ROCK COFFEE BAR



Join us as we move forward...cup by cup, story by story, driven by the belief that great coffee can spark big ideas and even bigger possibilities.

BLACK ROCK COFFEE BAR















BLACK ROCK COFFEE BAR

BLACK ROCK COFFEE BAR™

STORE REVENUE [1]

$179M

LOYALTY [2]

Members 1.8M
SINCE LAUNCH IN LATE JUNE 2024

Transaction Percentage 63%

SAME STORE SALES GROWTH [3]

10.1%

TARGET CASH-ON-CASH RETURN [4]

40%

NEW UNIT RETURNS AT 18 MONTHS

AVERAGE UNIT VOLUME [5]

$1.2M

STORE COUNT [6]

158

100% CORPORATE OWNED
20% EXPECTED AVERAGE UNIT GROWTH ANNUALLY [7]

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[1] For the twelve months ended June 30, 2025. [2] As of June 30, 2025. For the three months ended June 30, 2025, 63% of all transactions were with loyalty members. [3] For the six months ended June 30, 2025. [4] Cash-on-Cash Return is calculated as trailing twelve months Store-Level Profit after the store enters the comparable store base (which occurs after month 18) divided by total investment costs (net of tenant improvement allowances). [5] For the three months ended June 30, 2025. AUV represents the total trailing twelve-month store revenue of operating stores in the comparable store base, divided by the number of stores in the comparable store base. [6] As of June 30, 2025. [7] Based on historical average annual unit growth in order to achieve 1,000 stores by 2035.

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We have not, and the underwriters have not, authorized anyone to provide you any information or to make any representations other than those contained in this prospectus or in any free writing prospectus prepared by or on behalf of us or to which we have referred you. Neither we nor the underwriters take responsibility for, or provide any assurance as to the reliability of, any other information others may give you. This prospectus is an offer to sell only the shares offered hereby, and only under circumstances and in jurisdictions where it is lawful to do so. We are not, and the underwriters are not, making an offer to sell these securities in any jurisdiction where the offer or sale is not permitted. The information contained in this prospectus is accurate only as of the date of this prospectus, regardless of the time of delivery of this prospectus or any sale of the shares of our Class A common stock. Our business, financial condition, results of operations and prospects may have changed since that date.

For investors outside the United States: We have not, and the underwriters have not, done anything that would permit this offering or the possession or distribution of this prospectus or any free writing prospectus in connection with this offering in any jurisdiction where action for that purpose is required, other than in the United States. Persons outside the United States who come into possession of this prospectus must inform themselves about, and observe any restrictions relating to, the offering of the shares of Class A common stock and the distribution of this prospectus outside the United States.

ABOUT THIS PROSPECTUS

Basis of Presentation

In connection with the consummation of this offering, we will undertake certain organizational transactions to reorganize our corporate structure. Unless otherwise stated or the context otherwise requires, all information in this prospectus reflects the consummation of the organizational transactions described in the "Organizational Structure" section of this prospectus and this offering, and the application of the proceeds therefrom, which we refer to collectively as the "Transactions." In this prospectus, unless the context otherwise requires, "Black Rock," the "Company," "our company," "we," "us" and "our" refer (i) prior to the consummation of the Transactions described under "Organizational Structure" to Black Rock Coffee Holdings, LLC ("Black Rock OpCo") and its subsidiaries and (ii) after the Transactions described under "Organizational Structure" to Black Rock Coffee Bar, Inc. and its consolidated subsidiaries.

See "Organizational Structure" for a diagram depicting our organizational structure after giving effect to the Transactions.

This prospectus includes certain historical combined and consolidated financial and other data for Black Rock OpCo. Immediately following this offering, we will be a holding company and our sole material asset will be our interest in Black Rock OpCo. We will operate and control all the business and affairs of Black Rock OpCo and conduct our business through Black Rock OpCo and its subsidiaries. Following this offering, Black Rock OpCo will be the predecessor of Black Rock Coffee Bar, Inc. for financial reporting purposes. As a result, the consolidated financial statements of Black Rock Coffee Bar, Inc. will recognize the assets and liabilities received in the reorganization at their historical carrying amounts, as reflected in the historical financial statements of Black Rock OpCo. We will consolidate Black Rock OpCo on our consolidated financial statements and record a noncontrolling interest related to the LLC Units (as defined below) held by our Continuing Equity Owners (as defined below) on our consolidated balance sheet and statements of operations.

Financial Statement Presentation

Black Rock Coffee Holdings, LLC is the accounting predecessor of Black Rock Coffee Bar, Inc. for financial reporting purposes. Black Rock Coffee Bar, Inc. will be the audited financial reporting entity following this offering. Accordingly, this prospectus contains the following historical financial statements:

- *Black Rock Coffee Bar, Inc.* Other than the inception balance sheet, dated as of May 2, 2025 and the balance sheet as of June 30, 2025, the historical financial information of Black Rock Coffee Bar, Inc. has not been included in this prospectus as it is a newly incorporated entity, and has had no business transactions or activities to date, besides our initial capitalization, the Transactions and the preparation of this prospectus and the registration statement of which this prospectus forms a part.
- *Black Rock Coffee Holdings, LLC.* Because Black Rock Coffee Bar, Inc. will have no interest in any operations other than those of Black Rock Coffee Holdings, LLC, the historical financial information included in this prospectus is that of Black Rock Coffee Holdings, LLC.
- Unaudited Pro Forma Combined and Consolidated Financial Information: This prospectus contains unaudited pro forma combined and consolidated financial information as of and for the year ended December 31, 2024 and as of and for the six months ended June 30, 2025. The unaudited pro forma combined and consolidated financial information contained in this prospectus is derived from the "Unaudited Pro Forma Combined and Consolidated Financial Information" section of this prospectus. The unaudited pro forma combined and consolidated balance sheet as of June 30, 2025 contained in this prospectus presents the consolidated financial position of Black Rock OpCo after giving effect to the Transactions as if all such transactions had occurred on June 30, 2025 and has been prepared in accordance with Article 11

of Regulation S-X. The unaudited pro forma combined and consolidated statement of operations for the year ended December 31, 2024 and for the six months ended June 30, 2025 contained in this prospectus presents the consolidated results of operations of Black Rock OpCo after giving effect to the Transactions as if all such transactions had occurred on January 1, 2024 and has been prepared in accordance with Article 11 of Regulation S-X. The unaudited pro forma combined and consolidated financial information is presented for informational purposes only and may not be indicative of the results that would have been achieved if the foregoing transactions had taken place on an earlier date or on the dates assumed. In addition, the unaudited pro forma combined and consolidated financial information does not purport to project the future financial condition and results of operations of Black Rock OpCo or Black Rock Coffee Bar, Inc. See "Unaudited Pro Forma Combined and Consolidated Financial Information" for a complete description of the adjustments and assumptions underlying the summary unaudited pro forma combined and consolidated financial data.

Certain monetary amounts, percentages, and other figures included in this prospectus have been subject to rounding adjustments. Percentage amounts included in this prospectus have not in all cases been calculated on the basis of such rounded figures, but on the basis of such amounts prior to rounding. For this reason, percentage amounts in this prospectus may vary from those obtained by performing the same calculations using the figures in our consolidated financial statements and our condensed consolidated financial statements included elsewhere in this prospectus. Certain other amounts that appear in this prospectus may not sum due to rounding.

Our fiscal year begins on January 1 and ends on December 31 of the same year.

Non-GAAP Financial Measures

In this prospectus, we use certain non-GAAP financial measures as supplemental performance measures of our business, including Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin to supplement financial information presented in accordance with generally accepted accounting principles in the United States ("GAAP"). Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin are not intended to be substitutes for any GAAP financial measures, including income from operations or net loss, and, as calculated, may not be comparable to companies in other industries or within the same industry with similarly titled measures of performance. In addition, these non-GAAP measures should not be construed as an inference that our future results will be unaffected by unusual or non-recurring items. Therefore, non-GAAP financial measures should be considered in addition to, not as a substitute for, or in isolation from, measures prepared in accordance with GAAP. For definitions of these metrics, reconciliations of these metrics to their most directly comparable GAAP financial measures and a statement of why our management believes the presentation of these metrics provides useful information to investors and any additional purposes for which management uses such metrics, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Non-GAAP Financial Measures."

Market and Industry Data

Unless otherwise indicated, market data and industry information used throughout this prospectus is based on management's knowledge of the industry and the good faith estimates of management. We also relied, to the extent available, upon management's review of independent industry surveys and publications and other publicly available information. Certain information in the text of this prospectus is contained in independent research studies:

- August 2024 White Label Strategy LLC employee study (commissioned by us) that assessed, among other things, our brand and culture. We refer to this study as the "August 2024 study" in this prospectus; and
- September 2024 White Label Strategy LLC customer study (commissioned by us) that assessed, among other things, a variety of aspects related to our business, including our brand health and

presence, customer behavior and our market positioning. This study included approximately 1,000 participants, each of whom completed a 15-minute study. We refer to this study as the "September 2024 study" or the "September 2024 White Label study" in this prospectus.

All of the market data and industry information used in this prospectus involves a number of assumptions and limitations and you are cautioned not to give undue weight to such estimates. Although we believe that these sources are reliable, neither we nor the underwriters can guarantee the accuracy or completeness of this information and neither we nor the underwriters have independently verified this information. Additionally, from time to time, these sources may change their input information or methodologies, which may change the related results. While we believe the estimated market position, market opportunity and market size information included in this prospectus is generally reliable, such information, which is derived in part from management's estimates and beliefs, is inherently uncertain and imprecise. Projections, assumptions and estimates of our future performance and the future performance of the industry in which we operate are necessarily subject to a high degree of uncertainty and risk due to a variety of factors, including those described in "Risk Factors," "Cautionary Note Regarding Forward-Looking Statements" and elsewhere in this prospectus. These and other factors could cause our results to differ materially from those expressed in our estimates and beliefs and in the estimates prepared by independent parties.

Trademarks, Trade Names and Copyrights

Black Rock Coffee Bar, FUEL YOUR STORY, logos and other trade names, trademarks or service marks of Black Rock Coffee appearing in this prospectus are the property of Black Rock OpCo. This prospectus may also contain trade names, trademarks or service marks of third parties, which are the property of their respective owners. Our use or display of third parties' trade names, trademarks or service markets in this prospectus is not intended to, and does not imply a relationship with, or endorsement or sponsorship by us. Solely for convenience, trade names, trademarks and service marks referred to in this prospectus appear without the ®, ™, and SM symbols, but those references are not intended to indicate, in any way, that we will not assert, to the fullest extent under applicable law, our rights or that the applicable owner will not assert its rights, to these trade names, trademarks and service marks.

Certain Definitions

- "Average Unit Volume" or "AUV" represents the total trailing twelve-month store revenue of operating stores in the comparable store base, divided by the number of stores in the comparable store base.
- "Basis Adjustments" means increases in Black Rock Coffee Bar, Inc.'s allocable share of the tax basis in Black Rock OpCo's assets resulting from (a) any redemptions or exchanges of LLC Units from the TRA Parties as described under "—Black Rock OpCo LLC Agreement—Agreement in effect upon consummation of the Transactions—Common unit redemption right," and (b) certain distributions (or deemed distributions) by Black Rock OpCo.
- "Black Rock," the "Company," "our company," "we," "us" and "our" means (i) prior to the consummation of the Transactions described under "Organizational Structure," Black Rock OpCo and its subsidiaries and (ii) after the Transactions described under "Organizational Structure," Black Rock Coffee Bar, Inc. and its consolidated subsidiaries.
- "Black Rock OpCo" means Black Rock Coffee Holdings, LLC, a Delaware limited liability company and, following the Transactions, a subsidiary of Black Rock Coffee Bar, Inc.
- "Black Rock OpCo LLC Agreement" means, as applicable, the Black Rock Coffee Holdings, LLC amended and restated limited liability company agreement, as currently in effect, or to the amended and restated limited liability company agreement effective prior to the consummation of this offering, and as such agreement may thereafter be amended and/or restated.

- “Blocker Companies” means entities that are owners of LLC Units in Black Rock OpCo prior to the Transactions and are taxable as corporations for U.S. federal income tax purposes.
- “Blocker Mergers” has the meaning given in “Organizational Structure.”
- “Blocker Shareholders” means the owners of the Blocker Companies prior to the Transactions, who will exchange their interests in the Blocker Companies for shares of our Class A common stock in connection with the consummation of the Transactions.
- “Cash-on-Cash Return” means trailing twelve months Store-Level Profit after the store enters the comparable store base (which occurs after month 18) divided by total investment costs (net of tenant improvement allowances).
- “Class A common stock” means Class A common stock, par value $0.00001 per share, of Black Rock Coffee Bar, Inc.
- “Class B common stock” means Class B common stock, par value $0.00001 per share, of Black Rock Coffee Bar, Inc.
- “Class C common stock” means Class C common stock, par value $0.00001 per share, of Black Rock Coffee Bar, Inc.
- “Code” means the Internal Revenue Code of 1986, as amended.
- “Co-Founders” means, collectively, Daniel Brand, Jeff Hernandez, Jake Spellmeyer and Bryan Pereboom.
- “Comparable store base” means stores open for 18 months or longer as of the specified date. As of December 31, 2024 and 2023, there were 115 stores and 94 stores, respectively, in our comparable store base.
- “Continuing Equity Owners” means, collectively, the owners of LLC Units in Black Rock OpCo immediately prior to the consummation of the Transactions (excluding the Blocker Companies), which will also be holders of LLC Units and our Class B common stock or Class C common stock immediately following consummation of the Transactions, including our Co-Founders and certain of their affiliates, that may, following the consummation of this offering, exchange at each of their respective options, in whole or in part from time to time, their LLC Units for, at our election (determined solely by our independent directors (within the meaning of Nasdaq rules) who are disinterested), cash or newly issued shares of our Class A common stock as described in “Certain Relationships and Related Party Transactions—Black Rock OpCo LLC Agreement—Agreement in effect upon consummation of the Transactions.” In connection with an exchange of LLC Units, a corresponding number of shares of Class B common stock or Class C common stock, as applicable, shall be immediately and automatically transferred to Black Rock Coffee Bar, Inc. for no consideration and canceled.
- “Credit Facility” means the term loan credit facilities governed by that certain Credit Agreement, dated as of April 29, 2022 (as amended by that certain first amendment to the Credit Agreement, dated of November 11, 2022, as further amended by that certain second amendment to the Credit Agreement, dated as of January 13, 2023, as further amended by that certain third amendment to the Credit Agreement, dated as of May 8, 2023, as further amended by that certain fourth amendment and limited waiver to the Credit Agreement, dated as of May 31, 2024, as further amended by that certain fifth amendment to Credit Agreement, dated as of April 24, 2025, and as further amended, amended and restated, extended, supplemented or otherwise modified in writing from time to time), by and among the Company, the guarantors party thereto, the lenders party thereto, RCS Agent, LLC, as administrative agent, and TCW Asset Management Company, LLC, as collateral agent.

- “Cynosure Nominee” means the director designated by our Sponsor pursuant to the terms and conditions set forth in our amended and restated certificate of formation.
- “LLC Units” means the membership units of Black Rock OpCo, including those that we purchase with the net proceeds from this offering.
- “Sponsor” means The Cynosure Group, LLC and its affiliates.
- “Store revenue” means all revenue attributable to our stores in the specified period.
- “Tax Receivable Agreement” means the tax receivable agreement entered into with Black Rock OpCo and the TRA Parties.
- “TRA Parties” refers to, collectively, our Co-Founders and certain of their affiliates, including Viking Cake, our Sponsor, all of our executive officers and Richard Federico and Sarah Goldsmith-Grover, each a director, and any future party to the Tax Receivable Agreement.
- “TRA Representative” means one representative from each of the following groups, provided that if any such group fails to hold any rights under the Tax Receivable Agreement, no representative shall be included from such group, (i) the Co-Founders and certain of their affiliated entities, (ii) the Sponsor, and (iii) all TRA Parties (other than the Co-Founders and the Sponsor); provided, that the representative for the group described in clause (iii) is our Chief Executive Officer (or his or her designee).
- “Transactions” has the meaning given in “About This Prospectus.”
- “Viking Cake” means Viking Cake BR, LLC, an entity controlled by our Co-Founders.

A LETTER FROM OUR CO-FOUNDERS

To our Shareholders,

Our journey began in a 160 sq. ft. drive-thru-only coffee stand in Beaverton, Oregon, with a dream to build something meaningful, magnetic and enduring. More than just coffee, Black Rock was a platform to live out our passion—fueling people's stories through Connection, Caffeine, and Community.

Founded by a group of family members with deep roots in coffee, restaurants, and service, we set out with the mission to brighten up the grey mornings of the Pacific Northwest and build long-lasting relationships with our guests using a cup of coffee as the bridge. With each cup came a smile, a story, and a chance to connect at a deeper level.

Our company was built on a shared belief in people-first values and it didn't take long to realize that what we had created would grow far beyond our original vision. Over the years, each new member that joined the Black Rock family made us stronger, bringing their own energy to our culture while authentically living out our four G's: Grit, Growth, Gratitude, and Grace. These values color everything we do—from the Grit it takes to get up at 3:00 in the morning so that the lights are on for that first customer, to the Growth mindset that drives us to the next operational milestone. We count our blessings each day with Gratitude and with Grace, and we serve and give back to our communities with our life-changing initiatives such as our giveback days for guests and team members in need.

From the Pacific Northwest to the great state of Texas, we've stayed true to our foundation: outworking everyone and having more fun doing it. This mindset has fueled our expansion, driving operational excellence through technology, innovation, and systemization, while always balancing those pursuits with empathy and care for our teams and guests. In every interaction, we double down on the connections between people, knowing that in the end, it's connection that matters the most. What started as a simple way to make a living for our families has grown into something far more powerful: a people-driven legacy spanning multiple states, hundreds of communities, and thousands of lives touched.

To witness how our vision has evolved and how the seeds we've planted have grown into something so meaningful is humbling and deeply inspiring. What began as a single coffee stand has become a thriving community, a force for good, and a culture driven by purpose. We are incredibly proud of what we've built and even more excited for what's ahead.

At Black Rock, we fuel stories—and that story is just getting started. The future is bright!

Daniel Brand

Jeff Hernandez

Jake Spellmeyer

Bryan Pereboom

PROSPECTUS SUMMARY

This summary highlights information contained elsewhere in this prospectus. This summary may not contain all of the information that you should consider before deciding to invest in our Class A common stock. You should read this entire prospectus carefully, including "Risk Factors," "Special Note Regarding Forward-Looking Statements," "Management's Discussion and Analysis of Financial Condition and Results of Operations," and "Business," and our consolidated financial statements and our condensed consolidated financial statements and the related notes included elsewhere in this prospectus before making an investment decision. Unless otherwise indicated, references to our "common stock" include our Class A common stock, Class B common stock, and Class C common stock.

Our Company

Our Mission: To Fuel People Forward – One Connection, One Moment, One Cup at a Time

We are a high-growth operator of guest-centric, drive-thru coffee bars offering premium caffeinated beverages and an elevated in-store experience crafted by our engaging baristas. Black Rock Coffee Bar was founded in 2008 in Beaverton, Oregon, by our co-founders Daniel Brand and Jeff Hernandez. What started as a single 160 square foot coffee bar in 2008 is now one of the fastest growing beverage companies in the United States by revenue and the largest fully company-owned coffee retailer in the country, with 158 locations spanning seven states as of June 30, 2025, from the Pacific Northwest to Texas.

We were founded as a drive-thru only concept and evolved to include engaging seating areas, which we call "lobbies." All of our locations include efficient drive-thrus and approximately 75% of our locations include lobbies as of June 30, 2025. We expect most of our new locations to include both drive-thrus and lobbies as we continue to grow. Our modern, inviting store formats—paired with a robust digital platform—allow us to deliver a dynamic and multi-faceted guest experience.

Driven by a passion for Connection, Caffeine, and Community, Black Rock is a platform to do well by our baristas, guests, and the communities we serve. With a relentless focus on people and excellence, our culture has been key to our success.

Connection

We are a people first organization and we win with authentic connections. Our success is fueled by the personal connections between our store teams and our diverse range of guests that are cultivated while serving premium, caffeinated beverages with speed and consistency. These daily interactions, whether over a drink hand-off at a drive-thru window or a longer visit in one of our inviting lobbies, create "moments that matter" with our guests. Our exceptional guest satisfaction score, according to the September 2024 study, confirms our ability to consistently deliver on our brand promise while creating meaningful connections.

We invest in making meaningful internal connections with our team members through a combination of extensive on-the-job training and career advancement opportunities. Black Rock offers more than a job—it is a platform for long-term development. Providing our team members with the tools and opportunities to advance fuels a more engaged, high-performing workforce. This commitment to professional growth leads to stronger guest relationships, excellent retention, and lasting brand loyalty.

Caffeine

Our approach to coffee and handcrafted beverages reflects the same attention to detail and care that we show every guest. Our team members are passionate about delivering high-quality, premium coffee and caffeinated beverages. That commitment starts with our exclusive use of premium beans that we roast in small batches in one of our two roasting facilities, promoting consistency, flavor integrity, and freshness. Coffee beans are delivered to our stores weekly and consumed within 14 days of roasting to maintain

optimal taste and quality. We offer a broad range of premium coffee beverages, from our deliciously refreshing Nitro Cold Brew to our unapologetically indulgent Caramel Blondie. We also offer competitively priced, premium classics, including the Americano and customizable Lattes, providing a high perceived value offering to our guests. The breadth and flexibility of our menu supports long-term guest engagement, allowing individuals to evolve their drink choices over time without compromising on quality. This consistency strengthens brand trust and enhances overall guest experience.

Our proprietary Iced and Frozen Fuel energy drinks further broaden our appeal, offering a customizable, flavor-forward option that resonates with a wide demographic. With a simplified menu and a wide variety of flavor combinations, Fuel provides an energizing and refreshing alternative that is suitable any time of day. Fuel showcases our ability to innovate while aligning with guest demand for bold, flexible options. Fuel has quickly grown into a popular product category, helping drive increased transaction volume and guest frequency.

Community

At Black Rock, we build genuine connections with our guests, support their daily lives, and foster a sense of community. These relationships—formed through shared moments and premium beverages—enable us to create a highly engaged guest base. Many of our guests refer to our stores as “my Black Rock,” reflecting a sense of ownership and belonging that is uncommon in our category.

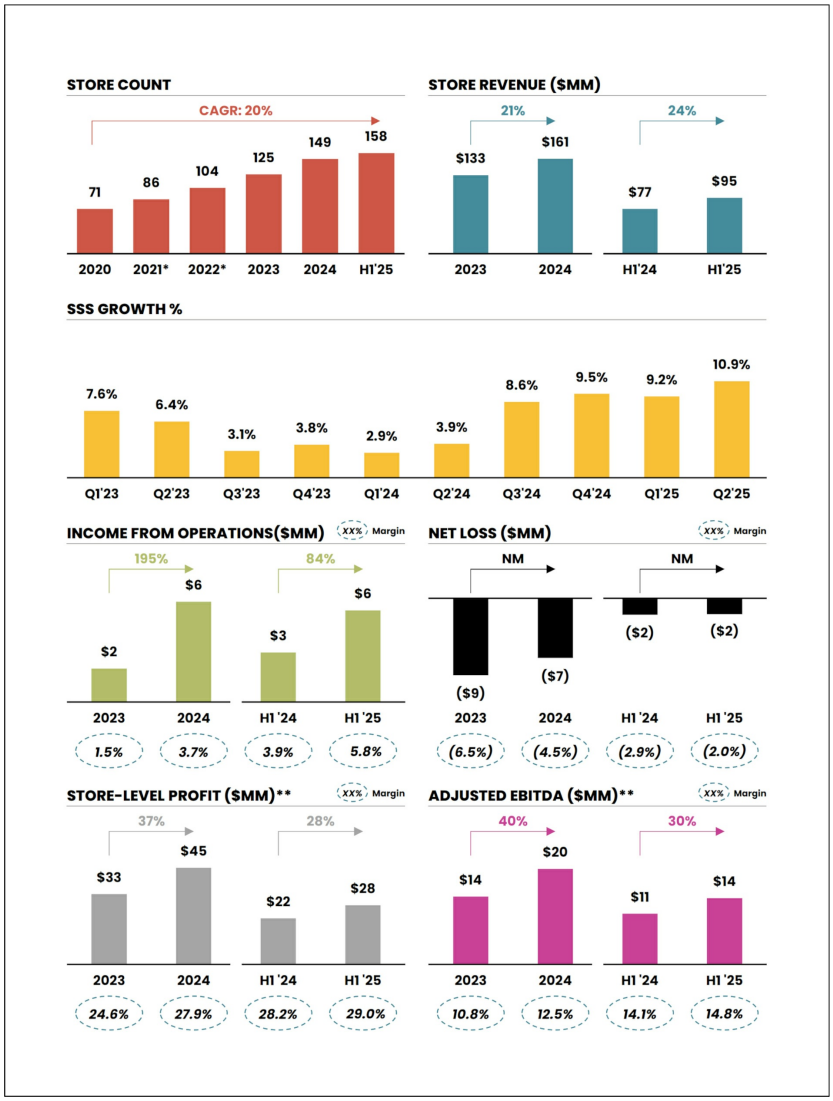
Our modern, purposefully designed stores serve as welcoming hubs where people come together. This environment is powered by our baristas, whose friendly, attentive service ensures guests feel recognized, welcomed and respected. Whether hosting a business meeting, a study group, a casual catch-up, or a first date, our locations offer a space where people connect and return regularly.

As we expand into new and existing markets, our emphasis on building strong local ties remains central to our growth strategy. Our consistent, people-first approach helps ensure that each Black Rock location continues to function not just as a coffee bar, but as a trusted part of the communities we serve.

Rapid Growth

We have delivered strong performance by staying true to our core pillars: Connection, Caffeine, and Community. These values continue to guide our strategy and contribute to our ongoing momentum. As we scale our business, each new unit brings new, local baristas into the Black Rock family—deepening our connection with guests and fueling their daily routines. Our continued investment in people, infrastructure, and a distinctive guest experience supports sustained growth and operational excellence.

These results demonstrate the strength and consistency of our model and highlight our genuine connection to our guests across diverse markets.


STORE COUNT
CAGR: 20%
71
86
104
125
149
158
2020
2021*
2022*
2023
2024
H1'25
STORE REVENUE ($MM)
21%
24%
$133
$161
$77
$95
2023
2024
H1'24
H1'25
SSS GROWTH %
7.6%
6.4%
3.1%
3.8%
2.9%
3.9%
8.6%
9.5%
9.2%
10.9%
Q1'23
Q2'23
Q3'23
Q4'23
Q1'24
Q2'24
Q3'24
Q4'24
Q1'25
Q2'25
INCOME FROM OPERATIONS($MM)
XX% Margin
195%
84%
$2
$6
$3
$6
2023
2024
H1 '24
H1 '25
1.5%
3.7%
3.9%
5.8%
NET LOSS ($MM)
XX% Margin
NM
NM
($9)
($7)
($2)
($2)
2023
2024
H1 '24
H1 '25
(6.5%)
(4.5%)
(2.9%)
(2.0%)
STORE-LEVEL PROFIT ($MM)**
XX% Margin
37%
28%
$33
$45
$22
$28
2023
2024
H1 '24
H1 '25
24.6%
27.9%
28.2%
29.0%
ADJUSTED EBITDA ($MM)**
XX% Margin
40%
30%
$14
$20
$11
$14
2023
2024
H1 '24
H1 '25
10.8%
12.5%
14.1%
14.8%

(*) Excludes 14 Roasters locations that were divested in May 2023 (see Note 5 to our audited consolidated financial statements included elsewhere in this prospectus).
(**) For more information, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Non-GAAP Financial Measures" for definitions of each non-GAAP metric and a discussion of Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin and reconciliation of each measure to its respective most directly comparable GAAP measure.

How We Fuel Our Story

At Black Rock, our growth is driven by a clear and consistent focus: creating authentic connections between baristas and guests, delivered through premium caffeinated beverages in modern, welcoming environments. These results validate the strength of our differentiated positioning and indicate significant room for continued growth across both new and existing markets. Everything we do is rooted in our commitment to Connection, Caffeine, and Community, which collectively define our differentiated guest experience.

People First Culture

Our people are our foundation. As we have scaled, we have intentionally built a culture that stands apart from "corporate coffee"—where service often takes a backseat to transactions. Instead, we invest in hiring and developing exceptional individuals who deliver memorable experiences. We operate with a merit-based approach that values performance, hard work, and advancement. By taking care of our team, we foster a culture that translates directly into consistent, high-quality guest interactions.





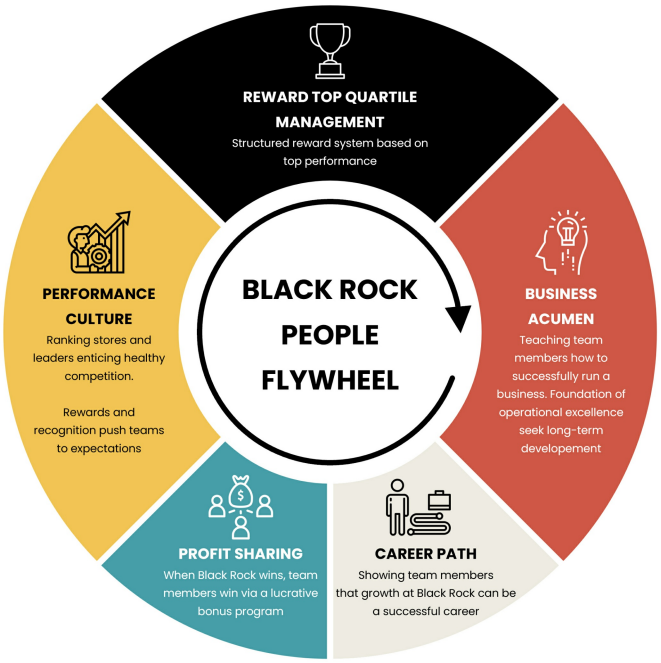




At the foundation of our People First Flywheel, we teach our store leaders "Business Acumen," equipping them with the skills to understand, manage, and grow their store's performance. As team members demonstrate business acumen across defined performance metrics, they can advance rapidly through our internal Career Path pipeline—from Barista to Shift Lead, Assistant Store Lead, Store Lead, and then to Multi-Store Lead.

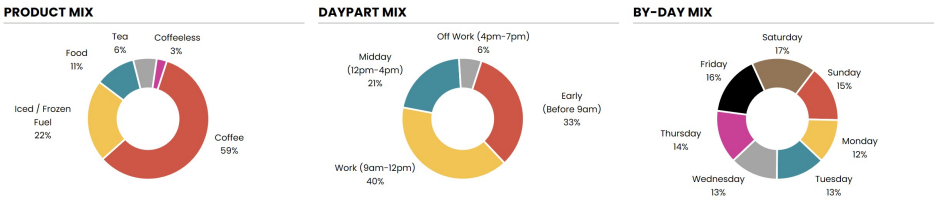
Above the store level, high-performing leaders may progress into senior management roles such as Area Manager and then to Director of Operations, overseeing between 20 and 55 stores. From the Assistant Store Lead level onward, team members are eligible for Profit Sharing, creating alignment between their personal growth and company success. The metrics for Profit Sharing eligibility, along with transparent store ranking and healthy, objective internal competition, yields a dynamic Performance Culture that is ultimately recognized, rewarded and celebrated by exclusive invitations into the Top Quartile Meeting for the top performing 25% individuals at each operational level.

This disciplined approach to team development has fueled our strong retention and allowed our best operators to lead new markets as we grow. By continuously investing in our people and preparing them for larger roles, we focus on ensuring our culture scales with our footprint.



Fueling Your Day

Our thoughtfully curated, highly customizable menu plays a key role in engaging our guests and driving sales across all day parts and occasions.



Based on store revenue for the year ended December 31, 2024.

Our beverage platform is designed to balance approachability with personalization—allowing guests to tailor their drinks based on espresso strength, sweetness level, color, flavor additions, and toppings. This flexibility enables us to serve a wide range of preferences while maintaining operational simplicity, allowing baristas to focus on connection and consistency.





We are now crafting our seasonal drinks to align more closely with the experiences and moods our guests are naturally embracing during each promotional period. For instance, our current Camp Black Rock campaign taps into the nostalgia of summer. Additionally, we have started developing exclusive recipes with limited-time flavors and toppings that are not available year-round, encouraging guests to visit more frequently. By leveraging these offerings and staying in tune with guest preferences, we are seeing our Camp Black Rock campaign outperform previous campaigns we held during the spring and summer promotional periods of 2024 and 2025.

We recognize that the energy category continues to present significant growth opportunities for us, which resulted in the introduction of Fuel, our proprietary energy drink developed in-house. Fuel has quickly become a major growth driver, boosted by the integration of Frozen Fuel, growing the Fuel category to 23.8% of store revenue for the six months ended June 30, 2025. This new offering provides our guests with a refreshing, frozen version of our popular Iced Fuel energy drink, perfect for those warm days when they're looking for something cool and energizing. Frozen Fuel gives guests a new way to enjoy the energizing benefits of our Fuel drink, blending the familiar with a fun, icy twist. These unique offerings differentiate us from competitors, create incremental occasions for visits, and appeal to a broad demographic—especially younger guests who are introduced to our brand through these beverages. As guest preferences evolve, our classic coffee offerings are available to meet these new preferences, which allows us to retain guest loyalty thanks to the consistent quality and guest experience. By expanding our energy drink options in this way, we are tapping into the growing demand of our guests, while continuing to innovate in a space that holds strong growth potential.



In addition to beverages, our "All-Day Breakfast" platform supports traffic and check growth by providing convenient, high-quality food options that complement any order. This includes a variety of savory and sweet items such as breakfast burritos, sausage cheddar sandwiches, banana bread, and glazed donut holes. We also tailor parts of our menu to reflect regional tastes and showcase local favorites. We expect to introduce egg bites in the near future. We recognize that our guests desire a savory, protein-packed snack, and we are excited to offer something that fits those cravings. We will continue to explore and innovate new menu items to stay ahead of guest preferences and deliver on their evolving food needs.

Our well-rounded, premium menu offering enhances the guest experience, increases transaction frequency, and contributes meaningfully to AUV. By maintaining both quality and speed of service, we are able to capture more occasions throughout the day and sustain strong guest engagement.

Flexible Format of Store Models Meets Guests Where They Are

We lead with drive-thru-first convenience, complemented by modern and inviting lobbies—ensuring we meet the needs of our guests for every occasion. As of June 30, 2025, all 158 stores had drive-thrus, and 118 included lobby spaces.

We deliver an exceptional guest experience by seamlessly blending speed with personal connection. Our drive-thrus allow guests to enjoy their favorite hand-crafted beverages and food on the go within a target ninety second order to delivery window. Our welcoming lobbies are the perfect place to hang out, unwind, or kick back with your favorite drinks and good vibes. This dual-format model differentiates us, serving guests wherever they are between convenience and connection. While our strategy is flexible, we expect to predominantly develop drive-thru stores that include lobbies.



(1) Based on store revenue for the six months ended June 30, 2025 for stores that contain a lobby and drive-thru; excludes all third-party digital transactions.
(2) For the three months ended June 30, 2025.

We are relentlessly focused on guest convenience and speed. This speed drives throughput, convenience, guest loyalty, and repeat business without compromising on quality.

Drive-thru

Our drive-thru experience is purpose-built for speed, ease, and elevated convenience. Designed to meet guests in their daily routines, many of our locations feature speaker boxes and dynamic line-busting solutions—like baristas who greet guests at their vehicles with tablets in hand to keep lines moving.

Backed by our team's deep operational expertise and commitment to service, we deliver fast, seamless experiences without compromise.

We paired our dual-lane drive-thru format with an optimized site plan and a high-efficiency dual-bar layout—together capable of supporting annual volumes exceeding $3 million at a single store. It is convenience, designed for today's guest.

Lobby

Our lobbies are designed to feel like more than a waiting area—they are a place to settle in, catch up with friends, or just enjoy a quiet moment with a great drink and a bite to eat. With comfortable seating, energetic music, and brand-forward design, our spaces reflect the heart and personality of Black Rock. Lobbies also provide our teams more opportunities to connect with guests face-to-face, bringing our core values—Connection, Caffeine, and Community—to life in small but meaningful ways. Whether for hosting a business meeting, a study group, a casual catch-up, or a first date, these spaces are built to welcome everyone. By combining great products with an atmosphere that feels good to spend time in, we deepen loyalty and create spaces people want to return to.

Digital

We have built digital tools with the same mindset we bring to our stores: make it easier, make it personal, and make it meaningful. Features like exclusive offers, order-ahead, and seamless checkout allow guests to get what they need—quickly and on their terms—while giving our baristas more space to focus on connection.

Recently added digital capabilities have allowed us to move faster during peak times and support our teams behind the bar. For the three months ended June 30, 2025, digital made up 15% of store revenue, and our mobile application currently has more than 780,000 downloads since launch.

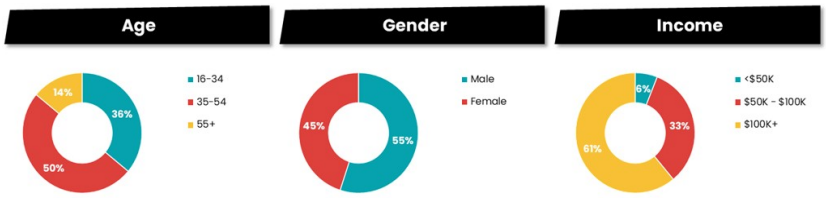
In June 2024 we launched our digital loyalty program, which has been a powerful tool for connection and retention. As of June 30, 2025, we had more than 1.8 million loyalty members, with loyalty members making up 64% of all transactions and spending more per order than non-loyalty guests.

Engaged Guest Community

With a team-first culture, an accessible menu, and stores designed for comfort and speed, we have built a community of guests who truly engage with the brand. The September 2024 study found that 67% of loyalty members consider coffee a daily ritual—showing just how integral we are to their everyday lives. Whether at the drive-thru, in the lobby, or on our app, we focus on showing up for people in an authentic way that centers around meaningful connection.

Our loyalty program helps reinforce that connection as members exhibit increased visit frequency and larger check sizes which demonstrate a stronger connection with our brand and products. These guests are not just customers—they are our advocates.

Our guest base is wide-ranging in age, income, and lifestyle, and that diversity reflects our broad menu appeal. We connect especially well with younger audiences, which puts us in a strong position to grow while continuing to serve a multi-generational community.



Source: September 2024 White Label study.

Seasoned, Founder-Backed Leadership and Management Team Driving Results

Our culture—grounded in Connection, Caffeine, and Community—has been deeply shaped by the hands-on leadership of our founders. Since launching in 2008 with a 160 square foot coffee bar in Beaverton, Oregon, Daniel Brand and Jeff Hernandez have built a purpose-driven business that today spans 158 stores across seven states. Their vision and values remain central to how we grow and operate.

In 2018, partners Jake Spellmeyer and Bryan Pereboom joined the leadership team, helping to scale our brand while ensuring the guest experience remained personal and community-driven. Together with our more than 2,400 team members as of June 30, 2025, we remain committed to delivering moments that matter—fueling the stories of our guests through meaningful daily interactions.

Our founders have also built a strong leadership team of experienced operators to support the next phase of growth, including:

- *Mark Davis*, our Chief Executive Officer, has more than 32 years of experience in foodservice and was the Vice President of Operations at Panera during their rapid phase of growth.
- *Rodd Booth*, our Chief Financial Officer, brings more than 16 years of financial management experience serving most recently as a Senior Manager and Audit Practice Leader at Aldrich Advisors after starting his career at Grant Thornton.
- *Jessica Wegener-Beyer*, our Chief Marketing Officer, who previously served as the Senior Director of Digital Marketing & Consumer Insights at True Food Kitchen, leverages 17 years of digital marketing experience.
- *Clay Geyer*, our Chief Operating Officer, brings over 13 years of operations experience in the coffee industry.
- *Robert Kaufmann*, our Chief Development Officer, contributes 11 years of experience in development leadership.

This combination of founder-led passion and deep operational expertise positions us for continued success as we scale while staying true to our values.

Market Opportunity

Our model—centered around premium beverages, energizing food options, and a people-first culture—uniquely positions us to win across both the coffee and limited-service restaurant categories.

According to Technomic, the U.S. retail coffee market grew at an annual rate of 7% from 2019 to 2024, reaching $56 billion. With 66% of Americans drinking coffee daily according to the Spring 2025 National Coffee Data Trends report, the demand for premium, convenient offerings continues to rise.

In parallel, we compete in the limited-service restaurant category, which grew at an annual rate of 6% from 2019 to 2024, according to Technomic, reaching $396 billion and in the large and expanding energy drink category, thanks to our all-day breakfast menu and proprietary Fuel energy drinks. We believe there is no other brand offering the same blend of fast, friendly service, elevated beverage and food quality, and welcoming lobbies—a combination that allows us to stand out and drive continued share gains.

As we grow, so does our opportunity to expand our markets and serve more guests with an experience that feels fresh, energizing, and personal.

Exceptional Unit Economics with Proven Portability Drive Financial Performance

Exceptional Unit Economics

Our commitment to a guest-centric experience—anchored in human connection and operational excellence—has created a unit economic model that is both efficient and resilient. Our stores deliver strong AUVs, attractive store-level profit margins, and compelling Cash-on-Cash Return.

Our average annual store count has grown at approximately 20% since 2020 and we have also grown AUVs through consistent same store sales increases. This growth reflects our ability to scale while continuing to meet guest expectations around product quality, speed, and service.

With a capital efficient model and experienced store leaders, our new store opening processes are streamlined, predictable and allow for strong margins. As we continue to refine our site selection and operating model, we expect to drive further AUV growth and margin expansion across both new and existing locations.

For the six months ended June 30, 2025, we achieved an AUV of $1.2 million, and average store-level profit margins of 29%. These results highlight the strength and scalability of our model.

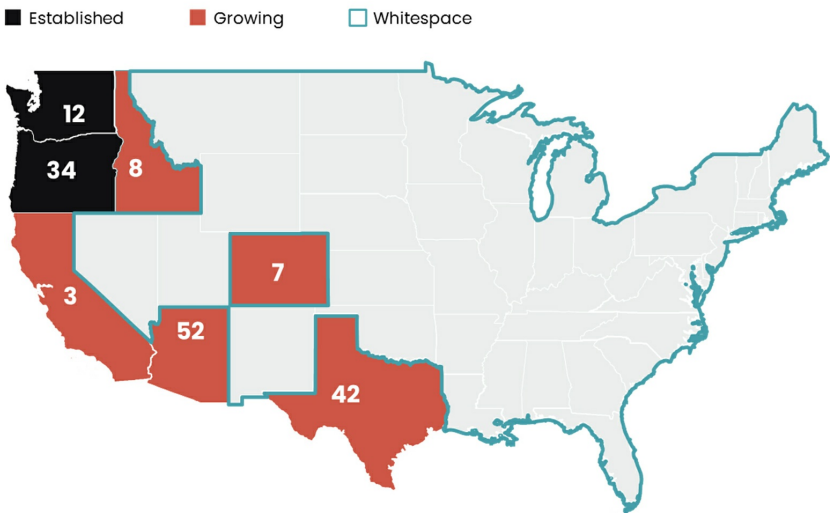
Target Average New Unit Economics at 18 months ($ in millions)		
AUV[(1)]	$	1.1
Store-Level Profit Margin[(2)]		22%
Net Capital Expenditures per Unit	$	0.6
Cash-on-Cash Return[(3)]		40%

(1) AUV represents the total trailing twelve-month store revenue of operating stores in the comparable store base, divided by the number of stores in the comparable store base.
(2) Store-Level Profit Margin represents Store-Level Profit as a percentage of store revenue.
(3) Cash-on-Cash Return is calculated as trailing twelve months Store-Level Profit after the store enters the comparable store base (which occurs after month 18) divided by total investment costs (net of tenant improvement allowances).

Proven Portability

With stores in seven states, we have demonstrated that our model performs well across a wide range of markets. Our brand translates well across geographies, thanks to its broad appeal, flexible formats, and focus on guest experience.

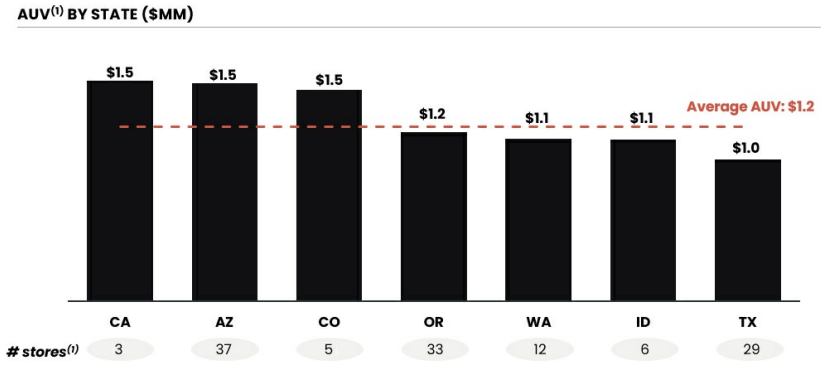
PROVEN PORTABILITY[1]



As of June 30, 2025.

Our volumes and profitability yield attractive returns across our existing markets, and our Same Store Sales Growth is generated by both new openings and seasoned stores. We expect our brand awareness will continue to increase as we densify markets. When coupled with our strategies around menu

innovation, digital, and loyalty, we believe that increased brand awareness will drive sustained Same Store Sales Growth and higher AUVs.



(1) Includes stores that have been open for 18 months or longer as of June 30, 2025.

Strategies for Continued Growth

Expanding Our Store Footprint in New and Existing Markets

We are in the early stages of our long-term growth journey, with significant whitespace in both existing and new markets. We have a robust pipeline for development to support future anticipated growth. In the near term, we expect to open approximately 30 stores in 2025 and expect our future average annual store growth to be consistent with our approximately 20% historical average annual store growth from 2020 through 2024. We believe that we can achieve 1,000 stores by 2035, with ample whitespace in our existing markets to support this growth. We expect to favor growth in markets where we currently have a presence while also taking a disciplined and methodical approach to enter new markets where we anticipate successful expansion to achieve our growth goals.

Existing Markets

Our positive momentum and success of new openings confirms the significant demand for new Black Rock stores. We will focus our growth in existing markets where we believe there is an opportunity to increase density with minimal sales transfer. We also believe there is upside in our brand awareness that will enable further growth of our AUVs in these markets. In addition, we intend to continue growing in our more established markets like Oregon and Washington and will responsibly build stores in additional cities within our existing states as we see opportunity to do so.

New Markets

We have achieved success and demonstrated portability across seven states as of June 30, 2025. Our whitespace opportunity extends beyond these existing markets. We have the brand strength, offering, portable unit economics, people, culture, and infrastructure to support our long-term expansion across the country. Our momentum gives us confidence. For example, in Phoenix, we scaled from two stores in 2017 to 41 by the end of 2024, growing sales from $2 million to $56 million, while growing AUVs from $1.1 million to $1.5 million, as well as improving margins and brand awareness over that same period. We have also opened another three stores in Phoenix during the first half of 2025.

Continuous Menu Innovation

Menu innovation is core to our brand. We regularly develop new offerings in partnership with our team and community in an effort to ensure our menu is relevant and exciting. Each seasonal marketing window provides an innovative coffee-based offering that highlights our commitment to our coffee forward culture.



For the year ended December 31, 2024 and the six months ended June 30, 2025, our Fuel and Frozen Fuel energy drinks accounted for approximately 22% and 24% of our total revenue, respectively. Iced Fuel is available in Original, Organic, and Sugar-Free varieties, each providing a refreshing boost. For those seeking a cooler option, our Frozen Fuel delivers a revitalizing experience. Guests can further personalize their drinks from a selection of 33 flavors with dozens of flavor combinations as well as add-ons like Dried Fruit and Make it Sour, further enhancing their Fuel experience.



Building Loyalty Through Our Differentiated Tech-Enabled Approach

We continue to invest in technology that supports human connection. Our mobile application and loyalty program streamline service while enabling personalized marketing and data-driven insights.

- **Digital** – At 15% of store revenue for the three months ended June 30, 2025, our digital strategy is still in its early stages. Mobile orders reduce wait times, increase throughput, and showcase trending items in-store and in-app.
- **Loyalty** – Since launching in June 2024, we have gained more than 1.8 million loyalty members and seen guests visit 129% more often following their enrollment into our loyalty program (based on a review of the transaction history of approximately 1,200 loyalty members in the 90 days before and after joining the loyalty program). This behavior drives higher frequency and larger check sizes.

By building digital tools that serve—not replace—human interaction, we are strengthening the bond between guests and our brand. In addition to our investments into in-store technology, we also utilize third-party delivery to serve our guests off-premises. Third-party delivery comprised 8.6% of store revenue for the six months ended June 30, 2025.

Fueling Brand Growth

Every new Black Rock location deepens brand visibility and introduces more guests to our *Fuel Your Story* philosophy. Our consistent, friendly barista interactions, premium beverages, and fast service turn each store into a medium for future connections.

To support growth, we invest in marketing strategies that drive awareness and connection:

- **Local Community Engagement** – As we expand, we tailor outreach efforts to local markets. Our baristas actively engage in their communities, helping to build trust and familiarity. In 2025, we have provided support to over 200 local businesses and high schools through donations, including gift cards and drinks, continuing our commitment to strengthening the communities we serve.
- **Growing Our Social Community** – Our enthusiastic, growing fan base engages with Black Rock across social channels, and we meet them with timely content, branded moments, and community storytelling.
- **Exclusive Products** – Our in-house Fuel line and other branded items, such as our K-Cup pods, custom blend roasted beans, and cold brew bags offer powerful brand touchpoints. This keeps Black Rock top of mind whether guests are in-store or on the go.



Leverage Infrastructure

Our investments in people, facilities, and technology have built a strong foundation for scalable growth.

- **People-First Organization** – With strong internal promotion practices and new key hires across functions, we are building a leadership bench ready to support expansion. Our team-first culture keeps us aligned as we grow.
- **Roasting Facilities** – Our two roasting centers ensure freshness, consistency, and capacity to support national growth.
- **Supply Chain** – A robust distribution network supports multi-state operations and helps us deliver high-quality products at scale.
- **Technology Infrastructure** – We have built an integrated digital platform that supports everything from inventory control to real-time sales tracking and predictive scheduling. These systems help to reduce waste, control prime costs, and streamline daily operations.
- **Product Innovation** – Our exclusive Fuel energy drinks were developed in-house, allowing us to capture greater margins and offer unique products that differentiate us in the market.

Concurrent Refinancing

Concurrently with, and conditioned upon, the closing of this offering, we intend to refinance our existing Credit Facility and enter into new credit facilities in an aggregate principal amount of $75.0 million, consisting of (i) a term loan in an aggregate principal amount of $50.0 million (the "New Term Loan"), and (ii) a $25.0 million revolving credit facility (the "New Revolving Credit Facility," and together with the New Term Loan, the "New Credit Facilities"). Black Rock OpCo intends to use the net proceeds of the New Term Loan, together with a portion of the net proceeds it receives from this offering, to repay all amounts outstanding under our existing Credit Facility. These transactions are collectively referred to herein as the Refinancing. As of June 30, 2025, there was $108.2 million in aggregate outstanding principal balance under our existing Credit Facility. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources."

Summary Risk Factors

Our business is subject to a number of risks of which you should be aware before making a decision to invest in our Class A common stock. These risks are more fully described in "Risk Factors" immediately following this prospectus summary. These risks include, among others, the following:

- our history of losses and achieving or maintaining profitability in the future;
- evolving consumer preferences and tastes or changes in consumer spending;
- our ability to compete with other coffee stores, quick service restaurants and convenience stores;
- our ability to successfully open new stores or establish new markets while managing our growth effectively and maintaining our culture;
- the risks associated with our marketing programs;
- the impact of food safety issues and food-borne illness concerns;
- the risks associated with damage to our brand or reputation;
- the risks associated with the interruption of our supply chain;
- the risks associated with leasing property;
- the risks associated with the geographical concentration of our stores;

- the impact of increases in labor costs, labor shortages, and our ability to identify, recruit and retain qualified individuals;
- the impact of failures, outages, or sub-standard performance of our information technology systems;
- the impact of cybersecurity breaches and incidents;
- the risks associated with our ability to protect our intellectual property;
- no market currently exists for our Class A common stock, and an active, liquid trading market for our Class A common stock may not develop, which may cause our Class A common stock to trade at a discount from the initial offering price and make it difficult for you to sell the Class A common stock you purchase;
- we cannot predict the effect our multi class structure may have on the market price of our Class A common stock;
- the Tax Receivable Agreement requires us to make cash payments to the TRA Parties in respect of certain tax benefits to which we may become entitled, and we expect that such payments will be substantial;
- our organizational structure, including the Tax Receivable Agreement, confers certain benefits upon the Continuing Equity Owners that will not benefit holders of our Class A common stock to the same extent that it will benefit the Continuing Equity Owners;
- the significant influence our Co-Founders will have over us after the Transactions, including control over decisions that require the approval of shareholders;
- the impact of general market, economic or political conditions; and
- the other factors discussed under “Risk Factors.”

Organizational Structure

In connection with the closing of this offering, we will undertake certain organizational transactions subsequent to which we will conduct our business through what is commonly referred to as an “Up-C” structure, which is often used by partnerships and limited liability companies when they decide to undertake an initial public offering. Unless otherwise stated or the context otherwise requires, all information in this prospectus reflects the consummation of the Transactions.

Following the consummation of the Transactions (as more fully described under “Organizational Structure”), we will be a holding company. Our sole material asset will be our equity interest in Black Rock OpCo, which, through its direct and indirect subsidiaries, conducts all of our operations. Because Black Rock Coffee Bar, Inc. will be the sole managing member of Black Rock OpCo, we will indirectly operate and control all of the business and affairs (and will consolidate the financial results) of Black Rock OpCo and its subsidiaries.

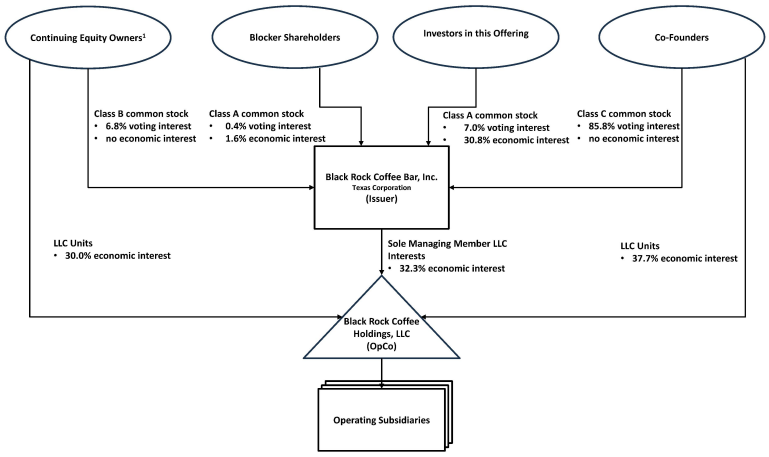
Prior to the consummation of the Transactions, the capital structure of Black Rock OpCo consists of three classes of membership interests: Common Units, Preferred Units and Incentive Units.

In connection with the consummation of this offering, we will complete a series of reorganization transactions, including: (i) the seventh amendment and restatement of the Black Rock OpCo LLC Agreement to, among other things, effect a recapitalization in which all existing ownership interests in Black Rock OpCo are converted into one class of LLC Units; (ii) the amendment and restatement of the Black Rock Coffee Bar, Inc. certificate of formation to, among other things, authorize three classes of common stock; (iii) Black Rock Coffee Bar, Inc.’s acquisition of common units held by the Blocker Companies pursuant to the Blocker Mergers; and (iv) Black Rock Coffee Bar, Inc.’s designation as

managing member of Black Rock OpCo. See “Organizational Structure” and “Certain Relationships and Related Party Transactions” for additional information.

Prior to the completion of the offering, Black Rock Coffee Bar, Inc. and Black Rock OpCo will enter into a Tax Receivable Agreement with the TRA Parties. This Tax Receivable Agreement will provide for the payment by Black Rock Coffee Bar, Inc. to the TRA Parties of 85% of the benefits, if any, that Black Rock Coffee Bar, Inc. is deemed to realize (calculated using certain assumptions) as a result of certain tax attributes and benefits covered by the Tax Receivable Agreement. Assuming no material changes in the relevant tax laws and that we earn sufficient taxable income to realize all tax benefits that are subject to the Tax Receivable Agreement, we expect the tax savings associated with the purchase of LLC Units in connection with this offering, together with future redemptions or exchanges of all remaining LLC Units owned by the TRA Parties pursuant to the Black Rock OpCo LLC Agreement as described above, would aggregate to approximately $178.8 million over 15 years from the date of this offering based on the assumed initial public offering price of $17.00 per share of our Class A common stock (the midpoint of the estimated price range set forth on the cover page of this prospectus), and assuming all redemptions or exchanges would occur immediately after the initial public offering for the remaining ownership of Black Rock OpCo not acquired by Black Rock Coffee Bar, Inc. Under such scenario, assuming future payments are made on the date each relevant tax return is due, without extensions, we would be required to pay approximately 85% of such amount, or approximately $152.0 million over the 15-year period from the date of this offering, to the TRA Parties. The actual amounts we will be required to pay under the Tax Receivable Agreement may be significantly different from the amounts described in the preceding sentence. See “Risk Factors—Risks Related to Our Organizational Structure” and “Certain Relationships and Related Party Transactions—Tax Receivable Agreement” for additional information regarding the Tax Receivable Agreement.

The diagram below depicts our organizational structure after giving effect to the Transactions, including this offering, assuming no exercise by the underwriters of their option to purchase additional shares of Class A common stock.



(1) Includes ownership by our Sponsor; excludes ownership by our Co-Founders and certain of their affiliates that hold Class C common stock as shown.

We intend to use all of the net proceeds we receive from this offering to purchase (i) newly issued LLC Units from Black Rock OpCo, (ii) LLC Units from our Sponsor (and retire the corresponding shares of Class B common stock) and (iii) LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B common stock). In the event the underwriters exercise their option to purchase additional shares of Class A common stock, we intend to use any proceeds from such exercise (i) to purchase LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B or Class C common stock, as applicable) and, (ii) to the extent there are remaining proceeds, to purchase newly issued LLC Units from Black Rock OpCo. See "Organizational Structure," "Use of Proceeds," "Certain Relationships and Related Party Transactions" and "Principal Shareholders."

Subject to the terms and conditions of the Black Rock OpCo LLC Agreement, the Continuing Equity Owners will have the right to have Black Rock OpCo redeem their LLC Units for shares of Class A common stock on a one-for-one basis or, at our election (determined solely by our independent directors (within the meaning of Nasdaq rules) who are disinterested), a corresponding amount of cash, in either case, contributed to Black Rock OpCo by Black Rock Coffee Bar, Inc., unless Black Rock Coffee Bar, Inc. elects, in its sole discretion (determined solely by our independent directors (within the meaning of Nasdaq rules) who are disinterested), to effect such transaction as a direct exchange with the relevant Continuing Equity Owner. Upon any such redemption or exchange of LLC Units, the corresponding shares of Class B common stock or Class C common stock held by such Continuing Equity Owner will be surrendered and immediately canceled. See "Certain Relationships and Related Party Transactions—Black Rock OpCo LLC Agreement" for additional information regarding such redemption and exchange rights.

Corporate Information

Black Rock Coffee Bar, Inc., the issuer of the Class A common stock in this offering, was originally incorporated as a Delaware corporation on May 2, 2025 and in June 2025 re-domiciled to be incorporated in Texas. Our principal executive offices are located at 9170 E. Bahia Drive, Suite 101, Scottsdale, AZ 85260. Our telephone number is (458) 256-9668. Our corporate website address is www.br.coffee. Information contained on, or that can be accessed through, our website does not constitute part of this prospectus, and the inclusion of our website address in this prospectus is an inactive textual reference only.

Implications of Being an Emerging Growth Company

We are an emerging growth company as defined in the Jumpstart Our Business Startups Act of 2012 (the "JOBS Act"). We will remain an emerging growth company until the earliest of: (i) the last day of the fiscal year following the fifth anniversary of the consummation of this offering; (ii) the last day of the fiscal year in which we have total annual gross revenue of at least $1.235 billion; (iii) the last day of the fiscal year in which we are deemed to be a "large accelerated filer" as defined in Rule 12b-2 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), which would occur if the market value of our common stock held by non-affiliates exceeded $700.0 million as of the last business day of the second fiscal quarter of such year; or (iv) the date on which we have issued more than $1.0 billion in non-convertible debt securities during the prior three-year period. An emerging growth company may take advantage of specified reduced reporting requirements and is relieved of certain other significant requirements that are otherwise generally applicable to public companies. As an emerging growth company:

- we will present in this prospectus only two years of audited annual financial statements, plus any required unaudited financial statements, and related management's discussion and analysis of financial condition and results of operations;
- we will avail ourselves of the exemption from the requirement to obtain an attestation and report from our independent registered public accounting firm on the assessment of our internal control over financial reporting pursuant to the Sarbanes-Oxley Act of 2002;

- we will provide less extensive disclosure about our executive compensation arrangements; and
- we will not require shareholder non-binding advisory votes on executive compensation or golden parachute arrangements.

In addition, the JOBS Act provides that an emerging growth company can take advantage of an extended transition period for complying with new or revised accounting standards. This provision allows an emerging growth company to delay the adoption of some accounting standards until those standards would otherwise apply to private companies. We have elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date we (i) are no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act; however, we may adopt certain new or revised accounting standards early. As a result, our financial statements may not be comparable to companies that comply with new or revised accounting pronouncements as of public company effective dates.

Controlled Company Exemptions

After the completion of this offering, our Co-Founders and certain of their affiliates will continue to beneficially own shares representing more than 50% of the voting power of shares of our common stock eligible to vote in the election of directors. As a result, we will be a "controlled company" within the meaning of the Nasdaq corporate governance standards and may elect not to comply with certain corporate governance standards, including that: (i) a majority of our board of directors (the "Board") consist of independent directors; (ii) our Board have a compensation committee that is comprised entirely of independent directors with a written charter addressing the committee's purpose and responsibilities; and (iii) our Board have a nominating and corporate governance committee that is comprised entirely of independent directors with a written charter addressing the committee's purpose and responsibilities.

Following this offering, we intend to utilize these exemptions. Accordingly, our shareholders may not have the same protections afforded to shareholders of companies that are subject to all of the corporate governance requirements of Nasdaq. In the event that we cease to be a "controlled company" and our shares continue to be listed on the Nasdaq Global Market, we will be required to comply with these provisions within the applicable transition periods.

If at any time we cease to be a controlled company, we will take all action necessary to comply with the independence requirements, including by having a majority of independent directors on our Board and by ensuring we have a compensation committee and nominating and corporate governance committee, each composed entirely of independent directors, subject to any permitted "phase-in" period.

For additional information, see "Risk Factors—Risks Related to this Offering and Ownership of Our Class A Common Stock—Upon the listing of our Class A common stock on the Nasdaq Global Market, we will be a "controlled company" within the meaning of Nasdaq rules and, as a result, will qualify for, and intend to rely on, exemptions and relief from certain corporate governance requirements. You will not have the same protections afforded to shareholders of companies that are subject to such requirements."

THE OFFERING

Class A common stock offered by us	14,705,882 shares (plus up to an additional 2,205,882 shares if the underwriters exercise their option to purchase additional shares of Class A common stock in full).
Class A common stock to be outstanding immediately after this offering	15,467,125 shares (or 17,673,007 shares if the underwriters exercise their option to purchase additional shares of Class A common stock in full).
Class B common stock to be outstanding immediately after this offering	14,331,482 shares (or 13,135,069 shares if the underwriters exercise their option to purchase additional shares of Class A common stock in full).
Class C common stock to be outstanding immediately after this offering	18,017,003 shares (or 17,384,492 shares if the underwriters exercise their option to purchase additional shares of Class A common stock in full).
LLC Units to be held by us immediately after this offering	15,467,125 LLC Units, representing an approximately 32.3% economic interest in Black Rock OpCo (or 17,673,007 LLC Units, representing an approximately 36.7% economic interest in Black Rock OpCo, if the underwriters exercise their option to purchase additional shares of Class A common stock in full).
Total LLC Units to be outstanding	47,815,610 LLC Units (or 48,192,568 LLC Units if the underwriters exercise their option to purchase additional shares of Class A common stock in full).

Use of proceeds	We estimate that the net proceeds from the sale of our Class A common stock in this offering, after deducting the estimated underwriting discount and estimated offering expenses payable by us, will be approximately $232.5 million (assuming the underwriters do not exercise their option to purchase additional shares) based on an assumed initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover of this prospectus). We intend to use all of the net proceeds from this offering to purchase (i) newly issued LLC Units from Black Rock OpCo, (ii) LLC Units from our Sponsor (and retire the corresponding shares of Class B common stock) and (iii) LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B common stock). In the event the underwriters exercise their option to purchase additional shares of Class A common stock, we intend to use any proceeds from such exercise (i) to purchase LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B or Class C common stock, as applicable) and, (ii) to the extent there are remaining proceeds, to purchase newly issued LLC Units from Black Rock OpCo. The foregoing purchases of LLC Units will be at a price per unit equal to the public offering price per share of Class A common stock in this offering, less the underwriting discounts and commissions. Black Rock OpCo currently intends to use the net proceeds it receives from this offering, together with proceeds from the Refinancing and the Co-Founder Contribution, (i) to repay all $113.2 million of outstanding borrowings under the Credit Facility, (ii) to pay estimated offering expenses of $6.5 million and, (iii) to the extent there are remaining proceeds, for general corporate purposes.

Directed share program	At our request, the underwriters have reserved up to 5% of the shares of Class A common stock to be issued by us and offered by this prospectus for sale, at the initial public offering price, to certain friends and family members of our Co-Founders. The number of shares of Class A common stock available for sale to the general public will be reduced to the extent these individuals purchase such reserved shares. Any reserved shares that are not so purchased will be offered by the underwriters to the general public on the same basis as the other shares offered by this prospectus. See "Underwriting—Directed Share Program" for additional information.
Indication of interest	The cornerstone investor has indicated an interest in purchasing up to $30.0 million in shares of Class A common stock in this offering at the initial public offering price. The shares of Class A common stock to be purchased by the cornerstone investor will not be subject to a lock-up agreement with the underwriters. Because this indication of interest is not a binding agreement or commitment to purchase, the cornerstone investor may determine to purchase more, less or no shares in this offering or the underwriters may determine to sell more, less or no shares to the cornerstone investor. The underwriters will receive the same underwriting discounts and commissions on any of our shares of Class A common stock purchased by the cornerstone investor as they will from any other shares of Class A common stock sold to the public in this offering.
Voting rights	Holders of shares of our Class A common stock, our Class B common stock and Class C common stock will vote together as a single class on all matters presented to shareholders for their vote or approval, except as otherwise required by law or our amended and restated certificate of formation. Each share of our Class A common stock and Class B common stock entitles its holder to one vote on all matters to be voted on by shareholders generally. Each share of our Class C common stock entitles its holder to ten votes on all matters to be voted on by shareholders generally. See "Description of Capital Stock."
Redemption rights of holders of LLC Units	Prior to this offering, we will amend and restate the Black Rock OpCo LLC Agreement so that the Continuing Equity Owners may (subject to the terms of such limited liability company agreement), elect to have Black Rock OpCo redeem their LLC Units for either shares of Class A common stock on a one-for-one basis or at our election (determined solely by our independent directors (within the meaning of Nasdaq rules) who are disinterested), a corresponding amount of cash, in either case, contributed to Black Rock OpCo by Black Rock Coffee Bar, Inc., unless Black Rock Coffee Bar, Inc. elects, in its sole discretion (determined solely by our independent directors (within the meaning of Nasdaq rules) who are disinterested), to effect such transaction as a direct exchange with the relevant Continuing Equity Owner. Upon any such redemption or exchange of LLC Units, the corresponding shares of Class B common stock or Class C common stock will be canceled. See "Certain Relationships and Related Party Transactions—Black Rock OpCo LLC Agreement."

Dividend Policy	We have no current plans to pay dividends on our Class A common stock and our ability to pay dividends on our common stock is limited by the covenants of the credit agreements governing our Credit Facility. See "Dividend Policy." The declaration, amount and payment of any future dividends will be at the sole discretion of our Board. Our Board may take into account general economic and business conditions, our financial condition and operating results, our available cash and current and anticipated cash needs, capital requirements, contractual, legal, tax, and regulatory restrictions, and implications on the payment of dividends by us to our shareholders or by our subsidiaries (including Black Rock OpCo) to us, and such other factors as our Board may deem relevant. Holders of our Class B common stock and Class C common stock do not have any economic rights or any right to receive dividends (except for certain in-kind dividends), or to receive a distribution upon a liquidation, dissolution, or winding up of Black Rock Coffee Bar, Inc., with respect to their Class B common stock or Class C common stock. Black Rock Coffee Bar, Inc. is a holding company and has no material assets other than a controlling equity interest in Black Rock OpCo. The Black Rock OpCo LLC Agreement that will be in effect at the time of this offering provides that certain distributions to cover the taxes of the holders of LLC Units will be made based upon assumed tax rates and other assumptions provided in such limited liability company agreement. Additionally, in the event Black Rock Coffee Bar, Inc. declares any cash dividend, we intend to cause Black Rock OpCo to make distributions to Black Rock Coffee Bar, Inc., in an amount sufficient to cover such cash dividends declared by us. If Black Rock OpCo makes such distributions to Black Rock Coffee Bar, Inc., the other holders of LLC Units will also be entitled to receive the respective equivalent pro rata distributions in accordance with their respective ownership of vested LLC Units.
Tax Receivable Agreement	Upon the completion of this offering, we will be a party to the Tax Receivable Agreement with Black Rock OpCo and the TRA Parties. Under the Tax Receivable Agreement, we generally will be required to pay to the TRA Parties 85% of the amount of tax benefits, if any, that we actually realize (or in some circumstances are deemed to realize) as a result of (i) Basis Adjustments and (ii) payments made under the Tax Receivable Agreement. We will retain the benefit of the remaining 15% of these tax benefits. See "Organizational Structure—Organizational Structure Following the Transactions."
Risk factors	See "Risk Factors" beginning on page 36 of this prospectus and other information included in this prospectus for a discussion of factors you should carefully consider before deciding whether to invest in our Class A common stock.
Controlled company exemption	Upon completion of this offering, we will be a "controlled company" within the meaning of the corporate governance rules of Nasdaq.
Trading symbol	"BRCB."

In this prospectus, the number of shares of our common stock to be outstanding after this offering is based on 15,467,125 shares of our Class A common stock, 14,331,482 shares of our Class B common stock and 18,017,003 shares of our Class C common stock outstanding as of June 30, 2025, in each case, after giving effect to the Transactions.

Except as otherwise indicated, the number of shares of our common stock to be outstanding after this offering does not include:

- 32,348,485 shares of Class A common stock reserved for issuance upon redemption or exchange of LLC Units that will be held by the Continuing Equity Owners on a one-for-one basis; and
- 4,303,405 shares of Class A common stock reserved for future issuance under our 2025 Incentive Award Plan (the "2025 Plan"), which will become effective upon the effectiveness of the registration statement of which this prospectus forms a part (which number includes 1,163,339 shares of our Class A common stock subject to restricted stock unit awards and stock options that will be granted to certain of our employees and directors pursuant to our 2025 Plan substantially concurrently with the consummation of this offering, based upon an assumed initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus)).

In addition, our 2025 Plan provides for annual automatic increases in the number of shares reserved thereunder.

Except as otherwise indicated, all information in this prospectus assumes:

- an initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover of this prospectus);
- no exercise of the underwriters' option to purchase additional shares of Class A common stock;
- no purchase of shares of our Class A common stock through the directed share program as described in "Underwriting—Directed Share Program"; and
- the completion of the Transactions described under "Organizational Structure," including the amendment and restatement of the Black Rock OpCo LLC Agreement that converts all existing ownership units in Black Rock OpCo that are not redeemed in connection with the consummation of this offering into 33,179,602 LLC Units as well as the filing of our amended and restated certificate of formation.

SUMMARY HISTORICAL AND PRO FORMA CONSOLIDATED FINANCIAL DATA

The following tables present the summary historical financial and other data for Black Rock OpCo. Black Rock OpCo is the accounting predecessor of Black Rock Coffee Bar, Inc. for financial reporting purposes. The summary historical consolidated statements of operations data and summary of cash flows data for the years ended December 31, 2024 and 2023, and the summary balance sheet data as of December 31, 2024, are derived from the audited consolidated financial statements of Black Rock OpCo included elsewhere in this prospectus. The summary historical consolidated statements of operations data and summary cash flows data for the six months ended June 30, 2025 and 2024, and the summary balance sheet data as of June 30, 2025, are derived from the unaudited condensed consolidated financial statements of Black Rock OpCo included elsewhere in this prospectus. The unaudited condensed consolidated financial statements have been prepared on a basis consistent with our audited consolidated financial statements included in this prospectus and reflect, in the opinion of management, all adjustments of a normal, recurring nature that are necessary for a fair statement of the financial information contained in those statements. Historical results of operations for the periods presented below are not necessarily indicative of the results to be expected for any future period and our results of any interim period are not necessarily indicative of the results that may be expected for any full fiscal year. The information set forth below should be read together with "Unaudited Pro Forma Combined and Consolidated Financial Information," "Use of Proceeds," "Capitalization," "Management's Discussion and Analysis of Financial Condition and Results of Operations," "Organizational Structure" and the audited financial statements and the accompanying notes included elsewhere in this prospectus.

The summary unaudited pro forma combined and consolidated financial information of Black Rock Coffee Bar, Inc. presented below, has been derived from our unaudited pro forma combined and consolidated financial information included elsewhere in this prospectus. The summary unaudited pro forma combined and consolidated financial information as of and for the year ended December 31, 2024, gives pro forma effect to the Transactions set forth in the "Organizational Structure" section of this prospectus, including the consummation of this offering, as if all such transactions had occurred on January 1, 2024, with respect to the statements of operations data, and June 30, 2025, with respect to the balance sheet data. The summary unaudited pro forma combined and consolidated financial information includes various estimates which are subject to material change and may not be indicative of what our operations or financial position would have been had this offering and related transactions taken place on the dates indicated, or that may be expected to occur in the future. See "Unaudited Pro Forma Combined and Consolidated Financial Information" for a complete description of the adjustments and assumptions underlying the summary unaudited pro forma combined and consolidated financial information. The presentation of the summary unaudited pro forma combined and consolidated financial information is prepared in conformity with Article 11 of Regulation S-X.

The summary historical financial and other data of Black Rock Coffee Bar, Inc. has not been presented because Black Rock Coffee Bar, Inc. is a newly incorporated entity and has had no business transactions or activities to date, besides our initial capitalization, the Transactions and the preparation of this prospectus and the registration statement of which this prospectus forms a part.

Historical Consolidated Statements of Operations Data:	Black Rock OpCo				Black Rock Coffee Bar, Inc. Pro Forma [1]
	Six Months Ended June 30,		Year Ended December 31,		Year Ended December 31,
	2025	2024	2024	2023	2024
	($ in thousands, except share and per share amounts)				
Store revenue	$ 95,110	$ 76,542	$ 160,682	$ 132,961	$ 160,682
Other	104	108	235	201	235
Total revenue	95,214	76,650	160,917	133,162	160,917
Store operating costs and expenses (exclusive of depreciation and amortization presented separately below):					
Beverage, food and packaging costs	27,355	22,258	46,491	41,923	46,491
Labor and related expenses	19,803	16,502	35,132	30,236	35,132
Occupancy and related expenses	7,607	6,415	13,107	10,832	13,107
Other store operating expenses	12,804	9,820	21,172	17,286	21,172
Total store operating costs and expenses	67,569	54,995	115,902	100,277	115,902
Selling, general and administrative expenses	14,740	12,563	25,261	20,313	31,895
Depreciation and amortization	5,826	4,801	10,364	8,523	10,364
Pre-opening costs	1,561	1,284	3,357	2,007	3,357
Total operating expenses	89,696	73,643	154,884	131,120	161,518
Income (loss) from operations	5,518	3,007	6,033	2,042	(601)
Interest expense, net	(6,157)	(5,115)	(11,115)	(10,949)	(4,345)
Other income (expense), net	(1,084)	(1)	(1,835)	566	(5,664)
Loss before income taxes	(1,723)	(2,109)	(6,917)	(8,341)	(10,610)
Income tax expense (benefit)	222	126	270	357	(738)
Net loss	(1,945)	(2,235)	(7,187)	(8,698)	(9,872)
Net income attributable to noncontrolling interest	—	20	20	119	—
Net loss attributable to Black Rock Coffee Holdings, LLC	$ (1,945)	$ (2,255)	$ (7,207)	$ (8,817)	$ (9,872)
Pro forma net loss attributable to noncontrolling interest					(6,680)
Pro forma net loss attributable to Black Rock Coffee Bar, Inc.					(3,193)
Basic and diluted net loss per share					$ (0.21)
Shares used in basic and diluted per share calculations					15,467,125

(1) Pro forma figures give effect to the Transactions, including this offering. See "Unaudited Pro Forma Combined and Consolidated Financial Information" for a detailed presentation of the unaudited pro forma information, including a description of the transactions and assumptions underlying the pro forma adjustments.

Historical Consolidated Balance Sheet Data:	As of June 30, 2025	
	Black Rock OpCo	Black Rock Coffee Bar, Inc. Pro Forma[1]
	($ in thousands)	
Balance Sheet Data:		
Cash and cash equivalents	$ 14,640	$ 34,891
Total assets	244,619	286,462
Working capital (deficit)[2]	(10,113)	16,860
Temporary equity	254,314	—
Total liabilities, temporary equity, members' deficit and noncontrolling interest	244,619	286,462

(1) Pro forma figures give effect to the Transactions, including this offering. See "Unaudited Pro Forma Condensed and Consolidated Financial Information" for a detailed presentation of the unaudited pro forma information, including a description of the transactions and assumptions underlying the pro forma adjustments.
(2) We define working capital as current assets less current liabilities.

Summary of Cash Flows:	Six Months Ended June 30,		Year Ended December 31,	
	2025	2024	2024	2023
		($ in thousands)		
Net cash provided by operating activities	$ 8,419	$ 5,339	$ 13,305	$ 5,167
Net cash used in investing activities	(15,143)	(11,779)	(22,921)	(15,446)
Net cash provided by financing activities	11,137	7,700	2,643	21,562
Net increase (decrease) in cash and cash equivalents	4,413	1,260	(6,973)	11,283
Cash and cash equivalents at beginning of period	10,227	17,200	17,200	5,917
Cash and cash equivalents at end of period	14,640	18,460	10,227	17,200

Select Key Performance Measures

The following tables summarize our key performance measures for the years ended December 31, 2024 and 2023. For additional information about the definitions and calculations of our key performance measures, please see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Key Performance Measures and Non-GAAP Financial Measures."

Other Financial and Operational Data:	Six Months Ended June 30,		Year Ended December 31,	
	2025	2024	2024	2023
		($ in thousands)		
Total Stores (End of Period)	158	137	149	125
Net New Store Openings[1]	9	12	24	21
Same Store Sales Growth[2]	10.1 %	3.4 %	6.3 %	5.1 %
Average Unit Volume[3]	$ 1,226	$ 1,158	$ 1,186	$ 1,170
Store revenue	$ 95,110	$ 76,542	$ 160,682	$ 132,961
Store-Level Profit[4]	$ 27,541	$ 21,547	$ 44,780	$ 32,684
Store-Level Profit Margin[4]	29.0 %	28.2 %	27.9 %	24.6 %
Adjusted EBITDA[4]	$ 14,063	$ 10,798	$ 20,194	$ 14,394
Adjusted EBITDA Margin[4]	14.8 %	14.1 %	12.5 %	10.8 %

(1) The presentation of Net New Store Openings, Same Store Sales Growth and AUV excludes 14 Roasters locations we owned for a total of 28 months that were divested in May 2023 pursuant to the terms of a legal settlement (see Note 5 to our audited consolidated financial statements elsewhere in this prospectus). Net New Store Openings reflects the 2023 closure of a single store located within a stadium venue; this location was not one of our typical drive-thru locations and the closure reflects a decision to focus on our core development strategy. Same Store Sales Growth and AUV exclude this location.

(2) Same Store Sales Growth reflects the change in year-over-year sales for the comparable store base.

(3) AUVs for any trailing twelve-month period consist of the store revenue for all stores in the comparable store base. AUVs are calculated by dividing store revenue by the total number of stores included in our comparable store base.

(4) Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin are included in this prospectus because they are non-GAAP financial measures used by management and our Board to assess our financial and operating performance. Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin are non-GAAP measures of our financial performance and should not be considered as alternatives to income from operations or net loss as a measure of financial performance or any other performance measure derived in and reconciliations to our most directly comparable financial measures calculated and presented in accordance with GAAP. For more information, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Non-GAAP Financial Measures" for definitions of each non-GAAP metric and a discussion of Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin and reconciliation of each measure to its most directly comparable GAAP measure. Our non-GAAP financial measures should not be considered in isolation from, or as substitutes for, financial information prepared in accordance with GAAP. Our measures of Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin may be different than a similarly titled measure used by other companies.

RISK FACTORS

Investing in our Class A common stock involves a high degree of risk. You should carefully consider the risks described below as well as the other information in this prospectus, including our consolidated financial statements and the notes thereto, and "Management's Discussion and Analysis of Financial Condition and Results of Operations," before deciding whether to invest in our Class A common stock. The occurrence of any of the events or developments described below could adversely affect our business, results of operations, financial condition, and prospects. In such an event, the market price of our Class A common stock could decline, and you may lose all or part of your investment. Additional risks and uncertainties not presently known to us or that we currently believe are not material may also impair our business, results of operations, financial condition, and prospects.

Risks Related to Our Business and Industry

We have a history of losses and, especially if we continue to grow at an accelerated rate, we may not achieve or maintain profitability in the future.

We have incurred net losses each year since our inception, including net losses of $7.2 million and $8.7 million for the years ended December 31, 2024 and 2023, respectively. For the six months ended June 30, 2025 and June 30, 2024, we incurred net losses of $1.9 million and $2.2 million, respectively. We anticipate that our operating expenses will increase substantially in the foreseeable future, in particular, as we continue to open new stores, expand marketing channels and operations, hire additional team members and increase other general and administrative costs. Furthermore, as a public company, we will incur additional legal, accounting, and other expenses that we did not incur as a private company. As a result, our net losses may continue and we may not achieve profitability for the foreseeable future.

In addition, the capital expenditure requirements to open a new store have increased and may continue to increase. Further, we currently expect that all of our new store openings in 2025 and beyond will have drive-thru pick-up capabilities, which require significant additional capital expenditures as stores with drive-thru pick-up capabilities are typically larger, resulting in higher real estate costs as well as incremental infrastructure and construction costs.

These efforts and additional expenses may prove more expensive than we expect, and we cannot guarantee that we will be able to increase our revenue to offset such expenses. Our revenue growth may slow or our revenue may decline for a number of other reasons, including reduced demand for our products, increased competition, or if we cannot capitalize on growth opportunities. If our revenue does not grow at a greater rate than our operating expenses, we will not be able to achieve profitability.

Food safety and quality concerns may negatively impact our brand, business and results of operations.

Incidents or reports, whether true or not, of food-borne or water-borne illness or other food safety issues, food contamination or tampering, employee hygiene and cleanliness failures, allergen cross-contamination or improper employee conduct at our stores could lead to product liability or other claims. Such incidents or reports could negatively affect our brand and reputation as well as our business, revenue and results of operations. Similar incidents or reports occurring at coffee and convenience stores unrelated to us could likewise create negative publicity, which could negatively impact consumer behavior towards us. If any guest becomes, or is under the belief that they have become, ill due to a food safety issue, we may temporarily close some stores, which would adversely impact our results of operations. Furthermore, while we require our third-party suppliers and distributors to comply with our food safety standards, we do not have control over their manufacturing and packaging processes. In addition, we also do not have control over handling procedures once our products have been shipped for distribution. We may need to recall or withdraw some or all of our products if they become damaged, contaminated, adulterated, misbranded, whether caused by us or someone in our manufacturing or supply chain. Our products may also be subject to food recalls or other regulatory warnings promulgated by the U.S. Food

and Drug Administration (the “FDA”) or other regulatory bodies. A recall or withdrawal could result in destruction of ingredients and inventory, negative publicity, temporary facility closings for us or our third-party suppliers and distributors, supply chain interruption, substantial costs of compliance or remediation, fines, and increased scrutiny by federal, state, and foreign regulatory agencies.

Food safety issues may be caused by a variety of factors, many of which are out of our control. For example, these incidents may occur when guests or other individuals, including employees, enter our store while ill and contaminate ingredients, surfaces, or other individuals. We cannot guarantee that food and beverage items will be properly maintained throughout the supply and delivery chain. Any food safety issue arising from a distributor or supplier will likely affect multiple locations rather than a single store. The risk of food safety issues is also increased with respect to orders delivered through third-party delivery service providers, as we often have limited or no control over how the food or beverages are delivered. In addition, our stores and roasteries are subject to review and examination by local, state and federal authorities, which may result in temporary or permanent closures. Such closures may negatively impact results and damage our brand.

We cannot guarantee that our internal controls and training will be fully effective in preventing all food-borne illnesses. Our future initiatives may require new or increased food safety measures, which we may not be successful in implementing. New illnesses resistant to our, or our third-party suppliers or distributors’, current precautions may develop in the future, or diseases with long incubation periods could arise, that could give rise to claims or allegations on a retroactive basis. One or more instances of food-borne illness in one of our stores could negatively affect sales at all our stores if highly publicized. This risk exists even if it were later determined that the illness was wrongly attributed to one of our stores. Additionally, even if food-borne illnesses were not identified at our stores, our revenue could be adversely affected if instances of food-borne illnesses at other coffee and beverage chains were highly publicized.

Evolving consumer preferences and tastes, including public or medical opinions about caffeine and sugar consumption, or changes in consumer spending may adversely affect our business.

Our continued success depends on our ability to attract and retain guests. Our financial results could be adversely affected by a shift in consumer spending away from our products, changes in attitudes regarding diet and health (including use of weight-loss or appetite-suppressing drugs), decreases in general discretionary consumer spending (including due to lack of or decreasing consumer confidence or inflation), lack of guest acceptance of new products (including due to price increases necessary to cover the costs of new products or higher input costs) or platforms (including changes to our mobile application or loyalty rewards programs or other marketing initiatives), decline in our brand perception or competitiveness in the marketplace (including due to the emergence of new competitors or expansion of our existing competitors), a reduction in individual vehicle ownership, which in turn may reduce the usefulness and convenience of our stores, or a reduction in guest demand for our current offerings as new products are introduced. We may not be successful in introducing new products included on our menu or new features to our mobile application, including in connection with the ongoing implementation of our loyalty program, which was introduced in June 2024.

In addition, most of our beverages contain sugar, caffeine, dairy products, and other compounds, such as artificial coloring, the health effects of which are the subject of public and regulatory scrutiny, including the suggestion of linkages to a variety of adverse health effects. There is increasing consumer awareness of health risks that are attributed to ingredients we use, including obesity, increased blood pressure and heart rate, anxiety and insomnia, as well as increased consumer litigation based on alleged adverse health impacts of consumption of various food and beverage products, including those associated with caffeine and sugar. While we offer alternatives, including caffeine-free beverages and reduced sugar and sugar-free items, negative publicity, or an unfavorable report on the health effects of sugar, caffeine or other ingredients in our products or changes in public perception of these ingredients could significantly reduce the demand for our products.

In addition, social media has contributed to an increase in “secret menu” style drinks that are not created or marketed by us. Such drinks can be ordered by guests, for example, by asking for specific

combinations of flavors or ingredients. We have no control over such trends and may not become timely aware of them. Such trends may also result in the mixture of ingredients in ways that could be perceived negatively, including with regard to health effects, and such perception could harm our business.

Further, an unfavorable report on the health effects of caffeine, other ingredients in energy drinks or energy drinks generally, or criticism or negative publicity regarding the caffeine content and/or any other ingredients in our Fuel energy drink or energy drinks generally, including product safety concerns, could have an adverse effect on our business, reputation, financial condition and results of operations. Articles critical of the caffeine content and/or other ingredients in energy drinks and/or articles indicating certain health risks of energy drinks have been published in recent years. We believe the overall growth of the energy drink market in the United States may have been negatively impacted by the ongoing negative publicity and comments that continue to appear in the media questioning the safety of energy drinks, and suggesting limitations on their ingredients (including caffeine), and/or the levels thereof, and/or imposing minimum age restrictions for consumers. If reports, studies or articles critical of caffeine and/or energy drinks continue to be published or are published in the future, or additional voluntary measures are taken, they could adversely affect the demand for our products. If we are unable to satisfy all criteria set forth in any model energy drink guidelines, including, without limitation, those adopted by the American Beverage Association, and/or any international beverage associations, it could negatively affect our overall reputation, which in turn could have a negative impact on our business, financial condition and results of operations.

A decrease in guest traffic as a result of these health concerns or negative publicity could significantly reduce the demand for our products and could harm our business.

We may not be able to compete successfully with other coffee stores, quick service restaurants and convenience stores, including the growing number of coffee delivery options.

The food service and restaurant industry, including the specialty coffee market, is intensely competitive. We expect competition in this market to continue to be fierce as we compete on a variety of fronts, including convenience, taste preferences, price, quality, service, location brand reputation, digital engagement, loyalty incentives, quality of user experience on and consistent performance of our website and mobile application, and the ambience and condition of each store. Our stores compete with national, regional and local coffee chains, quick service restaurants (“QSRs”), and convenience stores for guests, store locations and qualified management and other staff. If our stores cannot compete successfully with other beverage and coffee stores, including Starbucks and Dutch Bros, other specialty coffee stores, drive-thru QSRs and the growing number of coffee delivery options in new and existing markets, we could lose guests and our brand perception and revenue could decline.

Compared to us, some of our competitors have substantially greater financial and other resources, have been in business longer, have greater brand recognition or are better established in the markets where our stores are located or are planned to be located. In some markets that we may enter, there are already well-funded competitors in the coffee or beverage business that may challenge our ability to grow into those regions. Furthermore, certain markets where we compete or may compete in the future may limit the number of drive-thru businesses operating within their geographic region, which could negatively affect our ability to grow into those markets. Some of our competitors also have substantially greater financial and other resources to devote to innovation in products, technology, and market and consumer data analytics, including integration, use, or offering of new technologies, including artificial intelligence (“AI”). We may be unable to offer new or innovative products and technologies to our guests that are offered by our competitors, or there may be a delay in our ability to innovate or implement new technologies. Any of these competitive factors may impair our ability to compete effectively in the marketplace and harm our business, financial condition and results of operations.

Additionally, if our competitors begin to evolve their business strategies and adopt aspects of our business model, such as our modern and welcoming in-store experience, drive-thru convenience, digital ordering, loyalty program and similar product offerings or branding, our guests may be drawn to those

competitors for their beverage needs and our business and the distinctiveness of our brand could be harmed.

Our growth strategy depends in part on opening new stores in existing and new markets. We may be unsuccessful in opening new stores or establishing new markets, which could adversely affect our growth.

As of June 30, 2025, we had 158 stores across seven states. One of the key means to executing on our growth strategy will be through opening new stores and operating those stores on a profitable basis. For example, we opened 24 new stores in 2024 and nine new stores in the first half of 2025. Our ability to open new stores is dependent upon a number of factors, many of which are beyond our control, including our ability to:

- identify available and suitable sites, specifically for drive-thru locations;
- compete for such sites;
- reach acceptable agreements regarding the lease of locations;
- obtain or have available the financing required to acquire and operate a store, including construction and opening costs, which includes access to build-to-suit leases and ground lease construction arrangements;
- respond to unforeseen engineering or environmental problems with leased premises;
- avoid the impact of inclement weather, natural disasters and other calamities;
- hire, train and retain the skilled management and other employees necessary to meet staffing needs;
- ensure that the guest experience, ambience and condition of each new location is cohesive with and of substantially the same quality as our existing locations;
- obtain, in a timely manner and for an acceptable cost, required licenses, permits and regulatory approvals and respond effectively to any changes in local, state or federal law and regulations, such as regulatory bans on new drive-through businesses, that adversely affect our costs or ability to open new stores; and
- control construction and equipment cost increases for new stores and secure the services of qualified contractors and subcontractors in an increasingly competitive environment.

As we look to expand geographically into new markets in which we have little or no prior operating experience, our exposure to the above factors may be further amplified as we have less familiarity with such new markets, including any regulatory restrictions or store-opening processes. There is no guarantee that a sufficient number of suitable sites for stores will be available in desirable areas or on terms that are acceptable to us in order to achieve our growth plan. Therefore, our historical growth rates may not be indicative of our future growth. If we are unable to open new stores or if store openings are significantly delayed, our revenue or earnings growth could be adversely affected and our business may be harmed.

In addition, we may experience delays in our store development and expansion plans due to unexpectedly long processing times or delays on the part of governmental agencies who issue necessary licenses, permits, and approvals. Delays in the permitting or licensure processes that may result from government shutdowns, staffing shortages, or similar actions that are out of our control, due to, among other things, loss of or uncertainty around federal funding, including the receipt of federal funding by states or state agencies where we operate, could lead to delays in building our stores and affect our store development and expansion plans, which could harm our results of operations and financial condition.

New stores, once opened, may not be profitable or may close, and the increases in average per store sales and comparable sales that we have experienced in the past may not be indicative of future results.

We have opened and plan to open additional stores in markets where we have little or no operating experience. The target consumer base of our stores varies by location, depending on a number of factors, including population density, other local coffee and convenience beverage distributors, area demographics, geography and weather. Our results have been, and in the future may continue to be, significantly impacted by the timing of new store openings. We have typically incurred the most significant portion of pre-opening expenses associated with a given store within approximately three months preceding the opening of the store. Due to the impact of inflation and other factors, including building and material costs, we are experiencing and expect to experience in the future increased costs in connection with new stores. Our experience has been that labor and operating costs associated with a newly opened store for the first several months of operation are materially greater than what can be expected after that time, both in aggregate dollars and as a percentage of sales. Our new stores commonly take several months or more to reach planned operating levels due to inefficiencies typically associated with new stores, including the training of new personnel, new market learning curves, inability to hire sufficient qualified staff, and other factors. We may incur additional costs in new markets, particularly for transportation and distribution, which may impact sales and the profitability of those stores. Accordingly, the volume and timing of new store openings may have a material adverse impact on our results of operations.

Although we target specified operating and financial metrics, new stores may never meet these targets or may take longer than anticipated to do so. Stores we open in new markets may take longer to reach expected sales and profit levels on a consistent basis or may never reach such expected levels at all and may have higher construction, production, hiring and training, occupancy, or operating costs than stores we open in existing markets, thereby affecting our overall productivity. Any new store we open may never achieve operating results similar to those of our existing stores, which could adversely affect our business, financial condition or results of operations.

Some of our stores open with an initial start-up period of higher-than-normal sales volumes and related costs, which subsequently decrease to stabilized levels over time. In new markets, the length of time before average sales for new stores stabilize is less predictable and can be longer as a result of our limited knowledge of these markets and consumers' limited awareness of our brand. In addition, our AUV and comparable sales may not increase at the rates achieved over the past several years. Our ability to operate new stores profitably and increase average store sales and comparable store sales will depend on many factors, some of which are beyond our control.

We may need to make greater investments than we originally planned in advertising and promotional activity in new markets to build brand awareness and/or maintain such awareness. We may find it more difficult in new markets to hire, motivate and keep qualified employees who share our values and maintain our same level of desired guest experience. We may also incur higher costs from entering new markets if, for example, we assign area managers to manage comparatively fewer stores than we assign in more developed markets. Also, until we attain a critical mass in a market, the stores we do open will have reduced operating leverage. As a result, these new stores may take longer to reach expected sales and profit levels on a consistent basis and may have higher construction, occupancy and operating costs than existing stores, and so may achieve target operating profit margins more slowly than existing stores or may never achieve such target margins.

Additionally, opening new stores in existing markets may negatively impact sales at our existing stores, even if it increases overall AUV in a region over time. The consumer target area of our stores varies by location, depending on a number of factors, including population density, other local retail and business attractions, area demographics and geography. As a result, the opening of a new store in or near markets in which we already have stores could adversely impact sales at these existing stores while ultimately growing the overall AUV in a region. However, existing stores could also make it more difficult to build our

consumer base for a new store in the same market. Sales transfer between our stores may be significant in the future as we continue to expand our operations and could affect our revenue growth, which could, in turn, harm our business.

Our failure to manage our growth effectively could harm our business and operating results.

We have experienced rapid growth and increased demand for our products and in connection therewith, our organizational structure is becoming more complex as we scale our operational, financial, and management controls, as well as our reporting systems and procedures. For example, we have grown from 71 stores as of December 31, 2020 to 158 stores as of June 30, 2025. Our expansion has placed, and our expected future growth will continue to place, significant demands on our management team and guest experience, as well as research and development, sales and marketing, administrative, financial, and other resources. To manage growth in our operations and personnel, we will need to continue to grow and improve our operational, financial, and management controls and our reporting systems and procedures. We will require significant capital expenditures and the allocation of valuable management resources to grow and change in these areas. We may not be able to respond in a timely basis to all the changing demands that our planned expansion will impose on management and on our existing infrastructure. For example, in order to operate and grow our business, we are required to manage multiple relationships with various strategic partners, vendors and other third parties. In the event of further growth of our operations or in the number of our third-party relationships, our existing management systems, financial and management controls and information systems may not be adequate to support our planned expansion and allow for us to accurately monitor and predict changes in our costs and guest demand. Failure to accurately forecast our results of operations and growth rate may also result in harm to our business. If we experience a decline in financial performance, we may decrease the number of or discontinue new store openings, or we may decide to close stores that we are unable to operate in a profitable manner.

As we expand our business, it is important that we continue to maintain a high level of guest service and satisfaction as well as employee culture and satisfaction. If we are not able to continue to provide high-quality guest service as a result of these demands, our reputation, as well as our business, including a decline in financial performance, could be harmed. As we continue to grow, we face challenges of integrating, developing, training, and motivating a rapidly growing employee base in our various stores and maintaining our company culture across multiple offices and stores, and within our hybrid remote and remote workforce. Our ability to manage our growth effectively will require us to continue to enhance our systems, procedures and controls and to locate, hire, train and retain management and baristas, particularly in new markets which may require significant capital expenditures. Certain members of our management have not previously worked together for an extended period of time, and some do not have prior experience managing a public company, which may affect how they manage our growth and operations. See "—General Risks—Our management team has limited experience managing a public company."

Our marketing programs may not be successful, and our new menu items and advertising campaigns may not generate increased sales or profits, resulting in harm to our financial results.

Attracting new guests, and retaining existing guests, is important to the success of our business. We incur costs and expend other resources in our marketing efforts on new menu items and advertising campaigns to raise brand awareness and attract and retain guests. Our approach to marketing, advertising, and branding is often novel and some campaigns may be significantly less successful than others. Marketing, advertising, or branding initiatives may not succeed or meet expectations, and even if they do, any increase in sales may not offset the costs and expenses we incur in establishing and rolling out such marketing, advertising and branding campaigns. Additionally, some of our competitors have greater financial resources than we do, which enable them to spend significantly more on marketing and advertising and other initiatives than we can. Should our competitors increase spending on marketing and advertising and other initiatives or our marketing funds decrease for any reason, or should our advertising, promotions and new menu items be less effective than those of our competitors, there could

be an adverse effect on our reputation, results of operations and financial condition. Failure to attract new or retain existing guests, or failure to do so in a cost-effective manner, may result in an inability to increase revenue and financial harm to our business.

Our investments in technologies to enhance the guest experience may not generate the desired results and we may not be able to successfully expand our digital and delivery business.

For the three months ended June 30, 2025 and for the years ended December 31, 2024 and 2023, our digital sales mix was approximately 15%, 11% and 8% of our total revenue, respectively. We are making investments in development, technology, digital engagement, and delivery in an effort to transform and enhance the guest experience. As part of these investments, we are focused on improving our service model and strengthening relationships with guests, in part through digital channels and loyalty initiatives, and by refining and enhancing our mobile application and mobile ordering and payment systems and processes. Experimentation with and implementation of innovations in products and technologies may result in inefficiencies, such as a slowdown in our store operations and traffic flow, distraction of management's attention from our primary business, disruption of workflows, technical glitches, disruption of current systems and technology, and negative guest experiences. If these guest experience initiatives are not successfully executed or do not generate expected results, or if we do not fully realize the intended benefits of these significant investments, our financial results will suffer. It is also possible that the allocation of time and resources to these guest experience initiatives could negatively impact other areas of our business, or that we will fail to achieve optimal allocation of resources, which could materially harm our business and results of operations.

We believe that the expansion of our digital and delivery business is important to the growth of our business and our ability to remain competitive within the industry. Our ability to expand our digital business will depend in part on our ability to improve and evolve our technology, including but not limited to our website, our mobile application and our use of third-party delivery marketplaces. Our mobile application and online ordering system could be interrupted by technological failures or user errors, or be subject to cyber-attacks, which could adversely impact our revenue and brand image.

Substantially all of our delivery orders, including native delivery orders, are fulfilled through our third-party delivery partners. If a third-party delivery service we utilize (particularly for our native delivery orders) fails to deliver orders to our guests in a timely manner or provides unsatisfactory delivery service, our guests may attribute the bad experience to us, which may harm our reputation and may result in guests choosing to stop ordering from us. If a third-party delivery service we utilize ceases or curtails operations, experiences damage to its brand image, increases its fees, or gives priority or promotions on its platforms to our competitors, our business, reputation and our revenue may be negatively impacted. Furthermore, our partnerships with third-party delivery companies could cease to be available to us on acceptable terms or at all; for example, the third-party food delivery service industry has been consolidating and may continue to consolidate, which may give third-party delivery companies more leverage in negotiating the terms and pricing of contracts, which in turn could negatively affect our results of operations.

Interruption of our supply chain of coffee beans, food products, flavored syrups, dairy products, plant-based dairy-free alternative products or other ingredients, coffee machines and other restaurant equipment or packaging could affect our ability to produce or deliver our products.

We contract with our suppliers and manufacturers to procure supplies, equipment, and other materials and products.

Any material interruption in our supply chain, such as material interruption of the supply of coffee beans, energy drinks, food ingredients, flavored syrups, dairy products, plant-based dairy-free alternative products, regional offerings including baked goods and food products, coffee machines and other QSR equipment or packaging for our products for any reason, including the casualty loss of any of our roasting facilities, interruptions in service by our third-party logistic service providers or common carriers that ship goods within our distribution channels, trade restrictions, such as increased tariffs or quotas, embargoes or customs restrictions, pandemics, social or labor unrest, weather or natural disasters, terrorism

(including cyberterrorism) or political disputes and military conflicts that cause a disruption in our supply chain could have a negative material impact on our business and results of operations. In addition, our growth may place increased demands on our information technology and inventory management systems, personnel and processes which will need to continue to evolve to keep pace with our growth strategy. For example, purchase of excess coffee beans may result in waste, which could negatively impact our margins, and purchases of too few coffee beans would not be able to support our sales, which could negatively impact our revenue and results of operations. Furthermore, as we do not maintain significant inventories at our stores any delay or disruption in such deliveries could rapidly have an adverse material impact on our sales.

Most of our beverage and other products are sourced from a wide variety of business partners and we rely on these suppliers to provide high-quality products and to comply with applicable laws. For certain products, we may rely on one or very few suppliers. See "—*We have a limited number of suppliers and distributors for many of our frequently used ingredients and supplies. If our suppliers or distributors are unable to fulfill their obligations under our arrangements with them, we could encounter supply shortages and incur higher costs.*" Failures by any of our suppliers to meet our standards, provide products in a timely and efficient manner, or comply with applicable laws are beyond our control and could result in harm to our business, reputation, financial condition or results of operations.

We have experienced and may in the future experience disruptions in our supply chain for certain products including cups, lids, espresso machines and store equipment parts, and certain building materials and supplies. While we have, to this point, been able to find acceptable replacements or substitutes or prepurchase certain materials or items, this may not always be possible, especially if supply chains continue to suffer disruptions for extended periods of time. If we are unable to source critical or proprietary supplies, find acceptable replacements or substitutes, or adapt our construction strategies effectively, we may be unable to meet existing demands or sustain our growth, and it may negatively affect our business and results of operations. Finding acceptable replacements or substitutes may require trial and error that could cause losses or delays. If construction and building materials are not of sufficient quality or durability, this may lead to increased maintenance costs or even business interruption for necessary repairs or replacements in the future, and may also lead to construction defect claims which could be time-consuming and expensive to resolve. If we are unable to locate sufficient building or construction materials, or to successfully scale our construction and new store opening operations, we may not be able to meet existing demand or achieve our stated growth objectives, either of which could harm our business, reputation, financial condition or results of operations.

We have a limited number of suppliers, distributors and manufacturers for many of our frequently used ingredients, supplies and products. If our suppliers, distributors or manufacturers are unable to fulfill their obligations under our arrangements with them, we could encounter supply shortages and incur higher costs or fail to meet our sales demands or quality standards.

We are highly dependent on a limited number of suppliers – for example, for the six months ended June 30, 2025 and 2024, 88% and 80% of our purchases came from three and two suppliers, Sysco Corporation, Too Sweet and, in the case of the six months ended June 30, 2025, Royal Coffee, and for the years ended December 31, 2024 and 2023, 78% and 69% of our purchases came from two suppliers, Sysco Corporation and Too Sweet. Furthermore, we also rely on a single third party for the manufacturing of our Fuel energy drinks, which accounted for approximately 22% and 24% of total revenue for the year ended December 31, 2024 and six months ended June 30, 2025, respectively. Due to the concentration of suppliers and distributors that we utilize, the cancellation of our supply arrangements with these suppliers or the disruption, delay or inability of these suppliers to deliver these products to our stores due to problems in production or distribution, inclement weather, natural disasters, unanticipated demand or other conditions may materially and adversely affect our results of operations even if we are able to establish alternative distribution channels.

Although our suppliers, distributors and manufacturers are contractually obligated to maintain standards of quality that we deem suitable and consistent with our brand, we do not control the businesses of our

suppliers and distributors and our efforts to monitor the standards by which they perform may not be successful. If our suppliers or distributors fail to comply with food safety or other laws and regulations, or face allegations of non-compliance, their operations may be disrupted. See "*—Food safety and quality concerns may negatively impact our brand, business and results of operations.*" If that were to occur, we may not be able to find replacement suppliers on commercially reasonable terms or a timely basis, if at all.

If we need to replace an existing supplier or distributor, there can be no assurance that ingredients and supplies will be available when required on acceptable terms, or at all, or that a new supplier or distributor would allocate sufficient capacity to us in order to meet our requirements, meet our sales demand or meet our quality standards. If our suppliers or distributors are unable to fulfill their obligations under their contracts or we are unable to identify alternative sources, we could encounter supply shortages and incur higher costs or fail to meet our sales demands or our quality standards, any of which could have a material adverse effect on our reputation and results of operations. With respect to our Fuel energy drinks, while we own the recipes that comprise such drinks and have identified alternate third parties to manufacture these drinks for us if the need arose, we cannot guarantee we would be able to contract with such alternate third parties within a reasonable amount of time or at all, or upon similar pricing and volume terms, nor can we be assured any such third party would be capable of producing our Fuel energy drinks in sufficient volume and quality. Any event, including those listed above, that results in a prolonged business disruption or shutdown related to our existing suppliers, distributors or manufacturers or a deterioration in our relationship with them, or any of our other third-party partners, in each case, could create conditions that prevent, or significantly and adversely affect, our sales, increase our expenses, create potential liabilities or damage our reputation, any of which could have an adverse effect on our business, financial condition and results of operations. Furthermore, we may not be a major customer of many of our suppliers, distributors or manufacturers, and these parties may therefore give other customers' needs higher priority than ours, including some of our competitors who use the same third-party partners.

Tariffs on certain imports to the United States and other potential changes to U.S. trade policy could have a material adverse effect on our business, results of operations, prospects and financial condition.

The current U.S. administration has imposed, or threatened to impose, tariffs or other restrictions on products, components or raw materials sourced from countries around the world. Moreover, these new tariffs, or other changes in U.S. trade policy, have triggered and may in the future trigger retaliatory actions by affected countries. For example, there have been and continue to be further indications that there may be an increase in tariff rates on various types of goods imported from the countries we buy coffee beans from, our most significant import, that we roast at our domestic roasteries, as well as the equipment, including refrigerators and espresso machines, as well as raw materials used to build, maintain and repair our stores and our equipment. Certain of the products we require as part of the roasting process or in our stores are currently subject to heightened tariffs and we may not be able to fully offset the cost increases through other cost reductions, or we may not choose to or be able to recover such heightened costs through price increases or surcharges passed on to our guests, which could have a material adverse effect on our business, results of operations, financial condition and cash flows.

Uncertainty around potential tariffs, embargoes, or similar restrictions could cause uncertainty and disruption in our supply chain and/or erode consumer confidence and impact consumer spending, whether or not any such tariffs, embargoes, or similar restrictions are ultimately enacted, and could have a negative material impact on our business, results of operations, prospects and financial condition. As the implementation of tariffs is ongoing, more tariffs may be added in the future or such tariffs may increase. Any tariffs or other barriers to trade affecting Mexico, Africa and Central and South America, from where we source most our coffee beans, could lead to, among other things, shortages and higher cost of procurement, and could negatively impact our business and results of operations. We currently do not hedge against our exposure to changing raw material prices. We may be negatively affected by

changes in availability and pricing of raw materials, which could negatively impact our results of operations.

Increases or sustained inflation in the cost of high-quality arabica coffee beans, dairy or other commodities or decreases in the availability of high-quality arabica coffee beans, dairy or other commodities could have an adverse impact on our business and financial results.

The availability and prices of coffee beans, dairy and other commodities are subject to significant volatility. We purchase, roast and sell high-quality whole bean arabica coffee beans and related coffee products. The high-quality arabica coffee of the quality we seek tends to trade on a negotiated basis at a premium above the "C" price. This premium depends upon, among other factors, the supply and demand at the time of purchase and the amount of the premium can vary significantly. Increases in the "C" coffee commodity price increase the price of high-quality arabica coffee and also impact our ability to enter into fixed-price purchase commitments. We frequently enter into supply contracts whereby the quality, quantity, delivery period and other negotiated terms are agreed upon, but the date, and therefore price, at which the base "C" coffee commodity price component will be fixed has not yet been established.

The supply and price of coffee we purchase can also be affected by multiple factors in the producing countries, such as weather (including the potential effects of climate change), natural disasters, crop disease, general increase in farm inputs and costs of production, inventory levels, political and economic conditions and the actions of certain organizations and associations that have historically attempted to influence prices of green coffee through agreements establishing export quotas or by restricting coffee supplies. Speculative trading in coffee commodities can also influence coffee prices. The price of coffee increased significantly in 2022, has since remained elevated, and further increased significantly during the year ended December 31, 2024, and may continue increasing throughout 2025. Because of the significance of coffee beans to our operations, increases in the cost of high-quality arabica coffee beans could have a material adverse impact on our business and results of operations. In addition, if we are not able to purchase sufficient quantities of green coffee due to any of the above factors or to a worldwide or regional shortage, we may not be able to fulfill the demand for our coffee, which could have a material adverse impact on our results of operations.

We also purchase significant amounts of dairy products, particularly milk, to support the needs of our stores. Additionally, and although less significant to our operations than coffee or dairy, other commodities, including but not limited to cocoa, plant-based "milks," tea, sugar, syrups, energy and packaging material, such as plastics and corrugate, are important to our operations, and may be subject to increased costs, which could negatively impact our margins. Increases in the cost of other commodities, such as petroleum which in turn may increase the cost of our packing materials, or lack of availability, whether due to supply shortages, tariffs or similar government measures, delays or interruptions in processing may impact consumer spending, or could otherwise harm our business.

We rely in part on price increases from time to time to offset cost increases, including the cost of ingredients, commodities, insurance, labor, marketing, taxes, real estate and other key operating costs, and improve our results of operations. We have increased the prices of our beverages and food over the past few years, and we expect to further increase prices in the future. Our ability to maintain prices or effectively implement price increases may be affected by a number of factors, including competition, the effectiveness of our marketing programs, the continuing strength of our brand, and general economic conditions, including inflationary pressures. During challenging economic times, consumers may be less willing or able to purchase coffee from coffee stores, making it more difficult for us to maintain prices and/or effectively implement price increases. In addition, increasing prices could negatively affect the loyalty of our existing guest base and cause them to reduce their spending with us or impact our ability to attract new guests, particularly as we expand our footprint into new geographies where guests might have greater price sensitivity. If our price increases are not accepted by guests and reduce sales volume, or are insufficient to offset increased costs, our business, financial condition, and results of operations could be adversely affected.

We may not successfully optimize, operate and manage our roasting facilities, which could have an adverse impact on our business and financial results.

All of our coffee beans are roasted at our roasting facilities, located in Vancouver, Washington and Tempe, Arizona. A natural disaster, fire, power interruption, work stoppage or other calamity at one or both of these facilities, or any future facility, would significantly disrupt our ability to deliver our products and operate our business. If any material amount of our machinery or inventory were damaged, we cannot predict when, if at all, we could replace or repair such machinery, which could materially adversely affect our business, financial condition and operating results. Furthermore, as we continue to expand our operations at each of these roasting facilities and look to procure new roasting facilities, we may be unable to hire and retain skilled employees, which will severely hamper our expansion plans and roasting efforts.

We may experience plant shutdowns or periods of reduced production as a result of regulatory issues, equipment failure, or delays in deliveries. Any such disruption or unanticipated event may cause significant interruptions or delays in our business and loss of inventory and/or data, or render us unable to produce coffee beans in a timely manner, or at all. While in the event of a shutdown we may be able to increase production at our other roasting facility to offset such shutdown, any such requisite increase in production at a particular facility would require us to hire and retain more skilled employees to operate the facility to expand production to meet our needs.

If we do not have sufficient production capacity or experience a problem with our roasting facilities, our stores may experience delays or stoppages in receiving certain of our beverage and food items and our ability to meet guest demand could be impacted, which could in turn adversely affect our brand, business, financial condition, and results of operations.

Additionally, as we continue to expand our menu, offerings, geography and store count, we may need to add to or enhance our roasting capabilities and operations at our roasting facilities may become increasingly complex and challenging. Failure to successfully address such challenges in a cost-effective manner could harm our business and results of operations. The expansion of our roasting capabilities, including through the acquisition or development of additional roasting facilities, requires significant capital investment and we cannot guarantee that we will be able to obtain the capital necessary to support such expansion on favorable terms, or at all. In addition, a substantial delay in bringing any potential new roasting facility up to full production on our projected schedule would put pressure on the rest of our business operations to meet demand and production schedules and may hinder our ability to produce and deliver all the beans needed to meet consumer demand and/or to achieve our expected financial performance. Even if a new roasting facility is brought up to full production according to our current schedule, the capital expenditures and other investment expenses for such new facility may be greater than the corresponding sales and it may not provide us with all the operational and financial benefits that we expect to receive. Furthermore, the opening of a potential new roasting facility requires the efforts and attention of our management and other personnel, which has and will continue to divert resources from our existing business operations. We will also need to hire and retain more skilled employees to operate any new roasting facility.

We are subject to the risks associated with leasing property.

We operate all of our stores, roasting and warehouse facilities and corporate offices in leased facilities. Our leases generally have terms of 10 to 15 years with renewal options. Many of our current leases do not contain early termination options and we expect stores that we open in the future will be subject to similar long-term leases without early termination options. It is challenging to locate and secure leases on favorable terms for new stores as competition for locations in our target markets is intense, and development and leasing costs may continue to increase.

When our leases expire, we may fail to negotiate renewals, either on commercially acceptable terms or at all, which could cause us to pay increased occupancy costs or to close stores in desirable locations and result in negative publicity concerning any such termination or non-renewal. We may not be able to

control increases in occupancy costs, particularly increases driven by macroeconomic factors or in geographies where the real estate market conditions favor landlords and developers. These potential increased occupancy costs and closed stores could have an adverse effect on our business, financial condition, and results of operations. Furthermore, the inability to renew an existing lease in key target markets could adversely affect our ability to execute on our overall growth strategy.

In addition, we may choose to close or relocate a store if it fails to meet our performance targets, which may cause us to incur significant lease termination expenses as well as additional expenses in connection with securing a new lease and construction and other costs in opening a new replacement store. Conversely, if we deem the lease termination and relocation expenses to be too high, we may decide to keep an underperforming store open, or sublease it, which may hurt our results of operations. We currently sublease certain properties and face future liability if subtenants default or incur contingent liabilities. If we continue to sublease properties, we may be unable to enter into such arrangements on acceptable terms and, even if we do, such arrangements may result in our incurring liabilities and expenses in future periods or the rent payments that we receive from subtenants being less than our rent obligations under the leases. In addition, we have provided credit support in respect of certain of our leases in the form of cash security deposits. If there were to be a default under such leases, the applicable landlords could draw under the letters of credit and/or seize the security deposit, which could adversely affect our financial condition and liquidity.

Total expenses under our operating leases account for a significant portion of our operating expenses, and represented 8.3% and 8.1% of our total revenue for the years ended December 31, 2024 and 2023, respectively. These substantial operating lease obligations could have negative consequences to our financial condition and results of operations, including requiring a substantial portion of our available cash to be applied to pay our rental obligations, thus reducing cash available for other purposes, as well as limiting our flexibility in planning for, and reacting to, changes in our business or our industry.

Our stores are geographically concentrated in the Western United States and Texas, and we could be negatively affected by conditions specific to those regions.

As of June 30, 2025, all of our stores are located in the Western United States or Texas. Adverse changes in demographic, unemployment, economic, regulatory or weather conditions in the Western United States or Texas have harmed, and may continue to harm, our business. As a result of our concentration in these markets, we have been, and in the future may be, disproportionately affected by these adverse conditions compared to other chain beverage stores with a more expansive national footprint. For example, in recent years, wildfires spread across most western states causing poor air quality which reduced consumers' willingness to venture outside their homes and, we believe, reduced our AUVs, and any future wildfires may have a similar impact. Additionally, hurricanes and flooding have impacted areas in Texas in which we operate. If areas in which we operate experience wildfires, flooding or other natural disasters, such conditions may also damage stores and the communities in which we operate which could decrease demand for our products and reduce store visits by our guests. In addition to rebuilding costs, prolonged economic recovery within affected communities may have a negative impact on our results of operations.

We face potential liability with our gift cards under the property laws of some states.

Our gift cards, which may be used to purchase beverages and food in our stores, may be considered stored value cards by certain states in accordance with their abandoned and unclaimed property laws. These laws could require us to remit cash to such state in an amount equal to all or a designated portion of the unredeemed balance on the gift cards based on certain card attributes and the length of time that the cards are inactive.

The analysis of the potential application of the abandoned and unclaimed property laws to our gift cards is complex, involving an analysis of constitutional, statutory provisions and factual issues. In the event that one or more states change their existing abandoned and unclaimed property laws or successfully challenge our position on the application of its abandoned and unclaimed property laws to our gift cards, or if the estimates that we use in projecting the likelihood of the cards being redeemed prove to be

inaccurate, our liabilities with respect to unredeemed gift cards may be materially higher than the amounts shown in our consolidated financial statements. If we are required to materially increase the estimated liability recorded in our consolidated financial statements with respect to unredeemed gift cards, our financial condition and results of operations could be adversely affected.

Risks Related to Our Brand

Our brand is core to our success, and damage to our brand or reputation and negative publicity could negatively impact our business, financial condition and results of operations.

Our reputation and the quality of our brand are critical to our business and success in existing markets and will be critical to our success as we enter new markets. Brand value is based in part on consumer perceptions on a variety of subjective qualities. We believe that we have built our reputation on the excellent guest experience we provide, our high-quality beverages, our commitment to our guests and communities as well as our strong employee culture, and we must protect and grow the value of our brand in order for us to continue to be successful, particularly outside of the Western United States and Texas where our brand may be less well-known. Any incident that erodes consumer loyalty for our brand could significantly reduce its value and damage our business.

We may, from time to time, be faced with negative publicity, including on social media, regardless of its accuracy, relating to product quality; pricing; the safety, sanitation and welfare of our stores; guest complaints or litigation alleging illness or injury; health inspection scores; integrity of our or our suppliers' food processing, employment practices and other policies, practices and procedures; employee relationships and welfare; the appearance of our stores on third-party delivery platforms that may contain inaccurate menu pricing and extended delivery times; public perception, or actions, whether or not to us; third parties with which we have a business relationship, including certain companies that we partner with to provide baked goods and select food offerings in certain of our Texas locations, our brand representatives and social media influencer network, and their reputation, public perception, or actions, whether or not related to us; or other matters. Negative publicity or actions taken by individuals that we partner with, such as brand representatives and influencers, that fail to represent our brands in a manner consistent with our brand image or act in a way that harms their reputation, whether through our social media accounts or their own, could harm our brand reputation, potentially trigger boycotts of our stores or result in civil or criminal liability and can have a negative impact on our financial results. Negative publicity may adversely affect us, regardless of whether the allegations are substantiated or whether we are determined to be responsible, and it may be difficult to address negative publicity, including as a result of fictitious media content (such as content produced by generative AI technologies or bad actors). In addition, the negative impact of adverse publicity relating to one store may extend far beyond the store involved, to affect some or all of our other stores. A similar risk exists with respect to beverage businesses unrelated to us if guests mistakenly associate such unrelated businesses with our operations. Employee claims against us based on, among other things, wage and hour violations, discrimination, harassment or wrongful termination may also create not only legal and financial liability but negative publicity that could adversely affect us and divert our financial and management resources that would otherwise be used to benefit the future performance of our operations. A significant increase in the number of these claims or an increase in the number of successful claims could harm our business.

Ultimately, the risks associated with any such negative publicity or incorrect information cannot be completely eliminated or mitigated and may harm our business.

If we fail to offer high-quality guest experience, our business and reputation will suffer.

Numerous factors may impact a guest's experience which may in turn impact the likelihood of such guest returning. Those factors include guest service, convenience, taste, price, quality, location and condition of our stores and brand image. In addition to providing high-quality products, we encourage our employees, including our baristas, to provide a positive guest experience, to connect with local communities and get to know their guests, and we believe the genuine connection we build with our guests is a critical component of our brand. As we grow, it may be difficult for us to identify, recruit, train and manage enough

people with the right skills, talent and attitude to provide this guest experience and our brand may suffer as a result.

Our inability or failure to utilize, recognize, respond to, and effectively manage social media could have a material adverse effect on our business.

Social media and internet-based communication or review platforms give individual users immediate access to a broad audience. These platforms can also facilitate rapid dissemination of negative publicity, such as negative guest or team member experiences. Adverse publicity, regardless of its accuracy, concerning our stores and our brand may be shared on such platforms at any time and has the potential to quickly reach a wide audience. The resulting harm to our reputation from negative publicity on social media may be immediate and we may fail to correct or otherwise respond to the information or circumstance that is the subject of such publicity, whether or not we have the opportunity to do so. It is challenging to monitor and anticipate developments on social media in order to effectively and timely respond and our failure to do so, or to do so successfully, may have a material adverse effect on our business, financial condition, and results of operations.

However, social media platforms are a rapidly evolving and important marketing tool, which we utilize to help us engage with guests and potential guests. For example, we maintain Facebook, Instagram and TikTok accounts, among other accounts, and we have partnered, and expect to continue to partner, with social media influencers who promote our brand and may also produce content for us. As the landscape of social media platforms develops, we believe we must maintain our presence on existing platforms and establish a presence on emerging platforms. Many of our competitors are expanding their use of social media. We believe our success will depend on our ability to continuously innovate and develop our social media strategies to appeal to guests, maintain brand relevance, and effectively compete with our peers, and we may not do so effectively. In addition, a ban or legal or regulatory restrictions on the use of any social media platform, such as TikTok or Instagram, on which we, and social media influencers that we partner with, have acquired significant followers, may adversely affect our ability to engage with guests and promote our brand.

There are a variety of additional factors associated with our use of social media that may harm our business and result in negative publicity, including the possibility of improper disclosure of proprietary information, exposure of personal information of our team members or guests, the failure by us or our team members to comply with applicable law and regulations, any inappropriate use of social media platforms by our team members, fraud, hoaxes, or malicious dissemination of false information. While we contractually require the social media influencers or celebrities with whom we partner to adhere to certain quality control requirements in connection with their promotion of our brand or creation of content for us, we do not control the actions of such individuals and our association with influencers or celebrities who become embroiled in controversy or are subject to bad publicity, regardless of whether such controversy or publicity is related to our business, could damage our reputation, and our partnership with any such influencer or celebrity could be difficult and costly to unwind and otherwise address.

We are subject to evolving rules and regulations with respect to ESG matters.

We are subject to a variety of ESG-related rules and regulations promulgated by a number of governmental and self-regulatory organizations, including with respect to climate change, greenhouse gases, water resources, packaging and waste, animal health and welfare, deforestation and land use. ESG-related rules and regulations continue to evolve in scope and complexity and we are working to manage the risks and costs to us and our supply chain associated with these types of ESG matters, however, there is no assurance that such efforts will result in the intended effective management of such risks and costs. In addition, as the result of such focus on ESG matters, we may face increased pressure to provide expanded disclosure, make or expand commitments, set targets, or establish additional goals and take actions to meet such goals, in connection with such ESG matters. These matters and our efforts to address them could expose us to market, operational, reputational and execution costs or risks.

As ESG best practices and reporting standards continue to develop, we may incur increasing costs relating to ESG monitoring and reporting and complying with ESG initiatives. In the event that we communicate certain initiatives or goals regarding ESG matters in the future, we could fail, or be perceived to fail, in our achievement of such initiatives or goals, or we could be criticized for the scope of such initiatives or goals. If we fail to satisfy the expectations of certain investors and other stakeholders or our initiatives are not executed as planned, our business, financial condition, reputation, results of operations, and prospects may be adversely affected.

Risks Related to People and Culture

We believe our culture has contributed to our success, and if we cannot maintain this culture as we grow, we could lose employee engagement, which could harm our business and reputation.

We believe our people-first culture is a critical component of our success, guest loyalty and ability to enter new markets and open new stores. We have invested substantial time and resources in developing our corporate culture. We have built out our leadership team with an expectation of protecting this culture, an emphasis on shared values and a commitment to diversity and inclusion. As we continue to develop and expand across the United States, we will need to maintain our culture among a larger number of employees dispersed in various geographic regions. Any failure to preserve our culture could negatively affect our future success, including our ability to retain and recruit personnel, and result in reputational harm and a loss of guest loyalty.

Our inability to identify, recruit and retain qualified individuals for our stores could slow our growth and adversely impact our ability to operate.

Our success depends substantially on the contributions and abilities of our employees, particularly our baristas, on whom we rely to give guests a superior experience and elevate our brand. Our success depends in part upon our ability to attract, motivate and retain a sufficient number of qualified store leads, almost all of whom come from within our system, and baristas to meet the needs of our existing stores and to staff new stores. Some of our baristas advance to become store leads and multi-store leads and when they do, their prior positions need to be filled. We aim to hire genuine, motivated and welcoming individuals who strive for excellence and are committed to forming authentic and meaningful relationships with guests to uplift and make an impact in their community. It may be difficult or impossible for us to recruit and retain a sufficient number of qualified individuals to fill these positions in some communities. Competition in these communities for qualified staff is high and shortages may make it difficult and expensive to attract, train and retain the services of a satisfactory number of qualified employees, which could delay the planned openings of new stores and adversely impact the operations and profitability of existing stores. Such shortages may also require us to pay higher wages and provide greater benefits.

We place a heavy emphasis on the qualification and training of our personnel and spend a significant amount of time and money on training our employees. Any inability to recruit and retain qualified individuals may result in higher turnover and increased labor costs, and could compromise the quality of our service, all of which could adversely affect our business, reputation, financial condition and results of operations. Any such inability could also delay the planned openings of new stores and could adversely impact our existing stores. Any such inability to retain or recruit qualified employees, increased costs of attracting qualified employees or delays in store openings could harm our business.

Additionally, the growth of our business can make it increasingly difficult to locate and hire sufficient numbers of key employees, to maintain an effective system of internal controls for a dispersed chain and to train employees to deliver consistently high-quality products and guest experiences, which could materially harm our business and results of operations. In addition, growth and the addition of new stores may result in inefficiencies in our staffing, which can increase overtime costs or otherwise impact our results of operations.

Changes in the cost of labor could harm our business.

Our business could be harmed by increases in labor costs, including those increases triggered by inflation, regulatory actions regarding wages, scheduling and benefits and increased health care and workers' compensation insurance costs, which, in a retail business such as ours, are some of our most significant costs. In particular, our staff are typically paid wage rates at or based on the applicable federal, state or local minimum wage, and increases in the applicable minimum wage have in the past and will increase labor costs. From time to time, legislative proposals are made to increase the minimum wage at the federal, state or local level, such as Assembly Bill 1228 in California, which created a minimum wage of $20 per hour for fast food workers, effective April 1, 2024, among other provisions. As federal, state or other applicable minimum wage rates increase, we may be required to increase not only the wage rates of minimum wage baristas or other employees, but also the wages paid to other hourly employees. We may not choose to increase prices in order to pass future increased labor or commodity costs on to guests, in which case our margins would be negatively affected. If we do not increase prices to cover increased labor or commodity costs, or if such increase is delayed, the higher prices could result in lower sales, which may also reduce margins.

Unionization activities may disrupt our operations and affect our results of operations.

Although none of our employees are currently covered under collective bargaining agreements, our employees may elect to be represented by labor unions in the future. If a significant number of our employees were to become unionized and collective bargaining agreement terms were significantly different from our current compensation arrangements, it could adversely affect our business, financial condition or results of operations. In addition, one or more labor disputes involving some or all of our employees may harm our reputation, disrupt our operations and reduce our revenue, and resolution of disputes may increase our costs. Further, if we enter into a new market with unionized construction companies, or the construction companies in our current markets become unionized, construction and build out costs for new stores in such markets could materially increase.

We depend on our executive officers and other key employees, and the loss of one or more of these employees or an inability to attract and retain other highly skilled employees could harm our business.

Our success depends largely upon the continued services of our executive officers and other key employees, and the hiring and retention of additional executives and other key personnel. We rely on our leadership team in the areas of finance, marketing, sales, guest experience and administration. From time to time, there may be changes in our executive management team resulting from the hiring or departure of executives, which could disrupt our business. The loss of one or more of our executive officers or key employees could harm our business. Changes in our executive management team may also cause disruptions in, and harm to, our business.

We continue to be led by our Co-Founders, including Jeff Hernandez and Daniel Brand, and Mark Davis, our Chief Executive Officer, who play an important role in driving our culture, determining the strategy, and executing against that strategy across the company. If Mr. Hernandez's, Mr. Brand's or Mr. Davis's leadership or services became unavailable to us for any reason, it may be difficult or impossible for us to find adequate replacements, which could cause us to be less successful in maintaining our culture and developing and effectively executing on our company strategies.

Risks Related to Information Technology Systems, Cybersecurity, Data Privacy and Intellectual Property

If we or our third-party providers experience failures, outages, or sub-standard performance of our information technology systems, our operations could be disrupted and there may be damage to our business, reputation, results of operations, and financial condition.

We increasingly rely on the efficient, reliable and uninterrupted operation of the computer systems, hardware, software, technology infrastructure and online sites and networks we use (whether owned and managed by us or outsourced) (collectively, our "IT Systems") for both internal and external operations that are critical to our business. We rely on third parties for a range of IT Systems and related products and services, including but not limited to cloud computing services: for marketing; to sell and deliver our products; to fulfill orders; to collect, receive, store, process, generate, use, transfer, disclose, make accessible, protect, secure, dispose of and share ("Process" or "Processing") personal information, confidential or proprietary information, financial information and other sensitive information (collectively, "Confidential Information"); to manage a variety of business processes and activities; for financial reporting purposes; to operate our business; to process orders; to accept payments using credit cards and debit cards, including through our mobile application; and for legal and compliance purposes. These third-party IT Systems, products and services may cease to be available to us on acceptable terms or at all, which could materially interrupt our operations and harm our business, reputation, financial condition and results of operations.

Our IT Systems networks and systems may be subject to malfunction, failure, damage or disruption due to fire, flood, natural disasters and other extreme weather events, human error, accidents, power disruptions, telecommunications failures or other similar events. We do not currently have data backup, business continuity, or disaster recovery plans or procedures in place, and once developed, these plans and procedures (or those of our vendors) may not be sufficient to prevent or mitigate long-term system or network outages or data loss. Additionally, we may in the future replace or upgrade existing systems or implement new technology systems, including in connection with the planned expansion of our business. These replacements, upgrades and implementations of technology systems may require significant investment of time and resources, may fail to generate the desired effects, and may create new issues we currently do not face or may significantly exceed our cost estimates. Any disruption of our IT Systems could interrupt or otherwise impair our operations and negatively impact our ability to meet guest needs and to maintain critical operational or financial controls. These events could damage our reputation and cause us to incur unanticipated liabilities, including financial losses from remedial actions, business interruptions, loss of business and other unanticipated costs, which may not be covered by insurance.

We are subject to cybersecurity risks and may incur increasing costs in an effort to minimize those risks, which efforts may or may not be effective. Security incidents may result in legal and financial exposure and reputational harm.

We face numerous and evolving cybersecurity risks that threaten the confidentiality, integrity and availability of our IT Systems, and the Confidential Information they Process may be vulnerable to malicious attacks and other data security and privacy threats. These threats are prevalent, continue to rise, are becoming increasingly difficult to detect, and may come from a variety of sources, including traditional computer "hackers," threat actors, "hacktivists," personnel (such as through theft or misuse), organized criminal threat actors, nation-states, and nation-state-supported actors. During times of war and other major conflicts, we and the third parties with whom we work may be vulnerable to a heightened risk of cyberattacks, which could materially disrupt our IT Systems and operations, supply chain, and ability to market, produce, sell, and distribute our products.

The risk of unauthorized circumvention of our security measures or those of the third parties with whom we work has been heightened by advances in computer and software capabilities and the increasing sophistication of actors who employ complex techniques, including, without limitation, "phishing" or social engineering incidents (including deep fakes, which are becoming increasingly difficult to detect),

ransomware, extortion, account takeover attacks, personnel misconduct or error, denial or degradation of service attacks, malicious code (such as viruses or worms), supply-chain attacks, software bugs, adware, attacks enhanced or facilitated by AI or machine learning technologies, or malware and other similar threats. In particular, severe ransomware attacks are becoming increasingly prevalent and can lead to significant interruptions in our operations, loss of Confidential Information and income, reputational harm, and diversion of funds. Extortion payments may alleviate the negative impact of a ransomware attack, but we may be unwilling or unable to make such payments due to, for example, applicable laws or regulations prohibiting such payments. Further, security incidents experienced by other companies may also be leveraged against us. For example, credential stuffing attacks are becoming increasingly common and sophisticated actors can mask their attacks, making them increasingly difficult to identify and prevent. It may be difficult and/or costly to detect, investigate, mitigate, contain, and remediate a security incident. Our efforts to do so may not be successful. Actions taken by us or the third parties with whom we work to detect, investigate, mitigate, contain, and remediate a security incident could result in outages, data losses, and disruptions of our business. Threat actors may also gain access to other networks and systems after a compromise of our IT Systems.

We rely upon third parties to operate critical business systems to process Confidential Information in a variety of contexts, including, without limitation, third party payment processors, point of sale and order management systems, encryption and authentication technology, human resources systems including scheduling, payroll and compliance systems, Internet service providers, enterprise resource planning and financial systems, document management and storage, employee email, our mobile application, and other functions. Our ability to monitor these practices is limited, and these third parties may not have adequate information security measures in place. If these third parties experience a security incident or other interruption, we could experience adverse consequences. While we may be entitled to damages if the third parties with whom we work fail to satisfy their privacy or security-related obligations to us, any award may be insufficient to cover our damages, or we may be unable to recover such award. In addition, supply-chain attacks have increased in frequency and severity, and we cannot guarantee that third parties' infrastructure in our supply chain or those of the third parties with whom we work have not been compromised. Additionally, any integration of AI into our or any service providers' operations, products or services is expected to pose new or unknown cybersecurity risks and challenges.

While we have implemented security measures designed to protect against security incidents, our security measures (and those of the third parties with whom we work) may not be adequate to prevent or detect service interruption, system failure data loss, fraud or theft, or other material adverse consequences. Moreover, although we take steps designed to detect, mitigate, and remediate vulnerabilities in our IT Systems, we may not detect and remediate such vulnerabilities on a timely basis or at all. Vulnerabilities could be exploited and result in a security incident. We expect similar issues to arise in the future as our mobile application is more widely adopted, and as we continue to expand the features and functionality of our mobile application.

Any of the previously identified or similar threats and issues could result in unauthorized, unlawful, or accidental acquisition, modification, destruction, loss, alteration, encryption, disclosure of, or access to Confidential Information or our IT Systems (or those of the third parties with whom we work). We and certain of our third-party providers regularly experience cyberattacks and other incidents, and we expect such attacks and incidents to continue in varying degrees. For example, we have been the target of phishing attempts in the past, including the compromise of one employee's email credentials in March of 2025 which led to approximately twenty unauthorized emails being sent to internal team members, and we expect such attempts will continue in the future. While to date no incidents have involved the exposure of any Confidential Information other than email credentials or had a material impact on our operations or financial results, we cannot guarantee that material incidents will not occur in the future.

We may expend significant resources or modify our business activities to try to protect against security incidents and/or fraud. Certain data privacy and security obligations may require us to implement and maintain certain security measures to protect our IT Systems and Confidential Information. Remote and hybrid working arrangements at our company (and at many third-party providers) also increase

cybersecurity risks due to the challenges associated with managing remote computing assets and security vulnerabilities that are present in many non-corporate and home networks. Our efforts to protect our IT Systems and securely Process Confidential Information do not and will not address all possible security threats and/or fraud. Additionally, Confidential Information of the Company or our guests could be leaked, disclosed, or revealed as a result of or in connection with the use of AI technologies by our employees, personnel, or third parties with whom we work.

Applicable data privacy and security obligations may require us, or we may voluntarily choose, to notify relevant persons of security incidents, including affected individuals, guests, regulators, and investors. Such notifications are costly, and the disclosure or the failure to comply with such requirements could lead to adverse consequences. If we or a third party with whom we work actually or are perceived to experience a security incident, we may experience adverse consequences, including but not limited to reputational harm, costly litigation (including class action litigation), material contract breaches, liability, settlement costs, loss of sales, disruption in our ability (or that of third parties with whom we work) to process payments, regulatory scrutiny, actions or investigations, a loss of confidence in our business, systems and Processing of Confidential Information, a diversion of management's time and attention, and significant fines, penalties, assessments, fees and expenses.

Additionally, the costs to respond to a security incident and/or to mitigate any security vulnerabilities that may be identified could be significant, and our efforts to address these problems may not be successful. These costs include, but are not limited to, retaining the services of cybersecurity providers; compliance costs arising out of existing and future cybersecurity, data protection and privacy laws and regulations; and costs related to maintaining redundant networks, data backups and other damage-mitigation measures. We could be required to fundamentally change our business activities and practices in response to a security incident or related regulatory actions or litigation, which could have an adverse effect on our business.

We may not have adequate insurance coverage for handling security incidents, including fines, judgments, settlements, penalties, costs, attorney fees and other impacts that arise out of incidents or breaches. If the impacts of a security incident, or the successful assertion of one or more large claims against us that exceeds our available insurance coverage, or results in changes to our insurance policies (including premium increases or the imposition of large deductible or co-insurance requirements), it could harm our business. In addition, we cannot be sure that our existing insurance coverage will continue to be available on acceptable terms or that our insurers will not deny coverage as to all or part of any future claim or loss. Our contracts may not contain limitations of liability, and even where they do, there can be no assurance that limitations of liability in our contracts are sufficient to protect us from liabilities, damages, or claims related to our data privacy and security obligations. Moreover, our information security risks are likely to increase as we continue to expand, grow our guest base, and process increasingly large amounts of Confidential Information. In addition to experiencing a security incident, third parties may gather, collect, or infer Confidential Information about us from public sources, data brokers, or other means that reveals competitively sensitive details about our organization and could be used to undermine our competitive advantage or market position.

Compliance with evolving federal and state laws and other requirements relating to data privacy is costly, and any failure by us or our vendors to comply may result in significant liability, negative publicity, and/or an erosion of trust, which could materially adversely affect our business, reputation, results of operations, and financial condition.

In connection with running our business, we receive, store, use and otherwise process information that relates to individuals and/or constitutes "personal data," "personal information," "personally identifiable information," or similar terms under applicable data privacy laws (collectively, "Personal Information"), including from and about actual and prospective guests, as well as our employees and business contacts. We also depend on a number of third-party vendors in relation to the operation of our business, a number of which process Personal Information on our behalf.

We and our vendors are subject to a variety of federal and state data privacy laws, rules, regulations, industry standards and other requirements. These requirements, and their application, interpretation and amendment are evolving, and new laws, regulations and other requirements, or amendments to or changes in interpretations of existing laws, regulations and other requirements, may require us to incur significant costs, implement new processes, or change our handling of information and business operations, which could ultimately hinder our ability to grow our business by extracting value from our data assets.

For example, in the United States, the Federal Trade Commission and state regulators have stated that certain activities (such as failure to comply with certain promises made in privacy policies or failures to appropriately protect Personal Information) constitute unfair or deceptive acts or practices in or affecting commerce in violation of the Federal Trade Commission Act or similar state laws, and have brought enforcement actions against companies for such alleged violations. In addition, in recent years, certain states have adopted or modified data privacy and security laws and regulations that may apply to our business. For example, the California Consumer Privacy Act ("CCPA") requires covered businesses to provide certain disclosures regarding the business's Processing of Personal Information, manage data subject access, deletion, correction, and opt-out requests, and enter into specific contractual provisions with service providers that process California resident Personal Information on the business's behalf, among other things. Other states in the United States have adopted different data privacy laws and regulations, creating a patchwork of overlapping but different state laws, and we may fail to remain informed of and compliant with the varied requirements of such laws and of new data privacy laws. Similar laws have also been proposed at the federal level.

Our marketing practices subject us to certain laws, regulations, and standards covering marketing, advertising, and other activities conducted by telephone, email, mobile devices, and the Internet. Federal or state regulatory authorities or individuals may claim that our practices violate such laws, which may result in bad publicity and reputational harm or civil claims against us, which could be costly to litigate, whether or not they have merit, and could expose us to substantial statutory damages or costly settlements. We send marketing messages via email and are subject to the CAN-SPAM Act. The CAN-SPAM Act imposes certain obligations regarding the content of emails and providing opt-outs (with the corresponding requirement to honor such opt-outs promptly). While we strive to ensure that all of our marketing communications comply with the requirements set forth in the CAN-SPAM Act, any violations could result in the FTC seeking civil penalties against us.

We may at times fail to comply with applicable data privacy and security obligations, or may be perceived to have failed to do so. Moreover, despite our efforts, we may not be successful in achieving compliance if our employees, partners, or other third parties with whom we work do not comply with applicable data privacy and security obligations. Any failure (or perceived failure) by us or a third party with whom we work to comply with applicable data privacy and security obligations could subject us to litigation (including class claims), mass arbitration demands, claims, proceedings, actions or investigations by governmental entities, authorities, private parties, or regulators; additional reporting requirements and/or oversight; bans on Processing Personal Information; and orders to destroy or not use Personal Information. In particular, plaintiffs have become increasingly active in bringing privacy-related claims against companies, including class claims and mass arbitration demands. Some of these claims allow for the recovery of statutory damages on a per-violation basis, and, if viable, carry the potential for monumental statutory damages, depending on the volume of data and the number of violations. Any of the foregoing could result in an adverse consequences, including increase our compliance and operational costs; limit our ability to market our products or services and attract new and retain current customers; result in reputational harm; lead to a loss of customers; reduce the use of our products or services; cause us to incur significant costs, expenses, and fees (including attorney fees); cause a material adverse impact to business operations or financial results; and otherwise result in other material harm to our business.

We may not be able to adequately protect our intellectual property and we may become engaged in intellectual property-related disputes or litigation, any of which could harm the value of our brand and adversely affect our business, reputation, financial condition, and results of operations.

We believe our ability to implement our business plan successfully depends in part on our ability to build brand recognition using our trademarks, service marks, proprietary products, processes, and methods, and other intellectual property, including the unique character and atmosphere of our retail coffee stores. We rely on U.S. trademark and trade secret laws, as well as license agreements, nondisclosure agreements, and confidentiality and other contractual provisions, to establish and protect our intellectual property. These laws are subject to change and certain agreements may not be fully enforceable, which could restrict our ability to protect our intellectual property rights. Such means may also afford only limited protection of our intellectual property and may not prevent our competitors or other third parties from developing similar processes, methods, products, menu items, atmospheres, or concepts, which could make it more difficult for us to compete in the marketplace.

If our efforts to establish, register, maintain, enforce, and protect our trademarks and other intellectual property, as applicable, are inadequate, or if any third party misappropriates, dilutes or infringes on our intellectual property, the value of our brand may be harmed, which could have a material adverse effect on our business and may prevent our brand from achieving or maintaining market acceptance. If our intellectual property rights are rendered or adjudged invalid or unenforceable, cancelled, or narrowed in scope or if we are required to cease using any of our intellectual property, the protections afforded our brand, products, processes and methods would be impaired. Such impairment could impede our ability to make, market or sell our products and services, negatively affect our competitive position, and harm our business.

We believe the success of our business depends on the strength of our brand and our continued ability to increase brand awareness and further develop our brand as we expand into new markets. We rely on trademark protection to protect our brand, and have registered and applied to register our material trademarks and service marks in the United States. There can be no assurance that any of our pending or future trademark or service mark applications will be approved in a timely manner or at all, or that any trademark or service mark registrations that we now or in the future own will effectively protect our brands. Third parties may also oppose our trademark and service mark applications, or otherwise challenge our use or the scope of our trademarks and service marks. This risk may increase as we enter new markets with localized competitors. In the event that our trademarks or service marks (or the use or scope thereof) are successfully challenged, we could experience brand dilution or be forced to rebrand our products and services, either of which would result in loss of brand recognition and require us to devote resources to advertising and marketing new brands.

Moreover, we do not hold any patents for our roasting methods. We roast all of the coffee beans we use in our store in-house, and we consider our roasting methods to be trade secrets. However, our efforts to protect the secrecy of these methods may not be adequate, and in the event of any unauthorized use or any disclosure that compromises the secrecy of such methods, adequate remedies may not be available. Competitors may be able to duplicate our process if such methods became known. If our competitors copy our roasting methods, the value of our coffee products may decline, and we may lose guests to competitors. Furthermore, even if we successfully maintain the confidentiality of our trade secrets and other proprietary information, competitors may independently develop products or methods that are substantially equivalent or superior to our own.

While we generally seek to protect and enforce our material intellectual property rights, monitoring for unauthorized use, infringement or other violations of our intellectual property rights can be expensive and time-consuming, and we are unlikely to be able to detect all instances of such violations. We may from time to time be required to institute enforcement actions or litigation to attempt to enforce and preserve the value of our intellectual property. Any such litigation could be lengthy and result in substantial costs and diversion of our resources and could negatively affect our revenue, business, reputation, profitability and prospects regardless of whether we can successfully enforce our rights. Third parties have in the past

and may in the future assert that we infringe, misappropriate or otherwise violate their intellectual property and demand that we cease using, or enter into licensing agreements, for such intellectual property, or may sue us for intellectual property infringement. Any such demands or claims of intellectual property infringement against us, even those without merit, could be expensive and time consuming to defend, could cause us to cease making, marketing or selling our products or services, could require us to re-design or rebrand our products, services or packaging, could divert management's attention and resources or could require us to pay damages or to enter into royalty or licensing agreements in order to obtain the right to use a third party's intellectual property. Any such licensing agreement may not be available to us on acceptable terms or at all. If a court finds that we infringe a third party's intellectual property, we may also be required to pay damages.

Our use of AI may adversely impact our business, reputation, financial condition, and results of operations.

We use AI-enabled products provided by Paytronix in connection with our business operations and in certain interactions with customers, and intend to increase our use of AI over time. Our use of AI technologies carries certain risks, including regarding the accuracy and quality of AI outputs, which may be inaccurate, biased, or otherwise inappropriate for our business's or our customers' needs, which could adversely impact our business and reputation. Our use of AI may create legal and financial exposure, including for claims and liabilities associated with AI outputs that may be alleged to infringe the intellectual property rights of third parties. Furthermore, where Personal Information or other sensitive information is processed by a third-party AI provider, this could put the confidentiality of such information at risk, including if such third-party AI provider breaches its contractual obligations to us, experiences a security incident, or intentionally or inadvertently misuses such information. In such an instance, it is possible that customer Personal Information or our confidential or other sensitive information could become available to third parties, including our competitors. Any of the foregoing risks may result in customer dissatisfaction and diversion of management's attention and resources from our primary business, and may harm our business, reputation, financial condition, and results of operations.

Additionally, there are many evolving laws, regulations and standards regarding the development and use of AI, including laws that apply specifically to instances where AI interacts with consumers. New laws, regulations, or industry standards governing AI use could require us to modify our practices and plans regarding AI use, increase our operating costs, change our operations and processes, result in potential increases in civil claims against us, or restrict our ability to use certain types of AI in our operations in order to remain compliant with such regulations or standards.

If we or our vendors are unable to protect our guests' credit and debit card data or other confidential information in connection with processing the same or our employees' confidential information, we could be exposed to data loss, litigation, liability and reputational damage.

Our business requires the Processing of large volumes of guest and employee data, including credit and debit card numbers and other personally identifiable information, in various IT Systems. We consider the integrity and protection of that guest and employee data to be critical. Further, our guests and employees have a high expectation that we and our service providers will adequately protect their personal information.

Although we rely on third-party processors to process all payment card transactions and do not process or store any cardholder data ourselves, we are subject to rules governing electronic funds transfers, including the Payment Card Industry Data Security Standard ("PCI DSS"). Such rules could change or be reinterpreted to make it difficult or impossible for us to comply. Our contracts with payment card processors and payment card networks (such as Visa, Mastercard, American Express and Discover) generally require us to adhere to payment card network rules which could make us liable to payment card issuers and others if information in connection with payment cards and payment card transactions that we process is compromised, which liabilities could be substantial. If we (or a third party processing payment card transactions on our behalf) suffer a security breach affecting payment card information or fail or are unable to comply with the security standards established by banks and the payment card industry, we

may have to pay onerous and significant fines, penalties and assessments arising out of the major card brands' rules and regulations, contractual indemnifications or liability contained in merchant agreements and similar contracts, and we may lose our ability to accept payment cards as payment for transactions, which could materially impact our operations and financial performance. As well, the Fair and Accurate Credit Transactions Act ("FACTA") requires systems that print payment card receipts to employ personal account number truncation so that the guest's full account number is not viewable on the slip. Despite our efforts to comply with PCI DSS and FACTA, we may become subject to claims that we have violated such laws or standards or other payment card standards and security measures, based on past, present and future business practices, which could have an adverse impact on our business and reputation. If our payment card terminals or internal systems are breached or compromised, we may be liable for card re-issuance costs and other costs, subject to fines and higher transaction fees, and lose our ability to accept card payments from our members, or if our third-party service providers' systems are breached or compromised, our business, financial condition, results of operations or cash flows could be adversely affected.

The information, security and privacy requirements imposed by governmental regulation are increasingly demanding. Our systems may not be able to satisfy these changing requirements and guest and employee expectations or may require significant additional investments or time in order to do so. Efforts to hack or breach security measures, failures of systems or software to operate as designed or intended, viruses, operator error or inadvertent releases of data all threaten our and our service providers' IT Systems and records. A breach in the security of our IT Systems or those of our service providers could lead to an interruption in the operation of our systems, resulting in operational inefficiencies and a loss of profits. Additionally, a significant theft, loss or misappropriation of, or access to, guests' or other proprietary data or other breach of our information technology systems could result in fines, legal claims or proceedings, including regulatory investigations and actions, or liability for failure to comply with privacy and information security laws, which could disrupt our operations, damage our reputation and expose us to claims from guests and employees, any of which could harm our business.

We are subject to payment-related requirements and fraud, and any increase in or our failure to deal effectively with payment-related requirements or fraud, fraudulent activities, fictitious transactions, or illegal transactions would materially and adversely affect our business, results of operations, and financial condition.

We accept payments using a variety of methods, including cash, select credit, prepaid and debit cards, and gift cards. As we offer new payment options to our guests, we may be subject to additional rules, regulations, compliance requirements, and higher fraud losses. For certain payment methods, we pay interchange and other related acceptance fees, along with additional transaction processing fees. We rely upon third-party service providers to provide payment transaction processing services. Our utilization of such payment processing services may be impacted by factors outside of our control, including disruptions in the payment processing industry generally. If these service providers do not perform adequately or experience a data security incident or fail to comply with applicable laws, rules and industry standards, if our relationships with these service providers were to change or terminate (or if they become willing or unable to provide services to us), it could disrupt our business and negatively affect our ability to receive payments and our guests' ability to complete purchases. This could decrease revenue, increase costs, lead to potential legal liability, and negatively impact our brand, reputation, and business. In addition, if these providers increase the fees they charge us, our operating expenses could increase. We are also subject to rules governing electronic funds transfers and payment card association rules, which could change over time, and must comply with evolving payment card association and network operating rules. Any change in these rules and requirements could make it difficult or impossible for us to comply and could require a change in our business operations. In addition, similar to a potential increase in costs from third-party providers described above, any increased costs associated with compliance with payment card association rules or payment card provider rules could lead to increased fees for us or our guests.

In addition, we process a significant volume of credit, prepaid and debit card transactions on a daily basis through our point of sale and order management systems and our mobile app. We have in the past, and

may again in the future, be the victim of fraudulent transactions arising out of the actual or alleged theft of card information through such systems. Such instances have and can lead to the reversal of payments received by us for such payments, referred to as a "chargeback." We have been and will likely continue to be liable for chargebacks and other costs and fees related to fraudulent transactions. Our ability to detect and combat such fraudulent transactions, which have become increasingly common and sophisticated, could be adversely impacted by the emergence and innovation of new technology platforms, including mobile and other devices. We expect that criminals will continue to attempt to circumvent our anti-fraud systems. In addition, the payment card networks have rules around acceptable chargeback ratios. If we are unable to effectively combat the use of fraudulent or stolen cards, we may be subject to fines and higher transaction fees or be unable to continue to accept card payments because payment card networks have revoked our access to their networks, any of which would materially adversely impact our business, results of operations, and financial condition. We may also be subject to lawsuits, regulatory investigations, or other proceedings relating to these types of incidents.

Further, payments systems we use are susceptible to potentially illegal or improper uses, including money laundering, transactions in violation of economic and trade sanctions, corruption and bribery, terrorist financing, guest account takeovers, or the facilitation of other illegal activity. Use of our payments systems for illegal or improper uses could subject us to claims, lawsuits, and government and regulatory investigations, inquiries, or requests, which could result in liability and reputational harm for us. We have taken measures to detect and reduce fraud and illegal activities, such as working with third party vendors to combat fake loyalty accounts created to receive free drinks, but these measures need to be continually improved and may add friction to our payment processes. These measures may also not be effective against fraud and illegal activities, particularly new and continually evolving forms of circumvention. If these measures do not succeed in reducing fraud, our business, reputation, results of operations, and financial condition would be materially and adversely affected.

Risks Related to Regulation and Litigation

We are subject to many federal, state and local laws with which compliance is both costly and complex.

The food service and restaurant industry is subject to extensive federal, state and local laws and regulations, including those related to health care reform legislation, building and zoning requirements and the preparation and sale of food and beverages for consumption. Such laws and regulations are subject to change from time to time. Our failure to comply with these laws and regulations as they evolve could adversely affect our operating results. Typically, licenses, permits and approvals under such laws and regulations must be renewed annually and may be revoked, suspended or denied renewal for cause at any time if governmental authorities determine that our conduct violates applicable regulations. Difficulties or failure to maintain or obtain the required licenses, permits and approvals could adversely affect our existing stores and delay or result in our decision to cancel the opening of new stores, which would adversely affect our business.

The development and operation of a store depends, in part, on the selection of suitable sites for drive-thrus, which are subject to unique permitting, zoning, land use, environmental, traffic and other regulations and requirements. Drive-thru concepts in general may not be seen as desirable in some jurisdictions, and the long lines that may result from the popularity of our brand and success of our stores may lead to negative perceptions from neighboring businesses and residences, which may lead to difficulties in obtaining or maintaining required permits. We are also subject to licensing and regulation by state and local authorities relating to health, sanitation, safety and fire standards.

We are subject to the Fair Labor Standards Act and various other federal, state and local laws that regulate the wages and hours of employees. These laws commonly apply a strict liability standard so that even inadvertent noncompliance can lead to claims, government enforcement actions and litigation. These laws vary from state to state and are subject to frequent amendments and judicial interpretations that can require rapid adjustments to operations. Insurance coverage for violations of these laws is costly and sometimes is not available. Changes to these laws can adversely affect our business by increasing

labor and compliance costs. The failure to comply with these laws could adversely affect our business as a result of costly litigation or government enforcement actions.

We are also subject to a variety of other employee relations laws including, but not limited to, Family and Medical Leave Act of 1933 ("FMLA") and state leave laws, employment discrimination laws, predictive scheduling laws, occupational health and safety laws and regulations and the National Labor Relations Act of 1935 ("NLRA"). Together, these many laws and regulations present a thicket of compliance obligations and liability risks. As we grow, our compliance efforts in these areas will continue to increase, which may result in additional costs and affect our results from operations. Changes to these laws and regulations may increase these costs beyond our expectations or predictions, which would adversely affect our business operations and financial results. Violations of these laws could lead to costly litigation or governmental investigation or proceedings.

We are subject to compliance obligations of the Food Safety Modernization Acts ("FSMA"). Under FSMA, we are required to develop and implement a Food Safety Plan for our roasting operations. While we are not currently required to implement a FSMA Food Safety Plan or a Hazard Analysis and Critical Points system ("HACCP") in our stores, many states have required restaurants to develop and implement HACCP, and the United States government continues to expand the sectors of the food industry that must adopt and implement HACCP. Additionally, our suppliers may initiate or otherwise be subject to food recalls that may impact the availability of certain products, result in adverse publicity or require us to take actions that could be costly for us or otherwise impact our business. See "—*Food safety and quality concerns may negatively impact our brand, business and results of operations.* "

We are subject to the Americans with Disabilities Act (the "ADA"), which, among other things, requires our stores to meet federally mandated requirements for the disabled. The ADA prohibits discrimination in employment and public accommodations on the basis of disability. Under the ADA, we could be required to expend funds to modify our stores to provide service to, or make reasonable accommodations for the employment of, disabled persons. In addition, our employment practices are subject to the requirements of the Immigration and Naturalization Service relating to citizenship and residency.

The mobility of our remote workers may also subject us to an increased risk of regulatory claims if our remote employees establish a nexus for our business in unanticipated jurisdictions. This could cause us to be subject to tax and employment claims in the applicable jurisdiction.

The impact of current laws and regulations, the effect of future changes in laws or regulations that impose additional requirements and the consequences of litigation relating to current or future laws and regulations, or our inability to respond effectively to significant regulatory or public policy issues, could increase our compliance and other costs of doing business and, therefore, have an adverse effect on our results of operations. Failure to comply with the laws and regulatory requirements of federal, state and local authorities could result in, among other things, revocation of required licenses, administrative enforcement actions, fines and civil and criminal liability. In addition, certain laws, including the ADA, could require us to expend significant funds to make modifications to our stores if we failed to comply with applicable standards. Compliance with all these laws and regulations can be costly and can increase our exposure to litigation or governmental investigations or proceedings.

Beverage and restaurant companies have been the target of class action lawsuits and other proceedings that are costly, divert management attention and, if successful, could result in our payment of substantial damages or settlement costs.

Our business is subject to the risk of litigation by employees, guests, competitors, landlords or neighboring businesses, suppliers, shareholders or others through private actions, class actions, administrative proceedings, regulatory actions or other litigation. The outcome of litigation, particularly class action and regulatory actions, is difficult to assess or quantify. In recent years, beverage and restaurant companies have been subject to lawsuits, including class action lawsuits, alleging violations of federal and state laws regarding workplace and employment matters, including matters related to employment status, wages, breaks and retaliation, as well as discrimination and similar matters. A number

of these lawsuits have resulted in the payment of substantial damages by the defendants. Similar lawsuits have been instituted from time to time alleging violations of various federal and state wage and hour laws regarding, among other things, employee meal deductions, overtime eligibility of assistant managers and failure to pay for all hours worked. Any such lawsuits in which Black Rock Coffee Bar, Inc., Black Rock OpCo, or any subsidiary thereof is named as a party may result in substantial expenses, damages and/or negatively impact our brand/reputation, even if such lawsuits may ultimately be decided in our favor.

Occasionally, our guests file complaints or lawsuits against us alleging that we are responsible for some illness or injury they suffered at or after a visit to one of our stores, including actions seeking damages resulting from food-borne illness or accidents in our stores. We also could be subject to a variety of other claims from third parties arising in the ordinary course of our business, including contract claims. The beverage and restaurant industry has also been subject to a growing number of claims that their menus and actions have led to the obesity of certain of their guests.

Occasionally, we are involved in disputes with neighbors, government officials and landlords over the lines of cars attempting to visit our stores. These disputes have led and could lead to the loss or changing of locations, changes to hours and operations and costly litigation. If we are unable to reach agreement in future disputes or to alleviate pressure on certain stores by building additional stores or making operational changes, we may be required to close locations or alter operations at some locations. Lost sales caused by such closures or alterations, plus increased expenses from litigation, would harm our business.

Regardless of whether any claims against us are valid or whether we are liable, claims may be expensive to defend and may divert time and money away from our operations. In addition, they may generate negative publicity, which could reduce guest traffic and sales. Although we maintain what we believe to be adequate levels of insurance, insurance may not be available at all or in sufficient amounts to cover any liabilities with respect to these or other matters. A judgment or other liability in excess of our insurance coverage for any claims or any adverse publicity resulting from claims could harm our business.

Legislation and regulations requiring the display and provision of nutritional information for our menu offerings could affect consumer preferences and negatively impact our business, financial condition and results of operations.

Government regulation and consumer consumption habits may impact our business as a result of new information regarding the health effects of consuming our menu offerings. These changes have resulted in, and may continue to result in, the enactment of laws and regulations that impact the ingredients and nutritional content of our menu offerings, or laws and regulations requiring us to disclose the nutritional content of our food offerings.

For example, a number of states, counties and cities have enacted menu labeling laws requiring multi-unit restaurant operators to disclose certain nutritional information to guests, or have enacted legislation restricting the use of certain types of ingredients in food sold at restaurants. Furthermore, the Patient Protection and Affordable Care Act of 2010 (the “PPACA”) establishes a uniform, federal requirement for certain restaurants to post certain nutritional information on their menus. Specifically, the PPACA amended the Federal Food, Drug and Cosmetic Act to require certain chain restaurants to publish the total number of calories of standard menu items on menus and menu boards, along with a statement that puts this calorie information in the context of a total daily calorie intake. The PPACA also requires covered restaurants to provide to consumers, upon request, a written summary of detailed nutritional information for each standard menu item, and to provide a statement on menus and menu boards about the availability of this information. The PPACA further permits the FDA to require covered restaurants to make additional nutrient disclosures, such as disclosure of trans-fat content. An unfavorable report on, or reaction to, our menu ingredients, the size of our portions or the nutritional content of our menu items could negatively influence the demand for our offerings.

We cannot make any assurances regarding our ability to effectively respond to changes in consumer health perceptions or our ability to successfully implement nutrient content disclosure requirements or

other resulting regulations, including potential regulations around the use of certain ingredients or additives, or to adapt our menu offerings to trends in drinking and consumption habits. The imposition of menu-labeling laws and such other regulations could have an adverse effect on our results of operations and financial position, as well as the food and restaurant industry in general.

We may be unable to identify all potential allergens present in our products at the time of purchase, whether they may have been introduced by us or by our third-party vendors. This could result in the inability of some guests to purchase our products, or could result in negative health consequences for individuals sensitive to such allergens who choose to purchase our products regardless. A potentially serious allergic reaction to our products may result in negative public perception and could harm our business and results of operations.

Changes in effective tax rates or adverse outcomes resulting from examination of our income or other tax returns could adversely affect our results of operations and financial condition.

We are subject to taxation by U.S. federal, state, and local tax authorities. Our future effective tax rates could be subject to volatility or adversely affected by a number of factors, including:

- allocation of expenses to and among different jurisdictions;
- changes to our assessment about our ability to realize, or in the valuation of, our deferred tax assets that are based on estimates of our future results, the prudence and feasibility of possible tax planning strategies, and the economic and political environments in which we do business;
- expected timing and amount of the release of any tax valuation allowances;
- tax effects of stock-based compensation;
- costs related to intercompany restructurings;
- changes in tax laws, regulations, or interpretations thereof;
- the outcome of current and future tax audits, examinations, or administrative appeals;
- lower than anticipated future earnings in jurisdictions where we have lower statutory tax rates and higher than anticipated future earnings in jurisdictions where we have higher statutory tax rates; and
- limitations or adverse findings regarding our ability to do business in some jurisdictions.

Any changes in U.S. taxation may increase our effective tax rate and harm our business, financial condition, and results of operations. In particular, new income or other tax laws or regulations could be enacted at any time, which could adversely affect our business operations and financial performance. Further, existing tax laws and regulations could be interpreted, modified, or applied adversely to us.

Risks Related to Our Organizational Structure

Our principal asset after the completion of this offering will be our interest in Black Rock OpCo, and, as a result, we will depend on distributions from Black Rock OpCo to pay our taxes and expenses (including payments under the Tax Receivable Agreement) and pay dividends. Black Rock OpCo's ability to make such distributions may be subject to various limitations and restrictions.

Upon the consummation of this offering and the Transactions, we will be a holding company and will have no material assets other than our ownership of LLC Units. As such, we will have no independent means of generating revenue or cash flow, and our ability to pay our taxes and operating expenses or declare and pay dividends in the future, if any, will be dependent upon the financial results and cash flows of Black Rock OpCo and distributions we receive from Black Rock OpCo. There can be no assurance Black Rock OpCo will generate sufficient cash flow to distribute funds to us or that applicable state law and

contractual restrictions, including negative covenants in any applicable debt instruments, will permit such distributions. Black Rock OpCo is currently subject to debt instruments or other agreements that restrict its ability to make distributions to us, which may in turn affect Black Rock OpCo's ability to pay distributions to us and thereby adversely affect our cash flows.

Black Rock OpCo will continue to be treated as a partnership for U.S. federal income tax purposes and, as such, generally will not be subject to any entity-level U.S. federal income tax. Instead, any taxable income of Black Rock OpCo will be allocated to holders of LLC Units, including us. Accordingly, we will incur income taxes on our allocable share of any net taxable income of Black Rock OpCo. Under the terms of the Black Rock OpCo LLC Agreement, Black Rock OpCo will be obligated, subject to various limitations and restrictions, including with respect to our debt agreements, to make tax distributions to holders of LLC Units, including us. In addition to tax expenses, we will also incur expenses related to our operations, including payments under the Tax Receivable Agreement, which we expect will be significant. See "Certain Relationships and Related Party Transactions—Tax Receivable Agreement." We intend, as its managing member, to cause Black Rock OpCo to make cash distributions to the holders of LLC Units in an amount sufficient to (i) fund all or part of their tax obligations in respect of taxable income allocated to them and (ii) cover our operating expenses, including payments under the Tax Receivable Agreement. However, Black Rock OpCo's ability to make such distributions may be subject to various limitations and restrictions, such as restrictions on distributions that would either violate any contract or agreement to which Black Rock OpCo is then a party, including debt agreements, or any applicable law, or that would have the effect of rendering Black Rock OpCo insolvent. If we do not have sufficient funds to pay tax or other liabilities, or to fund our operations (including, if applicable, because of an acceleration of our obligations under the Tax Receivable Agreement), we may have to borrow funds, which could materially and adversely affect our liquidity and financial condition, and subject us to various restrictions imposed by any lenders of such funds. To the extent we are unable to make timely payments under the Tax Receivable Agreement for any reason, such payments generally will be deferred and will accrue interest until paid; provided, however, that nonpayment for a specified period may constitute a material breach of a material obligation under the Tax Receivable Agreement resulting in the acceleration of payments due under the Tax Receivable Agreement. See "Certain Relationships and Related Party Transactions—Tax Receivable Agreement." In addition, if Black Rock OpCo does not have sufficient funds to make distributions, our ability to declare and pay cash dividends will also be restricted or impaired, although we do not anticipate declaring or paying any cash dividends on our Class A common stock in the foreseeable future. See "Risk Factors—Risks Related to this Offering and Ownership of Our Class A Common Stock" and "Dividend Policy."

Under the Black Rock OpCo LLC Agreement, we intend to cause Black Rock OpCo, from time to time, to make distributions in cash to the holders of LLC Units (including us) in amounts sufficient to cover the taxes imposed on their allocable share of taxable income of Black Rock OpCo. As a result of (i) potential differences in the amount of net taxable income allocable to us and to the other holders of LLC Units, (ii) the lower tax rate applicable to corporations as opposed to individuals, and (iii) certain tax benefits covered by, and payments under, the Tax Receivable Agreement, these tax distributions may be in amounts that exceed our tax liabilities. Our board of directors will determine the appropriate uses for any excess cash so accumulated, which may include, among other uses, the payment of obligations under the Tax Receivable Agreement and the payment of other expenses. We will have no obligation to distribute such cash (or other available cash) to our shareholders. No adjustments to the exchange ratio for LLC Units and corresponding shares of Class A common stock will be made as a result of any cash dividend or distribution by us or any retention of cash by us. As a result, the holders of LLC Units (other than us) may benefit from value, if any, attributable to such cash balances if they acquire shares of Class A common stock in exchange for their LLC Units, notwithstanding that such holders may have participated previously as holders of LLC Units in distributions that resulted in such excess cash balances to us. See "Description of Capital Stock." To the extent we do not distribute such excess cash as dividends on our Class A common stock we may take other actions with respect to such excess cash, for example, holding such excess cash, or lending or contributing it (or a portion thereof) to Black Rock OpCo, which may result in shares of our Class A common stock increasing in value relative to the value of LLC Units.

Following a contribution of such excess cash to Black Rock OpCo we may make an adjustment to the outstanding number of LLC Units held by holders of LLC Units (other than us).

The Tax Receivable Agreement with Black Rock OpCo and the TRA Parties requires us to make cash payments to the TRA Parties in respect of certain tax benefits to which we may become entitled, and we expect that such payments will be substantial.

In connection with the consummation of this offering, we will enter into a Tax Receivable Agreement with Black Rock OpCo and the TRA Parties. Under the Tax Receivable Agreement, we will be required to make cash payments to the TRA Parties equal to 85% of the tax benefits, if any, that we actually realize, or in certain circumstances are deemed to realize, as a result of (i) Basis Adjustments and (ii) certain tax benefits (such as interest deductions) arising from payments under the Tax Receivable Agreement. We will be required to make such payments to the TRA Parties even if all of the TRA Parties were to exchange or redeem their remaining LLC Units.

The payment obligations under the Tax Receivable Agreement are an obligation of Black Rock Coffee Bar, Inc. and not of Black Rock OpCo. We expect that the amount of the cash payments we will be required to make under the Tax Receivable Agreement will be substantial. Any payments made by us to the TRA Parties under the Tax Receivable Agreement will not be available for reinvestment in our business and will generally reduce the amount of overall cash flow that might have otherwise been available to us. To the extent that we are unable to make timely payments under the Tax Receivable Agreement for any reason, the unpaid amounts will be deferred and will accrue interest until paid by us; provided, however, that nonpayment for a specified period may constitute a material breach of a material obligation under the Tax Receivable Agreement resulting in the acceleration of payments due under the Tax Receivable Agreement. See "Certain Relationships and Related Party Transactions—Tax Receivable Agreement." Payments under the Tax Receivable Agreement are not conditioned upon continued ownership of Black Rock OpCo by the exchanging TRA Parties. Furthermore, if we experience a change of control (as defined under the Tax Receivable Agreement), which includes certain mergers, asset sales, and other forms of business combinations, we would be obligated to make an immediate payment, and such payment may be significantly in advance of, and may materially exceed, the actual realization, if any, of the future tax benefits to which the payment relates. This payment obligation could (i) make us a less attractive target for an acquisition, particularly in the case of an acquirer that cannot use some or all of the tax benefits that are the subject of the Tax Receivable Agreement and (ii) result in holders of our Class A common stock receiving substantially less consideration in connection with a change of control transaction than they would receive in the absence of such obligation. Accordingly, the TRA Parties' interests may conflict with those of the holders of our Class A common stock.

Assuming no material changes in the relevant tax laws and that we earn sufficient taxable income to realize all tax benefits that are subject to the Tax Receivable Agreement, we expect that the tax savings associated with the purchase of LLC Units in connection with this offering, together with future redemptions or exchanges of all remaining LLC Units owned by the TRA Parties pursuant to the Black Rock OpCo LLC Agreement as described above, would aggregate to approximately $ 178.8 million over 15 years from the date of this offering based on the assumed initial public offering price of $17.00 per share of our Class A common stock, which is the midpoint of the range set forth on the cover page of this prospectus, and assuming all redemptions or exchanges would occur immediately after the initial public offering for the remaining ownership of Black Rock OpCo not acquired by Black Rock Coffee Bar, Inc., which is assumed to occur on September 9, 2025 for purposes of the pro forma information presented herein and elsewhere in this prospectus. Under such scenario, assuming future payments are made on the date each relevant tax return is due, without extensions, we would be required to pay approximately 85% of such amount, or approximately $152.0 million, over the 15-year period from the date of this offering, to the TRA Parties. The actual Basis Adjustments and the actual utilization of any resulting tax benefits, as well as the amount and timing of any payments under the Tax Receivable Agreement, will vary depending upon a number of factors including: the timing of redemptions by the TRA Parties; the price of shares of our Class A common stock at the time of the exchange; the extent to which such exchanges are taxable; the amount of gain recognized by such TRA Parties; the amount and timing of the

taxable income allocated to us or otherwise generated by us in the future; the portion of our payments under the Tax Receivable Agreement constituting imputed interest; and the federal and state tax rates then applicable.

Our organizational structure, including the Tax Receivable Agreement, confers certain benefits upon the Continuing Equity Owners that will not benefit holders of our Class A common stock to the same extent that it will benefit the Continuing Equity Owners.

Our organizational structure, including the Tax Receivable Agreement, confers certain benefits upon the Continuing Equity Owners that will not benefit the holders of our Class A common stock to the same extent that it will benefit the Continuing Equity Owners. We will enter into the Tax Receivable Agreement with Black Rock OpCo and the TRA Parties in connection with the completion of this offering and the Transactions, which will provide for the payment by us to the TRA Parties of 85% of the amount of tax benefits, if any, that we actually realize, or in some circumstances are deemed to realize, as a result of (i) Basis Adjustments and (ii) certain tax benefits (such as interest deductions) arising from payments under the Tax Receivable Agreement. See "Certain Relationships and Related Party Transactions—Tax Receivable Agreement." Although we will retain 15% of the amount of such tax benefits, this and other aspects of our organizational structure may adversely impact the future trading market for our Class A common stock.

In certain cases, payments under the Tax Receivable Agreement to the TRA Parties may be accelerated or significantly exceed any actual benefits we realize in respect of the tax attributes subject to the Tax Receivable Agreement.

The Tax Receivable Agreement will generally apply to each of our taxable years, beginning with the first taxable year ending after the consummation of the Transactions. There is no maximum term for the Tax Receivable Agreement. However, the Tax Receivable Agreement will provide that if (i) we materially breach any of our material obligations under the Tax Receivable Agreement, (ii) certain mergers, asset sales, other forms of business combinations or other changes of control occur after the consummation of this offering, or (iii) we elect an early termination of the Tax Receivable Agreement, then our obligations, or our successor's obligations, under the Tax Receivable Agreement to make payments will be determined based on certain assumptions, including an assumption that we will have sufficient taxable income to fully utilize all potential future tax benefits that are subject to the Tax Receivable Agreement.

As a result of the foregoing, we would be required to make an immediate cash payment equal to the present value of the anticipated future tax benefits that are the subject of the Tax Receivable Agreement, based on certain assumptions, which payment may be made significantly in advance of the actual realization, if any, of such future tax benefits. Such cash payment to the TRA Parties could be greater than the specified percentage of any actual benefits we ultimately realize in respect of the tax benefits that are subject to the Tax Receivable Agreement. In these situations, our obligations under the Tax Receivable Agreement could have a substantial negative impact on our liquidity and could have the effect of delaying, deferring, or preventing certain mergers, asset sales, other forms of business combinations or other changes of control. For example, should we elect to terminate the Tax Receivable Agreement immediately following this offering, assuming no material changes in the relevant tax laws or tax rates and that we earn sufficient taxable income to realize all tax potential benefits that are subject to the Tax Receivable Agreement, we estimate that the aggregate of termination payments would be approximately $104.2 million based on the assumed initial public offering price of $17.00 per share of our Class A common stock, which is the midpoint of the range set forth on the cover page of this prospectus, and assuming SOFR (as defined in the Tax Receivable Agreement) were to be 5.34%. There can be no assurance that we will be able to fund or finance our obligations under the Tax Receivable Agreement. We may need to incur debt to finance payments under the Tax Receivable Agreement to the extent our cash resources are insufficient to meet our obligations under the Tax Receivable Agreement as a result of timing discrepancies or otherwise.

We will not be reimbursed for any payments made to the TRA Parties under the Tax Receivable Agreement in the event that any tax benefits are disallowed.

Payments under the Tax Receivable Agreement will be based on the tax reporting positions that we determine, and the Internal Revenue Service ("IRS"), or another tax authority, may challenge all or part of the Basis Adjustments or other tax benefits we claim, as well as other related tax positions we take, and a court could sustain such challenge. If the outcome of any such challenge would reasonably be expected to materially and adversely affect the rights and obligations of TRA Parties under the Tax Receivable Agreement, then we will not be permitted to settle such challenge without the consent (not to be unreasonably withheld or delayed) of the TRA Parties. The interests of the TRA Parties in any such challenge may differ from or conflict with our interests and your interests, and the TRA Parties may exercise their consent rights relating to any such challenge in a manner adverse to our interests and your interests. We will not be reimbursed for any cash payments previously made to the TRA Parties under the Tax Receivable Agreement in the event that any tax benefits initially claimed by us and for which payment has been made to a TRA Party are subsequently challenged by a taxing authority and are ultimately disallowed. Instead, any excess cash payments made by us to a TRA Party will be netted against future cash payments, if any, that we might otherwise be required to make to such TRA Party, under the terms of the Tax Receivable Agreement. However, we might not determine that we have effectively made an excess cash payment to a TRA Party for a number of years following the initial time of such payment. Moreover, the excess cash payments we made previously under the Tax Receivable Agreement could be greater than the amount of future cash payments against which we would otherwise be permitted to net such excess. The applicable U.S. federal income tax rules for determining applicable tax benefits we may claim are complex and factual in nature, and there can be no assurance that the IRS or a court will agree with our tax reporting positions. As a result, payments could be made under the Tax Receivable Agreement significantly in excess of any actual cash tax savings that we realize in respect of the tax attributes with respect to a TRA Party that are the subject of the Tax Receivable Agreement.

The acceleration of payments under the Tax Receivable Agreement in the case of certain changes of control may impair our ability to consummate change of control transactions or negatively impact the value received by owners of our Class A common stock.

The Tax Receivable Agreement will provide that upon certain mergers, asset sales or other forms of business combination or certain other changes of control, Black Rock Coffee Bar, Inc.'s (or its successor's) obligations with respect to the Tax Receivable Agreement would be based on certain assumptions, including that we (or our successor) would have sufficient taxable income to fully utilize the benefits arising from the increased tax deductions and tax basis and other benefits covered by the Tax Receivable Agreement. Consequently, it is possible, in these circumstances, that the actual cash tax savings realized by us may be significantly less than the corresponding tax benefit payments under the Tax Receivable Agreement. Black Rock Coffee Bar, Inc.'s accelerated payment obligations and/or assumptions adopted under the Tax Receivable Agreement in the case of a change of control may impair our ability to consummate a change of control transactions or negatively impact the value received by owners of our Class A common stock in a change of control transaction.

If we were deemed to be an investment company under the Investment Company Act of 1940, as amended (the "1940 Act"), as a result of our ownership of Black Rock OpCo, applicable restrictions could make it impractical for us to continue our business as contemplated and could have a material adverse effect on our business.

Under Sections 3(a)(1)(A) and (C) of the 1940 Act, a company generally will be deemed to be an "investment company" for purposes of the 1940 Act if (i) it is, or holds itself out as being, engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting or trading in securities, or (ii) it engages, or proposes to engage, in the business of investing, reinvesting, owning, holding, or trading in securities and it owns or proposes to acquire investment securities having a value exceeding 40% of the value of its total assets (exclusive of U.S. government securities and cash items) on an

unconsolidated basis. We do not believe that we are an "investment company," as such term is defined in either of those sections of the 1940 Act.

We and Black Rock OpCo intend to conduct our operations so that we will not be deemed an investment company. As the sole managing member of Black Rock OpCo, we will control and operate Black Rock OpCo. On that basis, we believe that our interest in Black Rock OpCo is not an "investment security" as that term is used in the 1940 Act. However, if we were to cease participation in the management of Black Rock OpCo, or if Black Rock OpCo itself becomes an investment company, our interest in Black Rock OpCo could be deemed an "investment security" for purposes of the 1940 Act.

If it were established that we were an unregistered investment company, there would be a risk that we would be subject to monetary penalties and injunctive relief in an action brought by the SEC, that we would be unable to enforce contracts with third parties and that third parties could seek to obtain rescission of transactions undertaken during the period it was established that we were an unregistered investment company. If we were required to register as an investment company, restrictions imposed by the 1940 Act, including limitations on our capital structure and our ability to transact with affiliates, could make it impractical for us to continue our business as contemplated and could have a material adverse effect on our business.

Risks Related to Our Indebtedness

Our outstanding indebtedness could materially adversely affect our financial condition and our ability to operate our business, pursue our growth strategy, and react to changes in the economy or industry.

As of June 30, 2025, we had $108.2 million in aggregate principal balance outstanding under our Credit Facility. On a pro forma basis, after giving effect to the Transactions and the Refinancing, our aggregate principal amount of indebtedness outstanding under our New Credit Facilities would have been approximately $50.0 million as of June 30, 2025. Although we expect to use a portion of the proceeds from this offering to pay down part of the outstanding loans under the Credit Facility, we will continue to have a significant amount of indebtedness. See "Use of Proceeds." In addition, subject to certain restrictions under our Credit Facility, we may incur additional debt.

Our substantial debt obligations could have important consequences to you, including the following:

- it may be difficult for us to satisfy our obligations, including debt service requirements under our outstanding debt, resulting in possible defaults on and acceleration of such indebtedness;
- we may need to issue additional Class A common stock to fund the repayment of our debt, which would result in additional dilution to investors and may cause our stock price to decline;
- our ability to obtain additional financing for working capital, capital expenditures, debt service requirements or other general corporate purposes may be impaired;
- a substantial portion of cash flow from operations may be dedicated to the payment of principal and interest on our debt, therefore reducing our ability to use our cash flow to fund our operations, capital expenditures, future business opportunities, acquisitions and other general corporate purposes;
- we are more vulnerable to economic downturns and adverse industry conditions and our flexibility to plan for, or react to, changes in our business or industry is more limited;
- our ability to capitalize on business opportunities and to react to competitive pressures, as compared to our competitors, may be compromised due to our level of debt; and
- our ability to borrow additional funds or to refinance debt may be limited.

Our variable rate indebtedness subjects us to interest rate risk, which could cause our debt service obligations to increase significantly.

Any borrowing under our Credit Facility is at a variable rate of interest and expose us to interest rate risk. If interest rates were to increase, our debt service obligations on the variable rate indebtedness would increase even though the amount borrowed remained the same, and our net income and cash flows, including cash available for servicing our indebtedness, will correspondingly decrease. Based on amounts outstanding as of June 30, 2025, each 100-basis point change in interest rates would result in a $1.1 million change in annual interest expense on our indebtedness under the Credit Facility.

If interest rates were to increase significantly, whether because of an increase in market interest rates or a decrease in our creditworthiness, our ability to borrow additional funds may be reduced and the risks related to our substantial debt would intensify.

Restrictions imposed by our outstanding indebtedness and any future indebtedness may limit our ability to operate our business, execute our growth strategy, and to finance our future operations or capital needs or to engage in other business activities.

The Credit Facility contains, and our New Credit Facilities are expected to contain, a number of restrictive covenants that impose significant operating and financial restrictions on Black Rock OpCo and its subsidiaries and may limit our and our subsidiaries' abilities to engage in acts that may be in our long-term best interest. Specifically, the Credit Facility contains, and our New Credit Facilities are expected to contain, covenants that restrict our ability, among other things, to:

- incur additional debt;
- grant liens on assets;
- sell or dispose of assets;
- merge with or acquire other companies, or make other investments;
- make certain investments;
- liquidate or dissolve ourselves; and
- pay dividends or make other distributions.

In addition, the Credit Facility contains, and our New Credit Facilities are expected to contain, financial covenants that require us not to exceed a maximum net leverage ratio or maximum net rent adjusted leverage ratio, as applicable, and to maintain a minimum fixed charge coverage ratio. Our ability to comply with these financial covenants can be affected by events beyond our control, and we may not be able to satisfy them. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Credit Facility" and "—New Credit Facilities."

A breach of any of the covenants in the Credit Facility or the New Credit Facilities could result in an event of default, which could trigger acceleration of our indebtedness and may result in the acceleration of or default under other debt we may incur in the future, which could have a material adverse effect on our business, results of operations and financial condition. In the event of such event of default under our Credit Facility or the New Credit Facilities, the applicable lenders could elect to terminate their commitments and declare all outstanding loans, together with accrued and unpaid interest and any fees and other obligations, to be due and payable, and/or exercise their rights and remedies under the loan documents governing our Credit Facility or any applicable law. Our obligations under the Credit Facility and the New Credit Facilities are guaranteed by certain of Black Rock OpCo's subsidiaries and secured by first-priority liens on substantially all of its assets.

If we were unable to repay or otherwise refinance these loans when due, the applicable lenders could proceed against the collateral granted to them to secure such indebtedness, which could force us into

bankruptcy or liquidation. In the event the applicable lenders accelerate the repayment of our loans, we and our subsidiaries may not have sufficient assets to repay such indebtedness. Any acceleration of amounts due under our Credit Facility or the New Credit Facilities or the exercise by the applicable lenders of their rights and remedies would likely have a material adverse effect on our business.

As a result of these restrictions, we may be limited in how we conduct our business, unable to raise additional debt or equity financing to operate during general economic or business downturns, or unable to compete effectively or to take advantage of new business opportunities, and so affect our ability to grow in accordance with our strategy.

Furthermore, the terms of any future indebtedness we may incur could have further additional restrictive covenants. We may not be able to maintain compliance with these covenants in the future, and in such event, we cannot assure you that we will be able to obtain waivers from the lenders or amend the covenants.

We may be unable to enter into our New Credit Facilities and may be unable to obtain financing or enter into a credit facility on acceptable terms or at all in the future.

We are currently in the process of negotiating our New Credit Facilities with JPMorgan Chase Bank, N.A., and other unaffiliated third-party lenders. However, depending on the impact of then-prevailing economic conditions and financial, business, regulatory and other factors, some of which are beyond our control, there can be no assurances that we will be able to enter into the New Credit Facilities or any other debt agreements in the future. Additionally, entering into our New Credit Facilities will require, among other things, the following, none of which are assured: (i) the continued negotiation and execution and delivery of a new credit agreement and all related documents and legal opinions; (ii) delivery of customary officer's certificates (including financial covenant, solvency and borrowing base certificates), financial information and organizational documents; (iii) payment of all fees and other amounts due to the lenders under the credit agreement; and (iv) certain other customary conditions.

We may not be able to generate sufficient cash to service all of our indebtedness and may be forced to take other actions to satisfy our obligations under our indebtedness, which may not be successful.

Our ability to make scheduled principal and interest payments on or refinance our debt obligations depends on our financial condition and operating performance, which are subject to prevailing economic and competitive conditions and to financial, business, legislative, regulatory and other factors, some of which are beyond our control. We cannot be sure that our business will generate sufficient cash flows from operating activities, or that future borrowings will be available, to permit us to pay the principal and interest on our indebtedness. If our cash flows and capital resources are insufficient to fund our debt service obligations, we could face substantial liquidity problems and could be forced to reduce or delay investments and capital expenditures or to dispose of material assets or operations, seek additional debt or equity capital or restructure or refinance our indebtedness. We may not be able to effect any such alternative measures, if necessary, on commercially reasonable terms or at all and, even if successful, those alternative actions may not allow us to meet our scheduled debt service obligations. The Credit Facility restricts our ability to dispose of assets and use the proceeds from those dispositions and also limits our ability to raise debt or equity capital to be used to repay other indebtedness when it becomes due. We may not be able to consummate those dispositions or to obtain proceeds in an amount sufficient to meet any debt service obligations then due.

Additionally, if we cannot make scheduled payments on our debt, we will be in default, and the lenders under the Credit Facility could accelerate the outstanding principal amount of indebtedness and terminate their commitments to loan money. Furthermore, if we are unable to repay, refinance, or restructure our Credit Agreement, the lenders under the Credit Agreement could proceed against the collateral granted to them to secure such indebtedness, which could force us into bankruptcy or liquidation. Any of these events could result in you losing all or a portion of your investment in our Class A common stock.

Risks Related to this Offering and Ownership of Our Class A Common Stock

We cannot predict the impact our multi-class structure may have on the market price of our Class A common stock.

We cannot predict whether our multi-class structure, combined with the concentrated control of our shareholders who held our capital stock prior to the completion of this offering, including our executive officers, employees, and directors and their affiliates, will result in a lower or more volatile market price of our Class A common stock or in adverse publicity or other adverse consequences. Certain stock index providers exclude or limit the ability of companies with multi-class share structures from being added to certain of their indices. In addition, several shareholder advisory firms and large institutional investors oppose the use of multiple class structures. Due to the multi-class structure of our common stock, we may be excluded from certain indices and we cannot assure you that other stock indices will not take similar actions. Given the sustained flow of investment funds into passive strategies that seek to track certain indices, exclusion from certain stock indices may preclude investment by many of these funds and could make our Class A common stock less attractive to other investors. Our multi-class structure may also cause shareholder advisory firms to publish negative commentary about our corporate governance practices or otherwise seek to cause us to change our capital structure. Any actions or publications by shareholder advisory firms or institutional investors critical of our corporate governance practices or capital structure could also adversely affect the value of our Class A common stock.

In addition, it is unclear what effect, if any, such policies will have on the valuations of publicly traded companies excluded from such indices, but it is possible that they may adversely affect valuations, as compared to similar companies that are included.

Our Co-Founders and Sponsor will continue to have significant influence over us after this offering, which could limit your ability to influence the outcome of matters submitted to shareholders for a vote.

Immediately following this offering and application of the net proceeds therefrom, our Co-Founders and certain of their affiliates will beneficially own approximately 85.8% of the combined voting power of our Class A common stock, Class B common stock and Class C common stock (or approximately 84.9% if the underwriters exercise in full their option to purchase additional shares of Class A common stock). Each share of Class A common stock and Class B common stock entitles the holder to one vote per share and each share of Class C common stock entitles the holder to ten votes per share on all matters on which shareholders are entitled to vote generally. Thus our Co-Founders and certain of their affiliates, who own all of our outstanding Class C common stock as of the date of this prospectus, will exercise control over all corporate actions requiring shareholder approval, irrespective of how our other shareholders may vote, including the election and removal of directors and the size of our Board, any amendment of our certificate of formation or bylaws or the approval of any merger or other significant corporate transaction, including a sale of substantially all our assets, and will continue to have significant control over our business, affairs and policies, including the appointment of our management. Upon the earlier of (i) the ten-year anniversary of the later of the closing of this offering or the closing date of any exercise of the underwriters' option to purchase additional shares of Class A common stock and (ii) with respect to each Co-Founder, the date on which the aggregate number of shares of Class C common stock held by such Co-Founder or certain of their affiliates is less than thirty-three percent (33%) of the shares of Class C common stock held by such Co-Founder and certain of their affiliates as of the later of the closing of this offering or the closing date of any exercise of the underwriters' option to purchase additional shares of Class A common stock, each such holder's Class C common stock will automatically convert to fully paid non-assessable shares of Class B common stock. The date on which no shares of Class C common stock are outstanding is referred to as the “Sunset Date”. This concentrated control will limit or preclude the ability of holders of Class A common stock to influence corporate matters for the foreseeable future. The difference in voting rights could adversely affect the value of our Class A common stock by, for example, delaying or deferring a change of control or if investors view, or any potential future purchaser of

our company views, the superior voting rights of the Class C common stock to have value. For a description of our multi-class structure, see “Description of Capital Stock.”

In addition, immediately following this offering and application of the net proceeds therefrom, the Continuing Equity Owners, including our Co-Founders, certain of their affiliates, and our Sponsor, will own approximately 67.7% of the LLC Units (or approximately 63.3% if the underwriters exercise in full their option to purchase additional shares of Class A common stock). Because they hold their ownership interest in our business directly in Black Rock OpCo, rather than through Black Rock Coffee Bar, Inc., the Continuing Equity Owners, including our Co-Founders, certain of their affiliates, and our Sponsor, may have conflicting interests with holders of shares of our Class A common stock. For example, if Black Rock OpCo makes distributions to Black Rock Coffee Bar, Inc., the non-managing members of Black Rock OpCo will also be entitled to receive such distributions pro rata in accordance with their ownership of LLC Units and their preferences as to the timing and amount of any such distributions may differ from those of our public shareholders. The Continuing Equity Owners, including our Co-Founders, certain of their affiliates, and our Sponsor, may also have different tax positions from us that could influence their decisions regarding whether and when to dispose of assets, especially in light of the existence of the Tax Receivable Agreement that we entered into in connection with this offering with Black Rock OpCo and the TRA Parties, whether and when to incur new or refinance existing indebtedness and whether and when Black Rock Coffee Bar, Inc. should terminate the Tax Receivable Agreement and accelerate its obligations thereunder. In addition, the structuring of future transactions may take into consideration our pre-IPO owners’ tax or other considerations even where no similar benefit would accrue to us. See “Certain Relationships and Related Party Transactions—Tax Receivable Agreement.”

Neither our shares of Class B common stock nor Class C common stock will have economic rights. Immediately following the consummation of this offering, all of our Class B common stock will be held by certain Continuing Equity Owners, including our Sponsor, and all our Class C common stock will be held by our Co-Founders and certain of their affiliates.

Furthermore, for so long as our Sponsor beneficially owns, on a collective basis, at least seven and one-half percent (7.5%) of our outstanding common stock, our amended and restated certificate of formation and amended and restated bylaws will require, subject to certain limitations, that:

- the Cynosure Nominee is provided reasonable prior notice of material actions to be taken by the Board by written consent;
- any proposed transaction outside of the ordinary course of business that would be required to be disclosed by us pursuant to Item 404 of Regulation S-K of the Securities Act be approved by a majority of the members of our Audit Committee;
- the size of our Board may not be increased to be greater than nine (9) directors without the approval of the Cynosure Nominee; and
- approval of at least 66 2/3% of the Board is required for (i) the incurrence, assumption or guarantee of any indebtedness outside of the ordinary course of business resulting in a net debt leverage ratio exceeding 2.0; (ii) the termination of our Chief Executive Officer; or (iii) material changes to the compensation of any Director.

Our amended and restated certificate of formation will also require us, for so long as our Sponsor beneficially owns, on a collective basis, at least seven and one-half percent (7.5%) of our outstanding common stock, to include one director designated by our Sponsor in the slate of nominees for election as a Class II director, or such other class to which our Sponsor may consent. Subject to certain limitations, our Sponsor will have the exclusive right to replace its designee and to fill any vacancy created by reason of death, removal, or resignation of its designee.

Upon the listing of our Class A common stock on the Nasdaq Global Market, we will be a "controlled company" within the meaning of Nasdaq rules and, as a result, will qualify for, and intend to rely on, exemptions and relief from certain corporate governance requirements. You will not have the same protections afforded to shareholders of companies that are subject to such requirements.

Following this offering, our Co-Founders and certain of their affiliates will beneficially own approximately 85.8% of the combined voting power of our Class A common stock, Class B common stock and Class C common stock (or approximately 84.9% if the underwriters exercise in full their option to purchase additional shares of Class A common stock). As a result, we will be a "controlled company" within the meaning of Nasdaq corporate governance standards. Under these corporate governance standards, a company of which more than 50% of the voting power in the election of directors is held by an individual, group or another company is a "controlled company" and may elect not to comply with certain corporate governance requirements. For example, controlled companies are not required to have:

- a board that is composed of a majority of "independent directors," as defined under Nasdaq rules;
- a compensation committee that is composed entirely of independent directors; and
- director nominations be made, or recommended to the full board of directors, by its independent directors, or by a nominations/governance committee that is composed entirely of independent directors.

The corporate governance requirements and, specifically, the independence standards are intended to ensure directors who are considered independent are free of any conflicting interest that could influence their actions as directors. Following this offering, we intend to utilize these exemptions. Accordingly, we will not be subject to certain corporate governance requirements, including that a majority of our Board consists of "independent directors," as defined under Nasdaq corporate governance standards, and that we have a nominating and corporate governance committee and you will not have the same protections afforded to shareholders of companies that are subject to all the corporate governance requirements of Nasdaq. Our status as a controlled company could make our Class A common stock less attractive to some investors or otherwise harm our stock price. See "Management—Controlled Company Exemption."

An entity affiliated with our Co-Founders has entered into a margin loan and pledged LLC Units and underlying shares of our Class C common stock as collateral to secure such margin loan. If this entity were to default on its obligations under the margin loan, the lender may be entitled to foreclose on the LLC units and shares pledged as collateral and sell the Class A common stock issuable upon the automatic exchange of such shares to the public, which could cause our stock price to decline and result in a significant change in beneficial ownership and voting power of our common stock.

An affiliate of Viking Cake that will be controlled by our Co-Founders will pledge, assuming an initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus), 9,987,947 LLC Units underlying 9,987,947 shares of Class C common stock to a lender affiliated with J.P. Morgan Securities LLC, one of the underwriters of this offering, pursuant to a margin loan and related security agreements. We are not a party to these agreements.

While the margin loan is outstanding, our Co-Founders will retain their ability to vote the shares of Class C common stock underlying the LLC Units pledged as collateral and any such pledged LLC Units and shares of Class C common stock will not reduce our Co-Founders' ownership of such Class C common stock in connection with matters to be voted on by shareholders. Pursuant to Rule 13d-3(d)(3) under the Exchange Act, a lender under such margin loan would not beneficially own the pledged LLC Units or underlying shares of Class C common stock unless and until such lender has taken all formal steps required to declare a default and determines that the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged LLC Units and underlying shares of Class C common stock will be exercised. However, upon such occurrence, such shares of Class C common stock would automatically

convert to shares of Class B common stock in accordance with the terms of our amended and restated certificate of formation.

In the event of nonpayment at maturity or another event of default under these loan and security agreements (including but not limited to the borrower's inability to satisfy certain payments required under such loan and security agreements), the lender may exercise its right under the loan agreement to foreclose on the pledged LLC Units and underlying shares of Class C common stock. In such case, the lender may determine to exercise the power to vote or to direct the vote or to dispose or to direct the disposition of such pledged securities, and could sell the shares of Class A common stock issuable upon the automatic exchange of such shares of Class C common stock underlying the pledged LLC Units through privately negotiated transactions at any time. Such an event could cause our stock price to decline and result in a change in beneficial ownership of our existing shareholders.

Depending upon the beneficial ownership of our Co-Founders at the time of any such event, it is possible that the resulting change in beneficial ownership could result in, among other things, the loss of our ability to qualify as a controlled company.

Certain of our directors have relationships with our Sponsor, which may cause conflicts of interest with respect to our business.

Following this offering, one of our directors will be affiliated with our Sponsor. Our Sponsor-affiliated director has fiduciary duties to us and, in addition, has duties to our Sponsor. As a result, this director may face real or apparent conflicts of interest with respect to matters affecting both us and our Sponsor, whose interests may be adverse to ours in some circumstances.

Our amended and restated certificate of formation will provide that the doctrine of "corporate opportunity" will not apply with respect to any director or shareholder who is not employed by us or our subsidiaries.

The doctrine of corporate opportunity generally provides that a corporate fiduciary may not develop an opportunity using corporate resources, acquire an interest adverse to that of the corporation or acquire property that is reasonably incident to the present or prospective business of the corporation or in which the corporation has a present or expectancy interest, unless that opportunity is first presented to the corporation and the corporation chooses not to pursue that opportunity. The doctrine of corporate opportunity is intended to preclude officers or directors or other fiduciaries from personally benefiting from opportunities that belong to the corporation. Our amended and restated certificate of formation will provide that the doctrine of "corporate opportunity" will not apply with respect to any director or shareholder who is not employed by us or our subsidiaries with respect to certain interests and expectancies in specified business opportunities, as set forth therein. Any director or shareholder who is not employed by us or our subsidiaries will, therefore, have no duty to communicate or present corporate opportunities to us, and will have the right to either hold any corporate opportunity for their (and their affiliates') own account and benefit or to recommend, assign or otherwise transfer such corporate opportunity to persons other than us, including to any director or shareholder who is not employed by us or our subsidiaries.

As a result, certain of our shareholders, directors and their respective affiliates will not be prohibited from operating or investing in competing businesses. We, therefore, may find ourselves in competition with certain of our shareholders, directors or their respective affiliates, and we may not have knowledge of, or be able to pursue, transactions that could potentially be beneficial to us. Accordingly, we may lose a corporate opportunity or suffer competitive harm, which could negatively impact our business, operating results and financial condition.

Provisions in our corporate charter documents and under Texas law may prevent or frustrate attempts by our shareholders to change our management or hinder efforts to acquire a controlling interest in us, and the market price of our Class A common stock may be lower as a result.

There are provisions in our amended and restated certificate of formation and bylaws, as in effect immediately prior to the closing of this offering, that may make it difficult for a third party to acquire, or attempt to acquire, control of our company, even if a change in control was considered favorable by our shareholders.

Our charter documents will also contain other provisions that could have an anti-takeover effect, such as:

- our Board will be classified so that not all of our directors are elected at one time;
- permitting the Board to establish the number of directors and fill any vacancies and newly created directorships and permitting our Sponsor to fill any vacancy of the Cynosure Nominee;
- providing that our directors may be removed only for cause for so long as our Board is classified and, when the Board is no longer classified, only upon the affirmative vote of holders of a majority of the voting power of our then-outstanding shares of capital stock;
- requiring super-majority voting to amend some provisions in our amended and restated certificate of formation and our bylaws;
- providing that any action required or permitted to be taken at an annual or special meeting of shareholders prior to the Sunset Date may be taken by written consent in lieu of a meeting of shareholders by the minimum number of votes that would be necessary to authorize or take such action and, after the Sunset Date, must be taken at a meeting of our shareholders;
- our shareholders may not call a special meeting of shareholders, except that, prior to the Sunset Date, holders of a majority of the voting power of all of the then-outstanding shares of our Class C common stock entitled be voted at such special meeting may call a special meeting of shareholders, provided that such holders represent at least 10% of all of the then-outstanding shares of our capital stock entitled to vote at such meeting; and
- require that shareholders give advance notice to nominate directors or submit proposals for consideration at shareholder meetings.

Further, as a Texas corporation, we are also subject to provisions of Texas law that may impair a takeover attempt that our shareholders may find beneficial. For additional information, see “Description of Capital Stock—Anti-takeover Provisions.” Any provision of our amended and restated certificate of formation, bylaws, or Texas law that has the effect of delaying or preventing a change in control could limit the opportunity for our shareholders to receive a premium for their shares of our capital stock and could also affect the price that some investors are willing to pay for our common stock.

Our amended and restated certificate of formation will provide that the Business Court in the First Business Court Division of the State of Texas and, to the extent enforceable, the federal district courts of the United States of America will be the exclusive forums for substantially all disputes between us and our shareholders, which could limit our shareholders’ ability to obtain a favorable judicial forum for disputes with us or our directors, officers, employees or shareholders.

Our amended and restated certificate of formation will provide that, unless we consent in writing to the selection of an alternative forum, the Business Court in the First Business Court Division of the State of Texas will be the exclusive forum for the following types of actions or proceedings under Texas statutory or common law:

- any derivative claim or cause of action brought on our behalf;

- any claim or cause of action for a breach of fiduciary duty owed by any of our current or former directors, officers or other employees to us or our shareholders;
- any claim or cause of action against us or any directors, officers or other employees arising out of or pursuant to any provision of the Texas Business Organizations Code (the "TBOC"), our amended and restated certificate of formation or our bylaws (as each may be amended from time to time); and
- any claim or cause of action against us or any of our current or former directors, officers or other employees governed by the internal-affairs doctrine.

This provision would not apply to suits brought to enforce a duty or liability created by the Exchange Act or any other claim for which the U.S. federal courts have exclusive jurisdiction. In addition, our amended and restated certificate of formation will provide that, unless we consent in writing to the selection of an alternative forum, to the fullest extent permitted by law, the federal district courts of the United States of America shall be the exclusive forum for the resolution of any complaint asserting a cause or causes of action arising under the Securities Act, including all causes of action asserted against any defendant to such complaint. For the avoidance of doubt, this provision is intended to benefit and may be enforced by us, our officers and directors, the underwriters to any offering giving rise to such complaint, and any other professional entity whose profession gives authority to a statement made by that person or entity and who has prepared or certified any part of the documents underlying the offering. If a court were to find either choice of forum provision contained in our amended and restated certificate of formation to be inapplicable or unenforceable in an action, we may incur additional costs associated with resolving such action in other jurisdictions.

These choice of forum provisions may limit a shareholder's ability to bring a claim in a judicial forum that it finds favorable for disputes with us or our directors, officers, or other employees. While the Texas courts have determined that such choice of forum provisions are facially valid, a shareholder may nevertheless seek to bring a claim in a venue other than those designated in the exclusive forum provisions, and there can be no assurance that such provisions will be enforced by a court in those other jurisdictions. We note that investors cannot waive compliance with the federal securities laws and the rules and regulations thereunder.

Additionally, our amended and restated certificate of formation will provide that any person or entity holding, owning or otherwise acquiring any interest in any of our securities shall be deemed to have notice of and consented to these provisions.

You will experience immediate and substantial dilution in the net tangible book value of the shares of Class A common stock you purchase in this offering.

The initial public offering price of our Class A common stock is substantially higher than the pro forma net tangible book value per share of our Class A common stock immediately after this offering. If you purchase shares of our Class A common stock in this offering, you will suffer immediate dilution of $15.98 per share, representing the difference between the assumed initial public offering price of $17.00 per share, the midpoint of the estimated offering price range set forth on the cover page of this prospectus, and our pro forma net tangible book value per share as of June 30, 2025 after giving effect to the sale of Class A common stock in this offering at the assumed initial public offering price of $17.00 per share. See "Dilution."

Additional stock issuances (including pursuant to the redemption of LLC Units from our Continuing Equity Owners) could result in significant dilution to our shareholders and cause the trading price of our Class A common stock to decline.

We may issue our capital stock or securities convertible into our capital stock from time to time in connection with financing our business operations or growth, to repay debt, or for acquisitions, investments or otherwise (including pursuant to the redemption of LLC Units from our Continuing Equity Owners). Additional issuances of our common stock or securities convertible into common stock will result

in dilution to existing holders of our common stock. Any such issuances could result in substantial dilution to our existing shareholders and cause the trading price of our Class A common stock to decline.

In particular, following the issuance of shares of Class A common stock in connection with the redemption of LLC Units from our Continuing Equity Owners and the related cancellation of shares of our Class B common stock or Class C common stock, such shares of Class A common stock will have the same economic rights as other shares of Class A common stock.

Future sales, or the perception of future sales, by us or our existing shareholders in the public market following this offering could cause the market price for our Class A common stock to decline.

After this offering, the sale of shares of our Class A common stock in the public market, or the perception that such sales could occur, could harm the prevailing market price of shares of our Class A common stock. These sales, or the possibility that these sales may occur, also might make it more difficult for us to sell equity securities in the future at a time and at a price that we deem appropriate.

Upon consummation of the Transactions, we will have outstanding a total of 15,467,125 shares of Class A common stock. Of the outstanding shares, the 14,705,882 shares sold in this offering (or 16,911,764 shares if the underwriters exercise in full their option to purchase additional shares of Class A common stock) will be freely tradable without restriction or further registration under the Securities Act, other than any shares held by our affiliates. Any shares of Class A common stock held by our affiliates will be eligible for resale pursuant to Rule 144 under the Securities Act, subject to the volume, manner of sale, holding period and other limitations of Rule 144.

Our directors and executive officers, and substantially all of the holders of the LLC Units, will enter into lock-up agreements with the underwriters prior to the commencement of this offering pursuant to which each of these persons or entities, subject to certain exceptions, restrict the sale of the shares of our Class A common stock and certain other securities held by them for a period of 180 days after the date of this prospectus. J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC may, in their sole discretion and at any time, release all or any portion of the shares or securities subject to any such lock-up agreements. See “Underwriting.”

In addition, we have reserved shares of Class A common stock for issuance under the 2025 Plan. Any Class A common stock that we issue under the 2025 Plan or other equity incentive plans that we may adopt in the future would dilute the percentage ownership held by the investors who purchase Class A common stock in this offering.

In addition, the cornerstone investor has indicated an interest in purchasing up to $30.0 million in shares of Class A common stock in this offering at the initial public offering price. The shares of Class A common stock to be purchased by the cornerstone investor will not be subject to a lock-up agreement with the underwriters. Because this indication of interest is not a binding agreement or commitment to purchase, the cornerstone investor may determine to purchase more, less or no shares in this offering or the underwriters may determine to sell more, less or no shares to the cornerstone investor. If the cornerstone investor is allocated all or a portion of the shares it has indicated an interest in purchasing in this offering or more, and purchase any such shares, such purchases could reduce the available public float for our shares of Class A common stock if the cornerstone investor holds such shares long-term.

Further, an affiliate of Viking Cake that will be controlled by our Co-Founders will pledge, assuming an initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus), 9,987,947 LLC Units underlying 9,987,947 shares of Class C common stock to a lender affiliated with J.P. Morgan Securities LLC, one of the underwriters of this offering, pursuant to certain loan and security agreements. In the case of nonpayment at maturity or another event of default under certain of these loan and security agreements (including but not limited to the borrower's inability to satisfy certain payments required under such loan and security agreements), the lender may exercise its right under the loan agreement to foreclose on the pledged LLC Units and underlying shares

of Class C common stock. In such case, the lender may sell the shares of Class A common stock issuable upon the exchange of such shares of Class C common stock underlying the LLC Units pursuant to the terms of the Exchange Agreement through privately negotiated transactions at any time, including during the applicable lock-up period.

As restrictions on resale end or if these shareholders exercise their registration rights, the market price of our shares of Class A common stock could drop significantly if the holders of these shares sell them or are perceived by the market as intending to sell them. These factors could also make it more difficult for us to raise additional funds through future offerings of our shares of Class A common stock or other securities.

In the future, we may also issue securities in connection with investments, acquisitions, or capital raising activities. In particular, the number of shares of our Class A common stock issued in connection with an investment or acquisition, or to raise additional equity capital, could constitute a material portion of our then-outstanding shares of our Class A common stock. Any such issuance of additional securities in the future may result in additional dilution to you or may adversely impact the price of our Class A common stock.

No market currently exists for our Class A common stock, and an active, liquid trading market for our Class A common stock may not develop, which may cause our Class A common stock to trade at a discount from the initial public offering price and make it difficult for you to sell the Class A common stock you purchase.

Prior to this offering, there has not been a public market for our Class A common stock. We cannot predict the extent to which investor interest in us will lead to the development of a trading market or how active and liquid that market may become. If an active and liquid trading market does not develop or continue, you may have difficulty selling any of our Class A common stock that you purchase at a price above the price you purchase it or at all. The initial public offering price for the shares of Class A common stock was determined by negotiations between us and the underwriters and may not be indicative of prices that will prevail in the open market following this offering. The failure of an active and liquid trading market to develop and continue would likely have a material adverse effect on the value of our Class A common stock. The market price of our Class A common stock may decline below the initial public offering price, and you may not be able to sell your shares of our Class A common stock at or above the price you paid in this offering, or at all. An inactive market may also impair our ability to raise capital to continue to fund operations by selling shares and may impair our ability to acquire other companies or assets by using our shares as consideration.

Our trading price and trading volume could decline if securities or industry analysts do not publish research about our business, or if they publish unfavorable research.

Equity research analysts do not currently provide coverage of our Class A common stock, and we cannot assure that any equity research analysts will adequately provide research coverage of our Class A common stock after the listing of our Class A common stock on Nasdaq. A lack of adequate research coverage may harm the liquidity and trading price of our Class A common stock. To the extent equity research analysts do provide research coverage of our Class A common stock, we will not have any control over the content and opinions included in their reports. The trading price of our Class A common stock could decline if one or more equity research analysts downgrade our stock or publish other unfavorable commentary or research. If one or more equity research analysts cease coverage of our company, or fail to regularly publish reports on us, the demand for our Class A common stock could decrease, which in turn could cause our trading price or trading volume to decline.

We do not intend to pay dividends for the foreseeable future.

We have never declared or paid any cash dividends on our capital stock, and we do not intend to pay any cash dividends in the foreseeable future. We expect to retain future earnings, if any, to fund the development and growth of our business. Any future determination to pay dividends on our capital stock

will be at the discretion of our Board. In addition, our ability to pay dividends on our capital stock is currently limited by the covenants of our Credit Facility, and the expected terms of our New Credit Facilities, and may be further restricted by the terms of any future debt or preferred securities. Holders of our Class B common stock and Class C common stock do not have any economic rights or any right to receive dividends, or to receive a distribution upon a liquidation, dissolution or winding up of Black Rock Coffee Bar, Inc., with respect to their Class B common stock or Class C common stock. Accordingly, shareholders must rely on sales of their Class A common stock after price appreciation, which may never occur, as the only way to realize any future gains on their investments.

The JOBS Act will allow us to postpone the date by which we must comply with certain laws and regulations intended to protect investors and to reduce the amount of information we provide in our reports filed with the SEC. We cannot be certain if this reduced disclosure will make our Class A common stock less attractive to investors.

The JOBS Act is intended to reduce the regulatory burden on "emerging growth companies." As defined in the JOBS Act, a public company whose initial public offering of common equity securities occurs after December 8, 2011, and whose annual net revenues are less than $1.235 billion will, in general, qualify as an "emerging growth company" until the earliest of:

- the last day of its fiscal year following the fifth anniversary of the date of its initial public offering of common equity securities;
- the last day of its fiscal year in which it has annual gross revenue of $1.235 billion or more;
- the date on which it has, during the previous three-year period, issued more than $1.0 billion in nonconvertible debt; and
- the date on which it is deemed to be a "large accelerated filer," which will occur at such time as the company (1) has an aggregate worldwide market value of common equity securities held by non-affiliates of $700 million or more as of the last business day of its most recently completed second fiscal quarter, (2) has been subject to the reporting requirements under the Exchange Act for a period of at least 12 months, and (3) has filed at least one annual report pursuant to the Exchange Act.

Under this definition, we will be an "emerging growth company" upon completion of this offering and could remain an "emerging growth company" until as late as the fifth anniversary of the completion of this offering. For so long as we are an "emerging growth company," we will, among other things:

- only be required to have two years of audited financial statements and two years of related management's discussion and analysis of financial condition and results of operations disclosure;
- not be required to engage an auditor to report on our internal control over financial reporting pursuant to Section 404(b) of the Sarbanes-Oxley Act;
- not be required to comply with the requirement of the PCAOB, regarding the communication of critical audit matters in the auditor's report on the financial statements;
- not be required to submit certain executive compensation matters to shareholder advisory votes, such as "say-on-pay," "say-on-frequency" and "say-on-golden parachutes"; and
- not be required to comply with certain disclosure requirements related to executive compensation, such as the requirement to present a comparison of our Chief Executive Officer's compensation to our median employee compensation.

In addition, Section 107 of the JOBS Act provides that an emerging growth company can use the extended transition period provided in Section 7(a)(2)(B) of the Securities Act for complying with new or revised accounting standards. This permits an emerging growth company to delay the adoption of certain accounting standards until those standards would otherwise apply to private companies. We have elected

to use this extended transition period and, as a result, our combined financial statements may not be comparable to the financial statements of issuers who are required to comply with the effective dates for new or revised accounting standards that are applicable to other public companies.

We cannot predict if investors will find our Class A common stock less attractive as a result of our decision to take advantage of some or all of the reduced disclosure requirements above. If some investors find our Class A common stock less attractive as a result, there may be a less active trading market for our Class A common stock and our stock price may be more volatile.

We have identified material weaknesses in our internal control over financial reporting. If we are unable to remedy our material weaknesses, identify additional material weaknesses in the future, or otherwise fail to establish and maintain effective internal controls, we may be unable to produce timely and accurate financial statements, and we may conclude that our internal control over financial reporting is not effective, which could adversely impact our investors' confidence and our Class A common stock price.

Prior to this offering, we were a private company and had limited accounting and financial reporting personnel and other resources with which to address our internal controls and related procedures. In connection with the audit of our consolidated financial statements for the year ended December 31, 2024, our management and auditors determined that material weaknesses existed in the internal control over financial reporting due to (i) a lack of segregation of duties surrounding journal entries without sufficient compensating controls to ensure journal entries are appropriately reviewed and approved by an independent user other than the preparer with an appropriate level of supervision and (ii) ineffective controls over the identification and accurate initial recognition of leases. A material weakness is a deficiency, or combination of deficiencies, in internal control over financial reporting such that there is a reasonable possibility that a material misstatement of our annual or interim consolidated financial statements will not be prevented or detected on a timely basis. We are in the process of implementing measures designed to improve our internal control over financial reporting to remediate these material weaknesses. Management is working to remediate these material weaknesses by hiring additional qualified accounting and financial reporting personnel, and further evolving our accounting processes. We may not be able to fully remediate these material weaknesses until these steps have been completed and have been operating effectively for a sufficient period of time.

The material weaknesses will not be remediated until the necessary internal controls have been designed, implemented, tested and determined to be operating effectively. While we cannot provide an estimate of costs expected to be incurred in connection with implementing this remediation plan, these remediation measures will be time consuming, incur significant costs to both implement and maintain, and place significant demands on our financial and operational resources. If the steps we take do not remediate these material weaknesses in a timely manner, we will be unable to conclude that we maintain effective internal control over financial reporting. Accordingly, there could continue to be a reasonable possibility that a material misstatement of our financial statements would not be prevented or detected on a timely basis.

If we fail to remediate our existing material weaknesses or identify new material weaknesses in our internal controls over financial reporting, if we are unable to comply with the requirements of Section 404 of the Sarbanes-Oxley Act in a timely manner, if we are unable to conclude that our internal controls over financial reporting are effective, or if our independent registered public accounting firm is unable to express an opinion as to the effectiveness of our internal controls over financial reporting when we are no longer an emerging growth company, investors may lose confidence in the accuracy and completeness of our financial reports and the market price of our common stock could be negatively affected. As a result of such failures, we could also become subject to investigations by Nasdaq, the SEC or other regulatory authorities, and become subject to litigation from investors and shareholders, which could harm our reputation and financial condition or divert financial and management resources from our regular business activities.

General Risks

Our financial condition and results of operations are subject to, and may be adversely affected by, a number of economic or political factors, many of which are also largely outside our control and as such our results may fluctuate significantly and may not fully reflect the underlying performance of our business.

Our results of operations and key performance measures may vary significantly in the future as they have in the past, and period-to-period comparisons of our results of operations and key performance measures may not be meaningful. Accordingly, the results of any one period should not be relied upon as an indication of future performance. Our results of operations and key performance measures may fluctuate as a result of a variety of factors, many of which are outside of our control and, as a result, may not fully reflect the underlying performance of our business. In the future, results of operations may fall below the expectations of securities analysts and investors. In that event, the price of our Class A common stock could be adversely impacted. Factors that may cause fluctuations in our results of operations and key performance measures include, without limitation, those listed elsewhere in this Risk Factors section.

Unstable market and economic conditions that are largely beyond our control may adversely affect consumer behavior and the results of our operations.

The global credit and financial markets have experienced extreme volatility and disruptions (including as a result of actual or perceived changes in interest rates, tariffs, continued economic inflation, failures of financial institutions, global conflicts and pandemics and epidemics), which has included severely diminished liquidity and credit availability, declines in consumer confidence, prolonged weak consumer demand, a decrease in consumer discretionary spending, declines in economic growth, high inflation, uncertainty about economic stability, and increases in unemployment rates. The financial markets and the global economy may also be adversely affected by the current or anticipated impact of military conflict, including the ongoing wars in Ukraine and the Middle East, or other geopolitical events. Sanctions imposed by the United States and other countries in response to such conflicts, including the war in Ukraine, may also continue to adversely impact the financial markets and the global economy, and any economic countermeasures by the affected countries or others could exacerbate market and economic instability. There can be no assurance that further deterioration in credit and financial markets and confidence in economic conditions will not occur. Our general business strategy may be adversely affected by any such economic downturn, volatile business environment, or continued unpredictable and unstable market conditions, including disruption to guest demand and our ability to purchase necessary supplies on acceptable terms, if at all. If the current equity and credit markets deteriorate, it may make any necessary debt or equity financing more difficult, more costly, and more dilutive. Failure to secure any necessary financing in a timely manner and on favorable terms could have a material adverse effect on our growth strategy, financial performance, and stock price, and could require us to delay or abandon growth plans. In addition, there is a risk that one or more of our current suppliers, manufacturers, or other partners may not survive an economic downturn, which could directly affect our ability to attain our operating goals on schedule and on budget.

In addition, our business is dependent upon consumer discretionary spending, which may be affected by general economic conditions that are beyond our control. For example, increasing and sustained inflation, international, domestic and regional economic conditions, consumer income levels, financial market volatility, a slow or stagnant pace of economic growth, rising energy costs, rising interest rates, social unrest, and governmental, political, and budget concerns, uncertainty, or divisions, may have a negative effect on consumer confidence and discretionary spending. For example, in May 2025, the federal government resumed collections on student loan payments that were past due for the first time in over five years. This and similar governmental acts could have significant impact on consumer discretionary spending. A significant decrease in our guest traffic or average value per transaction without a corresponding decrease in costs would put downward pressure on margins and would negatively impact our results of operations.

There is also a risk that if negative economic conditions or uncertainty persist for a long period of time or worsen, consumers may make long-lasting changes to their discretionary purchasing behavior, including less frequent discretionary purchases on a more permanent basis or there may be a general downturn in our industry. These and other macroeconomic factors could have an adverse effect on our revenue, results of operations, or store development and expansion plans, which could harm our results of operations and financial condition. These factors also could cause us to, among other things, reduce the number and frequency of new store openings or close stores.

Changes in statutory, regulatory, accounting, and other legal requirements, including changes in accounting principles generally accepted in the United States, could potentially impact our operating and financial results.

We are subject to numerous statutory, regulatory and legal requirements. Our operating results could be negatively impacted by developments in these areas due to the costs of compliance in addition to possible government penalties and litigation in the event of deemed noncompliance. Changes in the regulatory environment in the area of food safety, privacy and information security, wage and hour laws, among others, could potentially impact our operations and financial results.

Generally accepted accounting principles in the United States ("GAAP") are subject to interpretation by the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, the SEC, and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a significant effect on our reported financial results, and could affect the reporting of transactions completed before the announcement of a change.

In addition, changing laws, regulations, and standards relating to corporate governance and public disclosure, including regulations implemented by the SEC and Nasdaq, may increase legal and financial compliance costs and make some activities more time consuming. These laws, regulations and standards are subject to varying interpretations, and as a result, their application in practice may evolve over time as new guidance is provided by regulatory and governing bodies. We intend to invest resources to comply with evolving laws, regulations, and standards, and this investment may result in increased selling, general and administrative expenses and a diversion of management's time and attention from revenue-generating activities to compliance activities. If, notwithstanding our efforts, we fail to comply with new laws, regulations, and standards, regulatory authorities may initiate legal proceedings against us and our business may be harmed.

We will incur costs and demands upon management as a result of complying with the laws and regulations affecting public companies in the United States, which may harm our business.

As a public company, we will be subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act, and the rules and regulations of the applicable listing standards of Nasdaq. These rules and regulations could make it more difficult for us to attract and retain qualified persons to serve on our Board or our Board committees or as executive officers. Our management and other personnel will devote a substantial amount of time to these compliance initiatives. As a result, management's attention may be diverted from other business concerns, which could harm our business and operating results. We will need to hire more employees in the future to comply with these requirements, which will increase our costs and expenses.

Our management team and other personnel devote a substantial amount of time to new compliance initiatives and we may not successfully or efficiently manage our transition to a public company. To comply with the requirements of being a public company, including the Sarbanes-Oxley Act, we will need to undertake various actions, such as implementing new internal controls and procedures and hiring accounting or internal audit staff, which would require us to incur additional expenses and harm our results of operations.

Failure to comply with these rules might also make it more difficult for us to obtain certain types of insurance, including director and officer liability insurance, and we might be forced to accept reduced

policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. The impact of these events would also make it more difficult for us to attract and retain qualified persons to serve on our Board, on committees of our Board or as members of senior management.

Our management team has limited experience managing a public company.

Most members of our management team have limited experience managing a publicly traded company, interacting with public company investors and complying with the increasingly complex laws pertaining to public companies. Our management team may not successfully or efficiently manage our transition to being a public company that is subject to significant regulatory oversight and reporting obligations under the federal securities laws and the continuous scrutiny of securities analysts and investors. Furthermore, we are committed to maintaining high standards of corporate governance and public disclosure, and our efforts to establish the corporate infrastructure required of a public company and to comply with evolving laws, regulations and standards are likely to divert management's time and attention away from revenue generating activities to compliance activities, which may prevent us from implementing our business strategy and growing our business. Moreover, we may not be successful in implementing these requirements. If we do not effectively and efficiently manage our transition into a public company and continue to develop and implement the right processes and tools to manage our changing enterprise and maintain our culture, our ability to compete successfully and achieve our business objectives could be impaired, which could negatively impact our business, financial condition and results of operations.

A failure to establish and maintain an effective system of disclosure controls and internal control over financial reporting, could adversely affect our ability to produce timely and accurate financial statements or comply with applicable regulations.

As a public company, we will be subject to the reporting requirements of the Exchange Act, the Sarbanes-Oxley Act, and the rules and regulations of the applicable listing standards of Nasdaq. The Sarbanes-Oxley Act requires, among other things, that we maintain effective disclosure controls and procedures and internal control over financial reporting. We are continuing to develop and refine our disclosure controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we will file with the SEC is recorded, processed, summarized, and reported within the time periods specified in SEC rules and forms and that information required to be disclosed in reports under the Exchange Act, is accumulated and communicated to our principal executive and financial officers. We are also continuing to improve our internal controls over financial reporting. For example, as we have prepared to become a public company, we have worked to improve the controls around our key accounting processes and our quarterly close process, and we have hired additional accounting and finance personnel to help us implement these processes and controls. In order to maintain and improve the effectiveness of our disclosure controls and procedures and internal control over financial reporting, we have expended, and anticipate that we will continue to expend, significant resources, including accounting-related costs and investments to strengthen our accounting systems.

Our current controls and any new controls that we develop may become inadequate because of changes in conditions in our business. In addition, changes in reporting requirements or accounting principles or interpretations could also challenge our internal controls and require that we establish new business processes, systems, and controls to accommodate such changes. We have limited experience with implementing the systems and controls that will be necessary to operate as a public company, as well as adopting changes in accounting principles or interpretations mandated by the relevant regulatory bodies. Additionally, if these new systems, controls or standards and the associated process changes do not give rise to the benefits that we expect or do not operate as intended, it could adversely affect our financial reporting systems and processes, our ability to produce timely and accurate financial reports or the effectiveness of internal control over financial reporting. Moreover, our business may be harmed if we experience problems with any new systems and controls that result in delays in their implementation or increased costs to correct any post-implementation issues that may arise.

Further, weaknesses in our disclosure controls and internal control over financial reporting may be discovered in the future. Any failure to develop or maintain effective controls or any difficulties

encountered in their implementation or improvement could harm our results of operations or cause us to fail to meet our reporting obligations and may result in a restatement of our consolidated financial statements for prior periods. Any failure to implement and maintain effective internal control over financial reporting also could adversely affect the results of periodic management evaluations and annual independent registered public accounting firm attestation reports regarding the effectiveness of our internal control over financial reporting that we will eventually be required to include in our periodic reports that will be filed with the SEC. Ineffective disclosure controls and procedures and internal control over financial reporting could also cause investors to lose confidence in our reported financial and other information, which would likely have a negative effect on the trading price of our Class A common stock. In addition, if we are unable to continue to meet these requirements, we may not be able to remain listed on the Nasdaq Global Market. We are not currently required to comply with the SEC rules that implement Section 404 of the Sarbanes-Oxley Act and are therefore not required to make a formal assessment of the effectiveness of our internal control over financial reporting for that purpose. As a public company, we will be required to provide an annual management report on the effectiveness of our internal control over financial reporting commencing with our second annual report on Form 10-K.

Our independent registered public accounting firm is not required to formally attest to the effectiveness of our internal control over financial reporting until after we are no longer an "emerging growth company" as defined in the JOBS Act. At such time, our independent registered public accounting firm may issue a report that is adverse in the event it is not satisfied with the level at which our internal control over financial reporting is documented, designed or operating. Any failure to maintain effective disclosure controls and internal control over financial reporting could harm our business, results of operations, and financial condition and could cause a decline in the trading price of our common stock. Changes in tax laws or regulations could be enacted or existing tax laws or regulations could be applied to us or our guests in a manner that could increase the costs of our products and harm our business.

We will have broad discretion in the use of net proceeds from this offering and may invest or spend the proceeds in ways with which you do not agree and in ways that may not yield a return.

We cannot specify with any certainty the particular uses of the net proceeds that we will receive from this offering. Our management will have broad discretion over the use of net proceeds from this offering, including for any of the purposes described in "Use of Proceeds," and you will not have the opportunity as part of your investment decision to assess whether the net proceeds are being used appropriately. Investors may not agree with our decisions, and our use of the proceeds may not yield any return on your investment. Because of the number and variability of factors that will determine our use of the net proceeds from this offering, their ultimate use may vary substantially from their currently intended use. We may invest the net proceeds from this offering in a manner that does not produce income. The decisions made by our management may not result in positive returns on your investment and you will not have an opportunity to evaluate the economic, financial, or other information upon which our management bases its decisions. Our failure to apply the net proceeds of this offering effectively could impair our ability to pursue our growth strategy or could require us to raise additional capital and could have a material adverse effect on our business, financial condition, and results of operations.

We may engage in merger and acquisition activities or strategic partnerships, which could require significant management attention, disrupt our business, dilute shareholder value, and adversely affect our business, results of operations, and financial condition.

As part of our business strategy to expand our menu offerings and grow our business in response to changing technologies, guest demand, and competitive pressures, we have in the past and may in the future make investments in or acquisitions of other companies, products, or technologies, or enter into strategic partnerships. The identification of suitable acquisition or partnership candidates can be difficult, time-consuming, and costly, and we may not be able to complete acquisitions or partnerships on favorable terms, if at all. These acquisitions or partnerships may not ultimately strengthen our competitive position or achieve the goals of such acquisition, and any acquisitions or partnerships we complete could be viewed negatively by guests or investors. We may encounter difficult or unforeseen expenditures in

integrating an acquisition or partnership, particularly if we cannot retain the key personnel of the acquired company. In addition, if we fail to successfully integrate such acquisitions, or the assets, technologies or personnel associated with such acquisitions or partnerships, into our company, the business and results of operations of the combined company would be adversely affected.

These transactions may disrupt our ongoing operations, divert management from their primary responsibilities, subject us to additional liabilities, increase our expenses, subject us to increased regulatory requirements, cause adverse tax consequences or unfavorable accounting treatment, expose us to claims and disputes by shareholders and third parties, and adversely impact our business, financial condition, and results of operations. We may not successfully evaluate or utilize the acquired assets and accurately forecast the financial impact of an acquisition or partnership transaction, including accounting charges. We may have to pay cash for any such acquisition or partnership which would limit other potential uses for our cash. If we incur debt to fund any such acquisition or partnership, such debt may subject us to material restrictions in our ability to conduct our business, result in increased fixed obligations, and subject us to covenants or other restrictions that would decrease our operational flexibility and impede our ability to manage our operations. If we issue a significant amount of equity securities in connection with future acquisitions or partnerships, existing shareholders' ownership would be diluted.

We may need additional capital, and we cannot be sure that additional financing will be available.

Historically, we have financed our operations and capital expenditures primarily through sales of equity interests in Black Rock OpCo that are convertible into our capital stock as well as cash provided by operating activities and draws under our Credit Facility. In the future, we may raise additional capital through additional equity or debt financings to support our business growth, to respond to business opportunities, challenges or unforeseen circumstances, or for other reasons. On an ongoing basis, we are evaluating sources of financing and may raise additional capital in the future. Our ability to obtain additional capital will depend on our business plans, investor demand, operating performance, the condition of the capital markets, and other factors. We cannot assure you that additional financing will be available to us on favorable terms when required, or at all. If we raise additional funds through the issuance of equity, equity-linked or debt securities, those securities may have rights, preferences or privileges senior to the rights of existing shareholders, and existing shareholders may experience dilution. Further, if we are unable to obtain additional capital when required, or are unable to obtain additional capital on satisfactory terms, our ability to continue to support our business growth or to respond to business opportunities, challenges, or unforeseen circumstances would be adversely affected.

Catastrophic events may disrupt our business.

Labor discord or disruption, geopolitical events, social unrest, war, including repercussions of the wars in Ukraine and the Middle East, terrorism, political instability, acts of public violence, boycotts, hostilities and social unrest and other health pandemics that lead to avoidance of public places or cause people to stay at home could harm our business. Additionally, natural disasters or other catastrophic events may cause damage or disruption to our operations, international commerce, and the global economy, and thus could harm our business. In particular, the wildfires in states along the West Coast and wildfire smoke and extreme weather conditions in other areas in which we operate, such as hurricanes, high winds, and flooding in Texas and other states, water scarcity or drought in California and other states, extreme heat and cold, snow or ice storms, and other extreme weather events across the country, and disease outbreaks or pandemics, including the reactions of governments, markets, and the general public, may result in a number of adverse consequences for our business, operations, and results of operations, many of which are beyond our control. We rely on the stable provision of utilities such as power and water that are subject to disruption or increased costs due to such events, which may cause significant operational disruptions or our operating costs to increase significantly. In the event of a major earthquake, hurricane or catastrophic event such as drought, fire, power loss, telecommunications failure, cyberattack, war or terrorist attack, we may be unable to continue our operations and may endure system interruptions, property loss, reputational harm, breaches of data security, and loss of critical data, all of which would harm our business, results of operations, and financial condition. Our drive-thru model relies heavily on

the ability of guests to safely drive to and from our stores, which can be negatively affected by extreme weather. Such extreme weather events may affect traffic to our stores and may have a harmful effect on the local economy, decreasing the demand for our products. In addition, the insurance we maintain would likely not be adequate to cover our losses resulting from disasters or other business interruptions.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

This prospectus contains forward-looking statements about us and our industry that involve substantial risks and uncertainties. All statements other than statements of historical facts contained in this prospectus, including statements regarding our strategy, future financial condition, future operations, projected costs, prospects, plans, objectives of management, and expected market growth, are forward-looking statements. We caution you that the foregoing list does not contain all of the forward-looking statements made in this prospectus. In some cases, you can identify forward-looking statements because they contain words such as “may,” “will,” “shall,” “should,” “expects,” “plans,” “anticipates,” “could,” “intends,” “target,” “projects,” “contemplates,” “believes,” “estimates,” “predicts,” “potential,” “goal,” “objective,” “seeks,” or “continue,” or the negative of these words or other similar terms or expressions that concern our expectations, strategy, plans, or intentions. Important factors beyond our control that could cause our actual results, financial condition, performance or achievements to be materially different from the expected results, performance or achievements expressed or implied by such forward-looking statements. Such factors include, but are not limited to, the following:

- our inability to successfully identify and secure appropriate sites and timely develop and expand our operations;
- our inability to protect our brand and reputation;
- our inability to secure, protect, and enforce our intellectual property rights;
- our dependence on a small number of suppliers and two roasting facilities;
- our dependence on third-party information technology systems and services;
- our and our vendors’ vulnerability to security breaches, including breaches that may impact confidential customer information;
- our expectations regarding our future operating and financial performance;
- the size of our addressable markets, market share, and market trends;
- our ability to compete in our industry;
- changes in consumer tastes and nutritional and dietary trends;
- our ability to effectively manage the continued growth of our workforce and operations;
- our inability to open profitable stores;
- our failure to generate projected same store sales growth;
- the sufficiency of our cash, cash equivalents, and investments to meet our liquidity needs;
- our dependence on long-term non-cancelable leases;
- our relationship with our employees and the status of our workers;
- the effects of seasonal trends on our results of operations;
- our vulnerability to global financial market conditions, including inflation and other macroeconomic factors;
- our ability to attract, retain, and motivate skilled personnel, including key members of our senior management;

- our vulnerability to adverse weather conditions in local or regional areas where our stores are located;
- our realization of any benefit from the Tax Receivable Agreements and our organizational structure;
- the increased expenses associated with being a public company;
- our intended use of the net proceeds from this offering;
- the completion of the concurrent Refinancing and the Co-Founder Contribution; and
- other factors set forth under “Risk Factors” in this prospectus.

You should not rely upon forward-looking statements as predictions of future events. We have based the forward-looking statements contained in this prospectus primarily on our current expectations, estimates, forecasts, and projections about future events and trends that we believe may affect our business, results of operations, financial condition, and prospects. Although we believe that we have a reasonable basis for each forward-looking statement contained in this prospectus, we cannot guarantee that the future results, levels of activity, performance, or events and circumstances reflected in the forward-looking statements will be achieved or occur at all. The outcome of the events described in these forward-looking statements is subject to risks, uncertainties, and other factors described above, in “Risk Factors” and elsewhere in this prospectus. Moreover, we operate in a very competitive and rapidly changing environment. New risks and uncertainties emerge from time to time, and it is not possible for us to predict all risks and uncertainties that could have an impact on the forward-looking statements contained in this prospectus. The results, events, and circumstances reflected in the forward-looking statements may not be achieved or occur, and actual results, events, or circumstances could differ materially from those described in the forward-looking statements.

The forward-looking statements made in this prospectus relate only to events as of the date on which the statements are made. We undertake no obligation to update any forward-looking statements made in this prospectus to reflect events or circumstances after the date of this prospectus or to reflect new information or the occurrence of unanticipated events, except as required by law. We may not actually achieve the plans, intentions, or expectations disclosed in our forward-looking statements, and you should not place undue reliance on our forward-looking statements. Our forward-looking statements do not reflect the potential impact of any future acquisitions, mergers, dispositions, joint ventures, or investments we may make.

In addition, statements that “we believe” and similar statements reflect our beliefs and opinions on the relevant subject. These statements are based upon information available to us as of the date of this prospectus, and while we believe such information forms a reasonable basis for such statements, such information may be limited or incomplete, and our statements should not be read to indicate that we have conducted an exhaustive inquiry into, or review of, all potentially available relevant information. These statements are inherently uncertain, and you are cautioned not to unduly rely upon these statements.

You should read this prospectus and the documents that we reference in this prospectus and have filed as exhibits to the registration statement, of which this prospectus is a part, completely and with the understanding that our actual future results may be materially different from what we expect. We qualify all of the forward-looking statements in this prospectus by these cautionary statements.

ORGANIZATIONAL STRUCTURE

Black Rock Coffee Bar, Inc. was originally incorporated as a Delaware corporation on May 2, 2025 and re-domiciled to be incorporated in Texas in June 2025 and is the issuer of the Class A common stock offered by this prospectus. Prior to this offering and the Transactions (as defined below), all of our business operations have been conducted through Black Rock OpCo and the Continuing Equity Owners are the only owners of Black Rock OpCo. We will consummate the Transactions, excluding this offering, prior to the consummation of this offering.

Existing Organization

Black Rock OpCo is treated as a partnership for U.S. federal income tax purposes and, as such, is generally not subject to any U.S. federal entity-level income taxes. Taxable income or loss of Black Rock OpCo is included in the U.S. federal income tax returns of Black Rock OpCo's members. Immediately prior to the consummation of this offering, the Continuing Equity Owners were the only members of Black Rock OpCo.

Transactions

Prior to the Transactions, we expect there will initially be one holder of common stock of Black Rock Coffee Bar, Inc. We will consummate the following organizational transactions in connection with this offering:

- we will amend and restate the Black Rock OpCo LLC Agreement, effective prior to the consummation of this offering, to, among other things, (i) recapitalize all existing ownership interests in Black Rock OpCo into 43,938,599 LLC Units (before giving effect to the use of proceeds described below), (ii) appoint Black Rock Coffee Bar, Inc. as the sole managing member of Black Rock OpCo upon its acquisition of LLC Units in connection with this offering, and (iii) provide certain redemption rights to the Continuing Equity Owners;
- we will acquire, by means of one or more mergers, the Blocker Companies (the "Blocker Mergers") and, assuming an initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus), will issue to the Blocker Shareholders 761,243 shares of our Class A common stock;
- we will amend and restate Black Rock Coffee Bar, Inc.'s certificate of formation to, among other things, provide (i) for Class A common stock, with each share of our Class A common stock entitling its holder to one vote per share on all matters presented to our shareholders generally; (ii) for Class B common stock, with each share of our Class B common stock entitling its holder to one vote per share on all matters presented to our shareholders generally; (iii) for Class C common stock, with each share of our Class C common stock entitling its holder to ten votes per share on all matters presented to our shareholders generally; (iv) that shares of our Class B common stock and Class C common stock may only be held by the Continuing Equity Owners and their respective permitted transferees as described in "Description of Capital Stock—Common Stock—Class B common stock" and "—Class C common stock;" and (v) for preferred stock, which can be issued by our Board in one or more series without shareholder approval;
- we will issue 14,331,482 shares of our Class B common stock and 18,017,003 shares of our Class C common stock to the Continuing Equity Owners, which is equal to the number of LLC Units held by such Continuing Equity Owners, for nominal consideration;
- we will issue 14,705,882 shares of our Class A common stock to the investors in this offering (or 16,911,764 shares if the underwriters exercise in full their option to purchase additional shares of Class A common stock) in exchange for net proceeds of approximately $232.5 million (or approximately $267.4 million if the underwriters exercise in full their option to purchase additional

shares of Class A common stock) based upon an assumed initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus), less the estimated underwriting discounts and commissions and estimated offering expenses payable by us;

- pursuant to the Co-Founder Contribution, the purchase by an affiliate of our Co-Founders of 2,247,288 newly issued LLC Units from Black Rock OpCo. We refer to the purchase by an affiliate of Viking Cake that will be controlled by our Co-Founders pursuant to a margin loan with a lender that is not the Company or one of its affiliates, the proceeds of which will be used to purchase such 2,247,288 newly issued LLC Units (and corresponding shares of Class C common stock) from Black Rock OpCo as the "Co-Founder Contribution";
- we intend to use the net proceeds from this offering to purchase (i) 3,877,011 newly issued LLC Units for approximately $61.3 million directly from Black Rock OpCo, (ii) 10,753,739 LLC Units for approximately $170.0 million from our Sponsor (and retire the corresponding shares of Class B common stock) and (iii) 75,132 LLC Units for approximately $1.2 million from certain Continuing Equity Owners (and retire the corresponding shares of Class B common stock), in each case, at the initial public offering price less the underwriting discounts and commissions, excluding estimated offering expenses of $6.5 million payable by Black Rock OpCo;
- Black Rock OpCo intends to use the net proceeds from the sale of LLC Units to Black Rock Coffee Bar, Inc. and, together with proceeds from the Refinancing and the Co-Founder Contribution, (i) to repay all $113.2 million of outstanding borrowings under the Credit Facility, (ii) to pay estimated offering expenses of $6.5 million and, (iii) to the extent there are remaining proceeds, for general corporate purposes, as described under "Use of Proceeds";
- Black Rock Coffee Bar, Inc. will enter into (i) the Registration Rights Agreement with our Co-Founders, certain of their affiliates, and our Sponsor, (ii) a Voting Agreement with the Co-Founders, (iii) a Voting Agreement with our Sponsor and (iv) the Tax Receivable Agreement with Black Rock OpCo and the TRA Parties. For a description of the terms of the Registration Rights Agreement, the Voting Agreements and the Tax Receivable Agreement, see "Certain Relationships and Related Party Transactions"; and
- Concurrently with, and conditioned upon, the closing of this offering, we intend to refinance our existing Credit Facility and enter into the New Credit Facilities. Black Rock OpCo intends to use the net proceeds of the New Term Loan, together with a portion of the net proceeds it receives from this offering, to repay all amounts outstanding under our existing Credit Facility.

Organizational Structure Following the Transactions

- Black Rock Coffee Bar, Inc. will be a holding company and its principal asset will consist of its interest in Black Rock OpCo;
- Black Rock Coffee Bar, Inc. will be the sole managing member of Black Rock OpCo and will control the business and affairs of Black Rock OpCo;
- Black Rock Coffee Bar, Inc. will own, directly or indirectly, 15,467,125 LLC Units of Black Rock OpCo, representing approximately 32.3% of the economic interest in Black Rock OpCo (or approximately 36.7% of the economic interest in Black Rock OpCo if the underwriters exercise in full their option to purchase additional shares of Class A common stock);
- the Continuing Equity Owners will own (i) 32,348,485 LLC Units of Black Rock OpCo, representing approximately 67.7% of the economic interest in Black Rock OpCo (or approximately 63.3% of the economic interest in Black Rock OpCo if the underwriters exercise in full their option to purchase additional shares of Class A common stock), (ii) 14,331,482 shares of Class B common stock of Black Rock Coffee Bar, Inc., representing approximately 6.8% of the combined voting power of all of Black Rock Coffee Bar, Inc.'s common stock (or 13,135,069

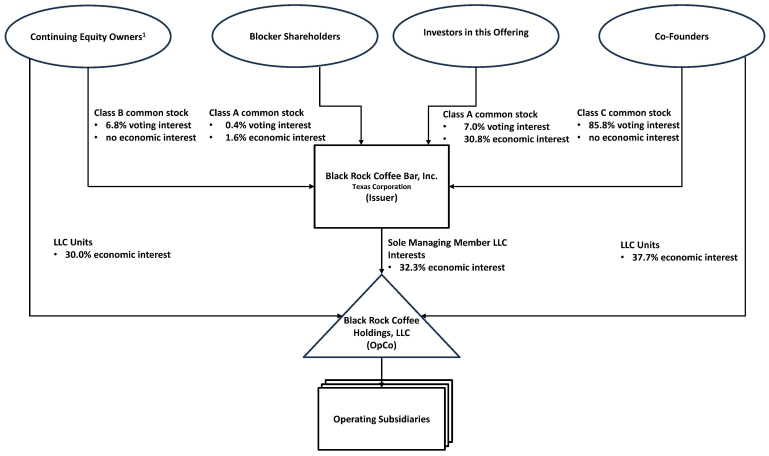
shares of Class B common stock of Black Rock Coffee Bar, Inc., representing approximately 6.4% if the underwriters exercise in full their option to purchase additional shares of Class A common stock) and (iii) 18,017,003 shares of Class C common stock of Black Rock Coffee Bar, Inc., representing approximately 85.8% of the combined voting power of all of Black Rock Coffee Bar, Inc.'s common stock (or 17,384,492 shares of Class C common stock of Black Rock Coffee Bar, Inc., representing approximately 84.9% if the underwriters exercise in full their option to purchase additional shares of Class A common stock);

- the Co-Founders and their affiliates will own (i) 18,017,003 LLC Units of Black Rock OpCo, representing approximately 37.7% of the economic interest in Black Rock OpCo (or approximately 36.1% of the economic interest in Black Rock OpCo if the underwriters exercise in full their option to purchase additional shares of Class A common stock) and (ii) 18,017,003 shares of Class C common stock of Black Rock Coffee Bar, Inc., representing approximately 85.8% of the combined voting power of all of Black Rock Coffee Bar, Inc.'s common stock (or approximately 84.9% if the underwriters exercise in full their option to purchase additional shares of Class A common stock);
- the Blocker Shareholders will own (i) 761,243 shares of Class A common stock of Black Rock Coffee Bar, Inc., representing approximately 0.4% of the combined voting power of all of Black Rock Coffee Bar, Inc.'s common stock and approximately 1.6% of the economic interest in Black Rock Coffee Bar, Inc. and (ii) through Black Rock Coffee Bar, Inc.'s ownership of LLC Units, indirectly will hold approximately 1.6% of the economic interest in Black Rock OpCo; and
- the investors in this offering will own (i) 14,705,882 shares of Class A common stock of Black Rock Coffee Bar, Inc. (or 16,911,764 shares of Class A common stock of Black Rock Coffee Bar, Inc. if the underwriters exercise in full their option to purchase additional shares of Class A common stock), representing approximately 7.0% of the combined voting power of all of Black Rock Coffee Bar, Inc.'s common stock and approximately 30.8% of the economic interest in Black Rock Coffee Bar, Inc. (or approximately 8.3% of the combined voting power and approximately 35.1% of the economic interest if the underwriters exercise in full their option to purchase additional shares of Class A common stock), and (ii) through Black Rock Coffee Bar, Inc.'s ownership of LLC Units, indirectly will hold approximately 30.8% of the economic interest in Black Rock OpCo (or approximately 35.1% of the economic interest in Black Rock OpCo if the underwriters exercise in full their option to purchase additional shares of Class A common stock).

Our corporate structure following this offering, as described below, is commonly referred to as an umbrella partnership-C corporation ("Up-C") structure, which is often used by partnerships and limited liability companies when they undertake an initial public offering of their business. The Up-C structure will allow the Continuing Equity Owners to retain their equity ownership in Black Rock OpCo and to continue to realize tax benefits associated with owning interests in an entity that is treated as a partnership, or "flow-through" entity, for U.S. federal income tax purposes following the offering. Investors in this offering will, by contrast, hold their equity ownership in Black Rock Coffee Bar, Inc., a Texas corporation that is a domestic corporation for U.S. federal income tax purposes, in the form of shares of Class A common stock. One of the tax benefits to the Continuing Equity Owners associated with this structure is that future taxable income of Black Rock OpCo that is allocated to the Continuing Equity Owners, as applicable, will be taxed on a flow-through basis and therefore will not be subject to corporate taxes at the entity level. Additionally, because the Continuing Equity Owners may have their LLC Units redeemed by Black Rock OpCo (or at our option, directly exchanged by Black Rock Coffee Bar, Inc.) for newly issued shares of our Class A common stock on a one-for-one basis (subject to customary adjustments, including for stock splits, stock dividends, and reclassifications) or, at our option, for cash, the Up-C structure also provides the Continuing Equity Owners with potential liquidity that holders of non-publicly traded limited liability companies are not typically afforded. In connection with any such redemption or exchange of LLC Units, a corresponding number of shares of Class B common stock held by the relevant Continuing Equity Owner or Class C common stock held by the relevant Co-Founder or affiliate thereof, as applicable, will automatically be transferred to Black Rock Coffee Bar, Inc. for no consideration and be canceled. The

Continuing Equity Owners and Black Rock Coffee Bar, Inc. also each expect to benefit from the Up-C structure as a result of certain tax benefits arising from redemptions or exchanges of the Continuing Equity Owner's LLC Units for Class A common stock or cash, and certain other tax benefits covered by the Tax Receivable Agreement discussed in "Certain Relationships and Related Party Transactions—Tax Receivable Agreement." See "Risk Factors—Risks Related to our Organizational Structure." In general, the TRA Parties expect to receive payments under the Tax Receivable Agreement of 85% of the amount of certain tax benefits, as described below, and Black Rock Coffee Bar, Inc. expects to benefit from amounts equal to 15% of certain tax benefits, as described below. Any payments made by us to the TRA Parties under the Tax Receivable Agreement will reduce cash otherwise arising from such tax savings. We expect such payments will be substantial.

The diagram below depicts our organizational structure after giving effect to the Transactions, including this offering, assuming no exercise by the underwriters of their option to purchase additional shares of Class A common stock.



(1) Includes ownership by our Sponsor; excludes ownership by our Co-Founders and certain of their affiliates that hold Class C common stock as shown.

As the sole managing member of Black Rock OpCo, we will operate and control all of the business and affairs of Black Rock OpCo and conduct our business through Black Rock OpCo and its subsidiaries. Following the Transactions, including this offering, Black Rock Coffee Bar, Inc. will control the management of Black Rock OpCo as its sole managing member. As a result, Black Rock Coffee Bar, Inc. will consolidate Black Rock OpCo and record a significant noncontrolling interest in a consolidated entity in Black Rock Coffee Bar, Inc.'s consolidated financial statements for the economic interest in Black Rock OpCo held by the Continuing Equity Owners.

Incorporation of Black Rock Coffee Bar, Inc.

Black Rock Coffee Bar, Inc., the issuer of the Class A common stock offered by this prospectus, was originally incorporated as a Delaware corporation on May 2, 2025 and in June 2025 re-domiciled to be incorporated in Texas. Black Rock Coffee Bar, Inc. has not engaged in any material business or other activities except in connection with its formation, the Transactions and the preparation of this prospectus and the registration statement of which this prospectus forms a part. The amended and restated

certificate of formation of Black Rock Coffee Bar, Inc. that will become effective immediately prior to the consummation of this offering will, among other things, authorize three classes of common stock, Class A common stock, Class B common stock and Class C common stock, and a class of preferred stock, each having the terms described in "Description of Capital Stock."

Amendment and Restatement of the Black Rock Coffee Holdings, LLC Limited Liability Company Agreement

Prior to the consummation of this offering, the Black Rock OpCo LLC Agreement will be amended and restated to, among other things, (i) recapitalize its capital structure by creating a single new class of units, or the common units or the LLC Units, and (ii) provide for a right of redemption of common units in exchange for, at our election (determined solely by our independent directors (within the meaning of Nasdaq rules), who are disinterested), shares of our Class A common stock or cash provided that, at our election (determined solely by our independent directors (within the meaning of Nasdaq rules) who are disinterested), we may effect a direct exchange by Black Rock Coffee Bar, Inc. of such Class A common stock or such cash, as applicable, for such LLC Units. In connection with any such redemption or exchange of LLC Units, a corresponding number of shares of Class B common stock and Class C common stock held by the relevant Continuing Equity Owner and Founders, as applicable, will automatically be transferred to Black Rock Coffee Bar, Inc. and be canceled. See "Certain Relationships and Related Party Transactions—Black Rock OpCo LLC Agreement."

USE OF PROCEEDS

We estimate that the net proceeds to us from our sale of 14,705,882 shares of Class A common stock in this offering will be approximately $232.5 million, after deducting estimated underwriting discounts and commissions and estimated expenses payable by us in connection with this offering. The underwriters also have an option to purchase up to an additional 2,205,882 shares of Class A common stock from us. We estimate that the net proceeds to us, if the underwriters exercise their right to purchase the maximum of 2,205,882 additional shares of Class A common stock from us, will be approximately $267.4 million, after deducting estimated underwriting discounts and commissions and estimated expenses payable by us in connection with this offering. This estimate assumes a public offering price of $17.00 per share (the midpoint of the price range set forth on the cover of this prospectus).

We estimate that the offering expenses (other than the underwriting discount and commissions) will be approximately $6.5 million. All of such offering expenses will be paid for or otherwise borne by Black Rock OpCo.

We intend to use all of the net proceeds from this offering to purchase (i) 3,877,011 newly issued LLC Units from Black Rock OpCo and (ii) 10,753,739 LLC Units from our Sponsor (and retire the corresponding shares of Class B common stock) and (iii) 75,132 LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B common stock). In the event the underwriters exercise their option to purchase additional shares of Class A common stock, we intend to use any proceeds from such exercise (i) to purchase LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B or Class C common stock, as applicable) and, (ii) to the extent there are remaining proceeds, to purchase newly issued LLC Units from Black Rock OpCo. The foregoing purchases of LLC Units will be at a price per unit equal to the initial public offering price per share of Class A common stock in this offering, less the estimated underwriting discounts and commissions. See “Principal Shareholders” for more information regarding the proceeds from this offering that may be paid to certain of our Continuing Equity Owners, including our Co-Founders and Sponsor.

Black Rock OpCo currently intends to use the net proceeds it receives from this offering, together with proceeds from the Refinancing and the Co-Founder Contribution, (i) to repay all $113.2 million of outstanding borrowings under the Credit Facility, (ii) to pay estimated offering expenses of $6.5 million and, (iii) to the extent there are remaining proceeds, for general corporate purposes.

As of June 30, 2025, outstanding borrowings under the Credit Facility consisted of $108.2 million. Borrowings under the Credit Facility bore interest at a variable rate of approximately 10.57% as of June 30, 2025 and mature on September 30, 2026. For a further description of our Credit Facility, see “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Credit Facility.”

A $1.00 increase (decrease) in the assumed initial public offering price of $17.00 per share would increase (decrease) the amount of proceeds to us from this offering available by approximately $13.7 million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting the estimated underwriting discounts and commissions. An increase (decrease) of 1,000,000 shares from the expected number of shares to be sold by us in this offering, assuming no change in the assumed initial public offering price per share of $17.00 (the midpoint of the estimated price range shown on the cover page of this prospectus), would increase (decrease) the amount of net proceeds to us from this offering available by approximately $15.8 million.

DIVIDEND POLICY

We currently intend to retain all available funds and any future earnings to fund the development and growth of our business, and therefore we do not anticipate declaring or paying any cash dividends on our Class A common stock in the foreseeable future. Holders of our Class B common stock and Class C common stock are not entitled to participate in any dividends (other than certain in-kind dividends) declared by our Board. Furthermore, because we are a holding company, our ability to pay cash dividends on our Class A common stock depends on our receipt of cash distributions from Black Rock OpCo. Our New Credit Facility will contain certain covenants that restrict, subject to certain exceptions, our ability to pay dividends. See "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Credit Facility." Our ability to pay dividends may be restricted by the terms of any future credit agreement or any future debt or preferred equity securities of us. See "Description of Capital Stock" and "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources." Any future determination as to the declaration and payment of dividends, if any, will be at the discretion of our Board and subject to the requirements of applicable law, compliance with contractual restrictions and covenants in the agreements governing our future indebtedness. Any such determination will also depend upon our business prospects, results of operations, financial condition, cash requirements and availability and other factors that our Board may deem relevant.

Accordingly, you may need to sell your shares of our Class A common stock to realize a return on your investment, and you may not be able to sell your shares at or above the price you paid for them. See "Risk Factors—Risks Related to this Offering and Ownership of Our Class A Common Stock—We do not intend to pay dividends for the foreseeable future."

Immediately following this offering, we will be a holding company, and our principal asset will be the LLC Units we purchase from Black Rock OpCo and from each Continuing Equity Owner. If we decide to pay a dividend in the future, we would need to cause Black Rock OpCo to make distributions to us in an amount sufficient to cover such dividend. If Black Rock OpCo makes such distributions to us, the other holders of LLC Units will be entitled to receive pro rata distributions. See "Risk Factors—Risks Related to Our Organizational Structure—Our principal asset after the completion of this offering will be our interest in Black Rock OpCo, and, as a result, we will depend on distributions from Black Rock OpCo to pay our taxes and expenses (including payments under the Tax Receivable Agreement) and pay dividends. Black Rock OpCo's ability to make such distributions may be subject to various limitations and restrictions."

CAPITALIZATION

The following table sets forth the cash and capitalization as of June 30, 2025, as follows:

- of Black Rock OpCo on a historical basis;
- of Black Rock Coffee Bar, Inc. and its subsidiaries, on a pro forma basis to give effect to the Transactions, excluding the Co-Founder Contribution, the Refinancing and this offering; and
- of Black Rock Coffee Bar, Inc. and its subsidiaries on a pro forma as adjusted basis to give effect to the Transactions, including (i) the Co-Founder Contribution, (ii) the Refinancing and (iii) our sale of 14,705,882 shares of Class A common stock in this offering at an assumed initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus), after deducting the estimated underwriting discounts and commissions and estimated offering expenses payable by us, and the application of the net proceeds therefrom as described under “Use of Proceeds.”

For more information, please see “Organizational Structure,” “Use of Proceeds” and “Unaudited Pro Forma Combined and Consolidated Financial Information” included elsewhere in this prospectus. The pro forma information set forth in the table below is illustrative only and will be adjusted based on the actual initial public offering price and other terms of this offering determined at pricing. You should read this information together with “Management’s Discussion and Analysis of Financial Condition and Results of

Operations" and our audited consolidated financial statements and unaudited condensed consolidated financial statements and related notes included elsewhere in this prospectus.

	June 30, 2025		
	Black Rock OpCo Historical	Black Rock Coffee Bar, Inc. Pro Forma	Black Rock Coffee Bar, Inc. Pro Forma As Adjusted
	(unaudited)		
	(in thousands, except share and per share amounts)		
Cash and cash equivalents	$ 14,640	$ 14,640	$ 34,891
Long-term debt[(1)]:	$ 106,380	$ 106,380	$ 49,000
Temporary Equity	254,314	—	—
Members'/Stockholders' equity (deficit):			
Members' deficit, actual	(276,949)	—	—
Preferred stock, par value $0.00001 per share; no shares authorized, issued or outstanding, actual; no shares authorized, issued or outstanding, pro forma and pro forma as adjusted	—	—	—
Class A common stock, par value $0.00001 per share; no shares authorized, issued and outstanding, actual; 500,000,000 shares authorized, 0 shares issued and outstanding, pro forma; 500,000,000 shares authorized,15,467,125 shares issued and outstanding, pro forma as adjusted	—	—	—
Class B common stock, par value $0.00001 per share; no shares authorized, issued and outstanding, actual; 200,000,000 shares authorized, 28,168,886 shares issued and outstanding, pro forma; 200,000,000 shares authorized, 14,331,482 shares issued and outstanding, pro forma as adjusted	—	—	—
Class C common stock, par value $0.00001 per share; no shares authorized, issued and outstanding, actual; 20,000,000 shares authorized, 15,769,715 shares issued and outstanding, pro forma; 20,000,000 shares authorized, 18,017,003 shares issued and outstanding, pro forma as adjusted	—	—	—
Additional paid-in capital	—	—	32,252
Retained earnings (accumulated deficit)	—	—	(2,745)
Noncontrolling interests in Black Rock OpCo	—	(22,635)	38,731
Total members' / shareholders' equity (deficit)	(276,949)	(22,635)	68,238
Total capitalization	$ 83,745	$ 83,745	$ 117,238

(1) As of June 30, 2025, we had $108.2 million of borrowings outstanding under the Credit Facility. The Credit Facility has a total capacity of $137.5 million which consists of a $112.5 million term loan and a $25.0 million delayed draw term loan and an option allowing us to increase the size of the credit facility by $20.0 million through incremental delayed draw term loans. For a further description of our Credit Facility, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Liquidity and Capital Resources—Credit Facility" and "—New Credit Facilities." Concurrently with, and conditioned upon, the closing of this offering, we intend to refinance our existing Credit Facility and enter into the New Credit Facilities. In connection with this offering, Black Rock OpCo intends to use the net proceeds of the New Term Loan, together with a portion of the net proceeds it receives from this offering, to repay all amounts outstanding under our existing Credit Facility.

A $1.00 increase (decrease) in the assumed initial public offering price of $17.00 per share of our Class A common stock (the midpoint of the estimated price range set forth on the cover page of this prospectus), would increase (decrease) each of our pro forma as adjusted cash and cash equivalents by approximately $13.7 million, and each of our pro forma as adjusted total members'/ shareholders' equity

and total capitalization by approximately $13.7 million, assuming the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us. Similarly, each increase (decrease) of 1.0 million shares in the number of shares of Class A common stock offered by us would increase (decrease) each of our pro forma as adjusted cash and cash equivalents, total members' / shareholders' equity, and total capitalization by approximately $15.8 million, assuming the assumed initial public offering price of $17.00 per share of Class A common stock (the midpoint of the estimated price range set forth on the cover page of this prospectus), remains the same, and after deducting estimated underwriting discounts and commissions and estimated offering expenses payable by us.

The table above does not include:

- 32,348,485 shares of Class A common stock reserved for issuance upon redemption or exchange of LLC Units that will be held by the Continuing Equity Owners on a one-for-one basis; and
- 4,303,405 shares of Class A common stock reserved for future issuance under the 2025 Plan, which will become effective upon the effectiveness of the registration statement of which this prospectus forms a part (which number includes 1,163,339 shares of our Class A common stock subject to restricted stock unit awards and stock options that will be granted to certain of our employees and directors substantially concurrently with the consummation of this offering pursuant to our 2025 Plan, based upon an assumed initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus)).

DILUTION

The Continuing Equity Owners will own LLC Units after the Transactions. Because the Continuing Equity Owners do not own any Class A common stock or have any right to receive distributions from Black Rock Coffee Bar, Inc., we have presented dilution in pro forma net tangible book value per share both before and after this offering assuming that all of the holders of LLC Units (other than Black Rock Coffee Bar, Inc.) had their LLC Units redeemed or exchanged for newly issued shares of Class A common stock on a one-for-one basis (rather than for cash) and the transfer to the Company and cancellation for no consideration of all of their shares of Class B common stock and Class C common stock (which are not entitled to receive distributions or dividends, whether cash or stock from Black Rock Coffee Bar, Inc.) in order to more meaningfully present the dilutive impact on the investors in this offering. We refer to the assumed redemption or exchange of all LLC Units for shares of Class A common stock as described in the previous sentence as the Assumed Redemption.

Dilution is the amount by which the offering price paid by the investors of the Class A common stock in this offering exceeds the pro forma net tangible book value per share of Class A common stock after the offering. Black Rock OpCo's pro forma net tangible book value (deficit) as of June 30, 2025 prior to this offering and after giving effect to the other Transactions, excluding the Co-Founder Contribution and the Refinancing, and the Assumed Redemption was $(38.5) million. Pro forma net tangible book value per share prior to this offering is determined by subtracting our total liabilities from the total book value of our tangible assets and dividing the difference by the number of shares of Class A common stock deemed to be outstanding after giving effect to the Assumed Redemption.

If you invest in our Class A common stock in this offering, your ownership interest will be immediately diluted to the extent of the difference between the initial public offering price per share and the pro forma net tangible book value per share of our Class A common stock after this offering.

Pro forma net tangible book value per share after this offering is determined by subtracting our total liabilities from the total book value of our tangible assets and dividing the difference by the number of shares of Class A common stock deemed to be outstanding, after giving effect to the Transactions, including this offering and the application of the proceeds from this offering as described in "Use of Proceeds," and the Assumed Redemption. Our pro forma net tangible book value as of June 30, 2025 after this offering would have been approximately $52.4 million, or $1.10 per share of Class A common stock. This amount represents an immediate increase in pro forma net tangible book value of $1.98 per share to our existing shareholders and an immediate dilution in pro forma net tangible book value of approximately $15.90 per share to new investors purchasing shares of Class A common stock in this offering. We determine dilution by subtracting the pro forma net tangible book value per share after this offering from the amount of cash that a new investor paid for a share of Class A common stock. The following table illustrates this dilution:

Assumed initial public offering price per share		$ 17.00
Pro forma net tangible book value (deficit) per share as of June 30, 2025 before this offering	$ (0.88)	
Increase per share attributable to new investors purchasing shares of our Class A common stock in this offering	$ 1.98	
Pro forma net tangible book value per share immediately after this offering		$ 1.10
Dilution per share to new Class A common stock investors in this offering		$ 15.90

A $1.00 increase (decrease) in the assumed initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus) would increase the pro forma net tangible book value (deficit) per share after this offering by approximately $0.29, and dilution in pro forma net tangible book value (deficit) per share to new investors by approximately $0.71 assuming that the number of shares offered by us, as set forth on the cover page of this prospectus, remains the same

and after deducting the underwriting discounts and commissions and estimated offering expenses payable by us.

If the underwriters exercise in full their option to purchase additional shares of Class A common stock, the pro forma net tangible book value (deficit) after the offering would be $1.75 per share, the increase in pro forma net tangible book value per share to existing shareholders would be $2.63 per share and the dilution in pro forma net tangible book value to new investors would be $15.25 per share, in each case assuming an initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus). In addition, if the underwriters exercise in full their option to purchase additional shares of Class A common stock:

- the percentage of Class A common stock held by the Continuing Equity Owners will decrease to approximately 4.3% of the total number of shares of our Class A common stock outstanding after this offering; and
- the number of shares of Class A common stock held by new investors in this offering will increase to 16,911,764, or approximately 95.7% of the total number of shares of our Class A common stock outstanding after this offering.

The following table summarizes, as of June 30, 2025, after giving effect to the Transactions and the Assumed Redemption, the number of shares of Class A common stock purchased from us, the total consideration paid, or to be paid, to us and the average price per share paid, or to be paid, by existing shareholders and by the new investors. The calculation below is based on an assumed initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus).

	Shares Purchased		Total Consideration		Average Price Per Share
	Number	Percent	Amount	Percent	
Existing investors	33,109,729	69.2 %	$ 193,486,696	43.6 %	$ 5.84
New public investors	14,705,882	30.8 %	250,000,000	56.4 %	17.00
Total	47,815,611	100 %	$ 443,486,696	100 %	$ 9.27

(1) The presentation in this table regarding ownership by existing shareholders does not give effect to any purchases that existing shareholders may make through our directed share program or otherwise in this offering.

Each $1.00 increase (decrease) in the assumed initial public offering price of $17.00 per share would increase (decrease) the total consideration paid by new investors and the total consideration paid by all shareholders by $13.7 million, assuming the number of shares offered by us remains the same.

Except as otherwise indicated, the discussion and the tables above assume no exercise of the underwriters' option to purchase additional shares of Class A common stock. The number of shares of our Class A common stock outstanding after this offering as shown in the tables above is based on the number of shares outstanding as of June 30, 2025, after giving effect to the Transactions and the Assumed Redemption, and excludes shares of our Class A common stock reserved for future issuance under our 2025 Plan (as described in "Executive and Director Compensation—Executive Compensation—2025 Incentive Award Plan").

UNAUDITED PRO FORMA COMBINED AND CONSOLIDATED FINANCIAL INFORMATION

The following unaudited pro forma combined and consolidated financial statements have been prepared in accordance with Article 11 of Regulation S-X, as amended, and gives pro forma effect to the Transactions set forth in the "Organizational Structure" section of this prospectus.

Following the completion of the Transactions, Black Rock Coffee Bar, Inc. will be a holding company whose principal asset will consist of 32.3% of the outstanding LLC Units (or 36.7% of LLC Units if the underwriters exercise in full their option to purchase additional shares of Class A common stock) that it acquires directly from Black Rock OpCo. Black Rock Coffee Bar, Inc. will act as the sole managing member of Black Rock OpCo, will operate and control the business and affairs of Black Rock OpCo and, through Black Rock OpCo, will conduct its business.

The following unaudited pro forma combined and consolidated balance sheet as of June 30, 2025 presents our unaudited pro forma balance sheet after giving effect to the Transactions as if they had occurred as of June 30, 2025. The following unaudited pro forma combined and consolidated statement of operations for the year ended December 31, 2024 and for the six months ended June 30, 2025, gives effect to the Transactions, including this offering, and the other events summarized below, as if they had occurred on January 1, 2024.

We have derived the unaudited pro forma combined and consolidated balance sheet and unaudited pro forma combined and consolidated statement of operations from the consolidated financial statements and the unaudited condensed consolidated interim financial statements of Black Rock OpCo and its subsidiaries included elsewhere in this prospectus to reflect the accounting for the Transactions in accordance with GAAP. The unaudited pro forma combined and consolidated financial information reflects adjustments that are described in the accompanying notes and are based on available information and certain assumptions we believe are reasonable but are subject to change. Black Rock Coffee Bar, Inc. was formed on May 2, 2025 and was capitalized at one cent, and will have no results of operations until the completion of this offering; therefore, its financial position as of December 31, 2024 and its historical results of operations for the period then ended are not shown in separate columns in the unaudited pro forma combined and consolidated balance sheet or statement of income.

As a public company, we will be implementing additional procedures and processes for the purpose of addressing the standards and requirements applicable to public companies. We expect to incur additional annual expenses related to these steps and, among other things, additional directors' and officers' liability insurance, director fees, costs for reporting requirements of the SEC, transfer agent fees, costs for hiring additional accounting, legal, and administrative personnel, increased auditing and legal expenses, and other related costs. Due to the scope and complexity of these activities, the amount of these costs would be based on subjective estimates and assumptions that could not be factually supported. We have not included any pro forma adjustments related to these costs.

The unaudited pro forma combined and consolidated financial information is provided for informational purposes only and is not necessarily indicative of the operating results that would have occurred if the Transactions had been completed as of the dates set forth above, nor is it indicative of our future results. Our management believes that the assumptions provide a reasonable basis for presenting the significant effects of the Transactions as contemplated, that the pro forma adjustments give appropriate effect to those assumptions and are properly applied in the unaudited pro forma combined and consolidated financial information.

The unaudited pro forma combined and consolidated financial information should be read together with "Organizational Structure," "Capitalization," "Use of Proceeds," "Summary Historical and Pro Forma Consolidated Financial Data," "Management's Discussion and Analysis of Financial Condition and Results of Operations," and our historical financial statements and related notes of Black Rock OpCo and its

subsidiaries and Black Rock Coffee Bar, Inc. and related notes thereto, each included elsewhere in this prospectus.

Summary of the Transactions

The pro forma adjustments related to the Transactions are described in the notes to the unaudited pro forma combined and consolidated financial information and primarily include:

- the amendment and restatement of the Black Rock OpCo LLC Agreement, which will become effective prior to the consummation of this offering, to, among other things, (i) recapitalize its capital structure by creating a single new class of units, (ii) appoint Black Rock Coffee Bar, Inc. as the sole managing member of Black Rock OpCo upon its acquisition of LLC Units in connection with this offering and (iii) provide certain redemption rights to the Continuing Equity Owners;
- the amendment and restatement of Black Rock Coffee Bar, Inc.'s certificate of formation to, among other things, provide (i) for Class A common stock, with each share of our Class A common stock entitling its holder to one vote per share on all matters presented to our shareholders generally, (ii) for Class B common stock, with each share of our Class B common stock entitling its holder to one vote per share on all matters presented to our shareholders generally but no right to receive dividends or to receive a distribution upon Black Rock Coffee Bar, Inc.'s dissolution or liquidation and (iii) for Class C common stock, with each share of our Class C common stock entitling its holder to ten votes per share on all matters presented to our shareholders generally but no right to receive dividends or to receive a distribution upon Black Rock Coffee Bar, Inc.'s dissolution or liquidation;
- the issuance of 28,168,886 shares of our Class B common stock to the Continuing Equity Owners, which is equal to the number of LLC Units held by such Continuing Equity Owners, for nominal consideration; the issuance of 15,769,715 shares of our Class C common stock to our Co-Founders and certain of their affiliates, which is equal to the number of LLC Units held by such Co-Founders and certain of their affiliates, for nominal consideration;
- the entrance into the Tax Receivable Agreement with Black Rock OpCo and the TRA Parties that will provide for the payment by Black Rock Coffee Bar, Inc. to the TRA Parties of 85% of the amount of tax benefits, if any, that Black Rock Coffee Bar, Inc. actually realizes, or in some circumstances is deemed to realize, as a result of Basis Adjustments and certain tax benefits (such as interest deductions) arising from payments made under the Tax Receivable Agreement. See "Certain Relationships and Related Party Transactions—Tax Receivable Agreement" for a description of the Tax Receivable Agreement;
- the issuance of 14,705,882 shares of our Class A common stock to the purchasers in this offering (or 16,911,764 shares if the underwriters exercise in full their option to purchase additional shares of Class A common stock) in exchange for net proceeds of approximately $232.5 million (or approximately $267.4 million if the underwriters exercise in full their option to purchase additional shares of Class A common stock) based upon an assumed initial public offering price of $17.00 per share (which is the midpoint of the estimated price range set forth on the cover page of this prospectus), less the estimated underwriting discounts and commissions and estimated offering expenses payable by us;
- the purchase by an affiliate of our Co-Founders of 2,247,288 newly issued LLC Units from Black Rock OpCo;
- use by us of the net proceeds from this offering to purchase (i) 3,877,011 newly issued LLC Units for approximately $61.3 million directly from Black Rock OpCo (ii) 10,753,739 LLC units for approximately $170.0 million from our Sponsor and (iii) 75,132 LLC Units for approximately $1.2 million from certain Continuing Equity Owners, in each case, at the initial public offering price less the underwriting discounts and commissions, excluding estimated offering expenses of $6.5 million payable by Black Rock OpCo;

- the use by Black Rock OpCo of the proceeds from the sale of its LLC Units to us, together with proceeds from the Refinancing and the Co-Founder Contribution, (i) to repay $108.2 million of outstanding borrowings under the Credit Facility and, (ii) to the extent there are remaining proceeds, for general corporate purposes, as described under "Use of Proceeds"; and
- Concurrently with, and conditioned upon, the closing of this offering, we intend to refinance our existing Credit Facility and enter into the New Credit Facilities. Black Rock OpCo intends to use the net proceeds of the New Term Loan, together with a portion of the net proceeds it receives from this offering, to repay all amounts outstanding under our existing Credit Facility.

Our agreements will include a provision for the Continuing Equity Owners, subject to certain exceptions from time to time at each of their option, to require Black Rock OpCo to redeem all or a portion of their LLC Units (and corresponding Class B common stock or Class C common stock, as applicable) in exchange for, at our election, newly issued shares of our Class A common stock on a one-for-one basis or a cash payment equal to a volume weighted average market price of one share of our Class A common stock for each LLC Unit so redeemed, in each case, in accordance with the terms of the Black Rock OpCo LLC Agreement.

Except as otherwise indicated, the unaudited pro forma combined and consolidated financial information presented assumes no exercise by the underwriters of their option to purchase additional shares of Class A common stock in the offering.

Expected Accounting Treatment of the Transactions

Following the completion of the Transactions, Black Rock Coffee Bar, Inc. will become the sole managing member of Black Rock OpCo. Although we will have a minority economic interest in Black Rock OpCo, we will have the sole voting interest in, and control of, the business and affairs of Black Rock OpCo. As a result, we will consolidate Black Rock OpCo and record a significant noncontrolling interest in equity in our consolidated financial statements for the economic interest in Black Rock OpCo held directly or indirectly by the Continuing Equity Owners.

Under GAAP, since the members of Black Rock OpCo prior to the exchange will continue to hold a controlling interest in Black Rock OpCo after the exchange (i.e., there was no change in control of Black Rock OpCo) and since Black Rock Coffee Bar, Inc. is considered a "shell company" which does not meet the definition of a business, the financial statements of the consolidated entity represent a continuation of the financial position and results of operations of Black Rock OpCo. Accordingly, the historical cost basis of assets, liabilities, capital, and accumulated earnings of Black Rock OpCo are carried over to the consolidated financial statements of the merged company as a common control transaction. Also, after consummation of this offering, Black Rock Coffee Bar, Inc. will become subject to U.S. federal, state, and local income taxes with respect to our allocable share of any taxable income of Black Rock OpCo, which will be taxed at the prevailing corporate tax rates.

Accordingly, this prospectus contains the following historical financial statements:

- *Black Rock Coffee Bar, Inc*. Other than the inception balance sheet dated as of May 2, 2025, the historical financial information of Black Rock Coffee Bar, Inc. has not been included in this prospectus as it is a newly incorporated entity and has had no business transactions or activities to date, besides our initial capitalization.
- *Black Rock OpCo.* Because Black Rock Coffee Bar, Inc. will have no interest in any operations other than those of Black Rock OpCo, the historical financial information included in this prospectus is that of Black Rock OpCo.

UNAUDITED PRO FORMA COMBINED AND CONSOLIDATED BALANCE SHEET

	Black Rock OpCo Actual as of June 30, 2025	Reorganization and offering transaction adjustments	Black Rock Coffee Bar, Inc. Pro Forma
		($ in thousands, except unit, share and per share amounts)	
ASSETS			
Current assets:			
Cash and cash equivalents	$ 14,640	$ 20,251 (1)	$ 34,891
Receivables, net	4,514	–	4,514
Inventories	2,644	–	2,644
Prepaid expenses and deposits	2,493	–	2,493
Other current assets	2,678	(2,678) (7)	–
Total current assets	26,969	17,573	44,542
Deferred tax asset	–	29,528 (2)	29,528
Property and equipment, net	80,130	–	80,130
Operating lease right-of-use assets, net	116,362	–	116,362
Note receivable from related party	5,258	(5,258) (6)	–
Other assets	77	–	77
Goodwill	9,360	–	9,360
Intangible assets, net	6,463	–	6,463
Total assets	$ 244,619	$ 41,843	$ 286,462
LIABILITIES, TEMPORARY EQUITY AND MEMBERS' DEFICIT, NONCONTROLLING INTEREST AND SHAREHOLDERS' EQUITY			
Current liabilities:			
Accounts payable	6,961	–	6,961
Accrued expenses	6,813	(2,678) (7)	4,135
Accrued payroll and benefits	6,024	–	6,024
Deferred compensation	7,512	(7,512) (1)	–
Gift card and loyalty program liability	1,072	–	1,072
Current portion of long-term debt	1,085	790 (1)	1,875
Current portion of operating lease liabilities	7,615	–	7,615
Total current liabilities	37,082	(9,400)	27,682
Long-term debt, net of current portion	105,295	(58,170) (1)	47,125
Operating lease liabilities, net of current portion	124,877	–	124,877
Tax receivable agreement liability	–	18,540 (2)	18,540
Total liabilities	267,254	(49,030)	218,224
Commitments and Contingencies			
Temporary equity			
Preferred units:			
Series A-1 (2,000,000 units authorized; 1,468,058 issued and outstanding as of June 30, 2025)	223,541	(223,541) (1)(3)	–
Series A-2 (900,000 authorized; 893,835 units issued and outstanding as of June 30, 2025; aggregate liquidation preference of $168,785,545)	30,773	(30,773) (3)	–
Members' deficit			
Members' deficit (Class A common units, 4,000,000 authorized, 2,646,087 units issued and outstanding as of June 30, 2025)	(276,949)	276,949 (3)	–
Shareholders' equity			
Class A common stock	–	–	–
Class B common stock	–	–	–
Class C common stock	–	–	–
Additional paid-in capital	–	32,252 (5)	32,252
Retained earnings (accumulated deficit)	–	(2,745) (4)	(2,745)
Noncontrolling interest	–	38,731 (3)(4)	38,731
Total liabilities, temporary equity, members' deficit, noncontrolling interest and shareholders' equity	$ 244,619	$ 41,843	$ 286,462

(1) Represents the gross proceeds from this offering, Co-Founder Contribution and New Credit Facilities, net of discounts and commissions and offering-related payments, as follows:

Gross proceeds from this offering	$	250,000
Proceeds from Co-Founder Contribution		38,204
Proceeds from New Credit Facilities		50,000
Less: discounts & commissions		(17,500)
Net proceeds		320,704
Purchase of LLC units from our Sponsor		(170,017)
Purchase of LLC Units from Continuing Equity Owners		(1,188)
Repayment of current portion, long-term debt		(1,085)
Repayment of long-term debt, net of current portion		(107,148)
Payment of deferred compensation		(7,512)
Payment of performance bonuses		(6,003)
Payment of non-underwriting offering costs		(6,500)
Payment of New Credit Facilities fees		(1,000)
Net proceeds remaining	$	20,251

(2) As described under "Certain Relationships and Related Party Transactions—Tax Receivable Agreement," in connection with this offering, Black Rock Coffee Bar, Inc. will enter into a Tax Receivable Agreement with Black Rock OpCo and each of the TRA Parties, pursuant to which Black Rock Coffee Bar, Inc. will pay to the TRA Parties 85% of the amount of tax benefits, if any, that Black Rock Coffee Bar, Inc. actually realizes (or in some circumstances is deemed to realize) as a result of (1) Basis Adjustments; and (2) certain additional tax benefits arising from payments made under the Tax Receivable Agreement. The net deferred tax asset of $29.5 million and the $18.5 million tax receivable agreement liability assumes: (A) only exchanges associated with the corporate reorganization and this offering, (B) a share price equal to $17.00 per share (the midpoint of the price range set forth on the cover of this prospectus) less any underwriting discounts and commissions, (C) a constant blended U.S. federal, state and local income tax rate of 24.6%, (D) no material changes in tax law, (E) the ability to utilize tax attributes, (F) no adjustment for potential remedial allocations and (G) future Tax Receivable Agreement payments. We recognized a deferred tax asset in the amount of $29.5 million as of June 30, 2025 associated with the increase in tax basis of the tangible and intangible assets of Black Rock OpCo as a result of the corporate reorganization transactions, as well as the tax basis difference in Black Rock Coffee Bar, Inc's investment in Black Rock OpCo.

(3) Upon completion of the Transactions, Black Rock OpCo's existing Class A common units, its Series A-1 Preferred Units and its Series A-2 Preferred Units will have converted into newly issued LLC Units in Black Rock OpCo and Black Rock Coffee Bar, Inc. will have used a portion of the proceeds from this offering to purchase LLC Units from our Sponsor and certain Continuing Equity Owners (and retire the corresponding shares of Class B common stock). Further, Black Rock Coffee Bar, Inc. will become the sole managing member of Black Rock OpCo. Although we will have a minority economic interest in Black Rock OpCo, we will have the sole voting interest in, and control of the management of, Black Rock OpCo. As a result, we will consolidate the financial results of Black Rock OpCo and will report a noncontrolling interest related to the interests in Black Rock OpCo held by the Continuing Equity Owners on our consolidated balance sheet. Immediately following the Transactions, the economic interests held by the noncontrolling interest will be approximately 67.7%. If the underwriters exercise their option to purchase additional shares of Class A common stock in full, the economic interests held by the noncontrolling interest would be approximately 63.3%.

Pro forma Shareholders' equity allocable to noncontrolling interests as a result of the Transactions is calculated as follows:

Historical Members' deficit and Temporary Equity	$	(22,635)
Newly issued LLC Units		99,499
Capitalized offering costs		(6,500)
Forgiveness of related party note receivable		(5,258)
Additional paid-in capital from vesting of profits interest units		631
Noncontrolling interest ownership immediately following the Transactions		67.7 %
Total Black Rock OpCo net assets allocable to the noncontrolling interest as a result of the Transactions	$	44,473

(4) Pro forma impacts to retained earnings (accumulated deficit) from the Transactions as if they occurred on June 30, 2025 includes the following:

Extinguishment of unamortized debt issuance costs and loan modification fees associated with our Credit Facility	$	(1,853)
Share-based compensation expense from the vesting of profits interest units		(631)
Expense from vesting of deferred compensation and performance bonuses		(6,003)
Pro forma retained earnings (accumulated deficit) adjustment from the Transactions	$	(8,487)

Pro forma retained earnings (accumulated deficit) from the Transactions allocable to noncontrolling interest is calculated as follows:

Pro forma retained earnings (accumulated deficit) adjustment from the Transactions	$	(8,487)
Noncontrolling interest ownership immediately following the Transactions		67.7 %
Pro forma retained earnings (accumulated deficit) adjustment allocable to noncontrolling interest as a result of the Transactions	$	(5,742)

(5) Pro forma impacts to additional paid-in capital as a result of the Transactions are as follows:

Net proceeds for issuance of Class A common stock in excess of par value	$	232,500
Proceeds from Co-Founder Contribution		38,204
Newly issued LLC Units allocable to the noncontrolling interest		(67,314)
Purchase of LLC units from our Sponsor		(170,017)
Purchase of LLC Units from Continuing Equity Owners		(1,188)
Historical Members' deficit and Temporary Equity allocable to controlling interest		(7,322)
Capitalized offering costs allocable to controlling interest		(2,102)
Additional paid-in capital from vesting of profits interest units allocable to controlling interest		205
Forgiveness of related party note receivable allocable to controlling interest		(1,701)
Adjustments related to Black Rock Coffee, Inc.'s investment in Black Rock OpCo net of the increase in deferred tax assets and liabilities under the tax receivable agreement as a result of the Transactions		10,987
Total	$	32,252

(6) Prior to the completion of this offering, in August of 2025, the Company forgave the full amount of the note receivable with Viking Cake. See "Certain Relationships and Related Party Transactions—Promissory Note Financing".
(7) Reflects the reclassification of capitalized offering costs from current assets to equity.

UNAUDITED PRO FORMA COMBINED AND CONSOLIDATED STATEMENT OF OPERATIONS

	Black Rock OpCo Actual for the year ended December 31, 2024	Reorganization and offering transaction adjustments	Pro Forma Combined
		($ in thousands, except share and per share amounts)	
Store revenue	$ 160,682	–	$ 160,682
Other	235	–	235
Total revenue	160,917	–	160,917
Store operating costs and expenses (exclusive of depreciation and amortization presented separately below):			
Beverage, food and packaging costs	46,491	–	46,491
Labor and related expenses	35,132	–	35,132
Occupancy and related expenses	13,107	–	13,107
Other store operating expenses	21,172	–	21,172
Total store operating costs and expenses	115,902	–	115,902
Selling, general and administrative expenses	25,261	6,634 (5)	31,895
Depreciation and amortization	10,364	–	10,364
Pre-opening costs	3,357	–	3,357
Total operating expenses	154,884	6,634	161,518
Income (loss) from operations	6,033	(6,634)	(601)
Interest expense, net	(11,115)	6,770 (6)	(4,345)
Other income (expense), net	(1,835)	(3,829) (7)(8)	(5,664)
Loss before income taxes	(6,917)	(3,693)	(10,610)
Income tax expense (benefit)	270	(1,008) (1)	(738)
Net loss(2)	$ (7,187)	$ (2,685)	$ (9,872)
Net loss attributable to noncontrolling interest (3)			(6,680)
Net loss attributable to Black Rock Coffee Bar, Inc.			(3,193)
Basic and diluted net loss per share (4)			$ (0.21)
Shares used in basic and diluted per share calculations			15,467,125

(1) Represents an assumed income tax expense on our earnings which is calculated at 7.0% of loss before income taxes. Following the Transactions, Black Rock Coffee Bar, Inc. will be subject to U.S. federal income taxes in addition to applicable state and local taxes with respect to its allocable share of net taxable income of Black Rock OpCo. Accordingly, we have provided income taxes assuming a blended federal, state and local rate of 24.8% on our allocable share of taxable income of Black Rock OpCo, and assuming no adjustments for non-taxable or non-deductible amounts of income and expenses. The actual rate could vary from the rate used in the pro forma financial statements.

(2) Net loss attributable to historical noncontrolling interests in subsidiaries of Black Rock OpCo are assumed to have been repurchased as of January 1, 2024 for the purpose of this pro forma.

(3) Reflects the portion of our net loss allocable to the noncontrolling interest. After the Transactions, we will become the managing member of Black Rock OpCo with a 32.3% economic interest but will control the management of Black Rock OpCo. The Continuing Equity Owners will own the remaining 67.7% economic interest in Black Rock OpCo, which will be accounted for as a noncontrolling interest in our future consolidated financial statements. If the underwriters exercise their option to purchase additional shares of our Class A common stock in full, the economic interest held by the noncontrolling interest would be approximately 63.3%.

(4) Pro forma basic and diluted net loss per share is computed by dividing the net loss attributable to holders of Class A common stock by the weighted-average shares of Class A common stock outstanding during the period. Shares of Class B common stock and Class C common stock are not considered participating securities and are not included in the weighted-average shares outstanding for purposes of computing pro forma net loss per share. There are no outstanding dilutive securities due to the following:

- Continuing Equity Owners may cause a pro rata redemption of LLC Units for shares of Class A common stock on a one-for-one basis, which would concurrently require Class B common stock and Class C common stock to be transferred to Black Rock Coffee

Bar, Inc. for no consideration and be cancelled. Upon such redemption, net loss per share attributable to Black Rock Coffee Bar, Inc. would remain unchanged due to a corresponding increase in net loss attributable to Black Rock Coffee Bar, Inc. (and a decrease in net loss attributable to noncontrolling interests) and the number of shares of Class A common stock outstanding.

- Outstanding and unvested LLC Units are not dilutive when applying the treasury stock method.

(5) Represents pro forma expense adjustments related to the Transactions as follows:

Share-based compensation for the vesting of profits interest units	$	631
Expense from vesting of deferred compensation and performance bonuses		6,003
Total	$	6,634

(6) Concurrently with, and conditioned upon, the closing of this offering, we intend to refinance our existing Credit Facility and enter into New Credit Facilities and expect to incur a debt extinguishment charge related to the repayment of our existing Credit Facility. Our capitalized debt issuance costs and loan modification fees were $1.5 million as of January 1, 2024, which represents the extinguishment charge had we refinanced our existing Credit Facility on January 1, 2024. The adjustments below reflect the elimination of the historical interest expense and amortization of debt issuance costs and loan modification fees related to the existing Credit Facility, the recognition of a debt extinguishment charge associated with the repayment of the existing Credit Facility, and recognition of interest expense and deferred financing costs related to the New Credit Facilities:

Interest expense under the existing Credit Facility	$	10,444
Amortization of debt issuance costs and loan modification fees under the existing Credit Facility		1,322
Extinguishment charge		(1,541)
Interest expense under the New Credit Facilities		(3,255)
Amortization of deferred financing costs under the New Credit Facilities		(200)
Total	$	6,770

(7) Reflects the reversal of $1.4 million of expense incurred related to the payment of fees associated with the Series A Redemption Agreement (as defined in “Certain Relationships and Related Party Transactions—Series A Preferred Unit Redemption”).

(8) Represents $5.3 million of expense recognized from the forgiveness of related party note receivable which took place prior to the first public filing of the registration statement of which this prospectus forms a part. See “Certain Relationships and Related Party Transactions—Promissory Note Financing”.

	Black Rock OpCo Actual for the six months Ended June 30, 2025	Reorganization and offering transaction adjustments	Pro Forma Combined
		($ in thousands, except share and per share amounts)	
Store revenue	$ 95,110	$ –	$ 95,110
Other	104	–	104
Total revenue	95,214	–	95,214
Store operating costs and expenses (exclusive of depreciation and amortization presented separately below):			
Beverage, food and packaging costs	27,355	–	27,355
Labor and related expenses	19,803	–	19,803
Occupancy and related expenses	7,607	–	7,607
Other store operating expenses	12,804	–	12,804
Total store operating costs and expenses	67,569	–	67,569
Selling, general and administrative expenses	14,740	–	14,740
Depreciation and amortization	5,826	–	5,826
Pre-opening costs	1,561	–	1,561
Total operating expenses	89,696	–	89,696
Income from operations	5,518	–	5,518
Interest expense, net	(6,157)	4,754 (4)	(1,403)
Other income (expense), net	(1,084)	1,429 (5)	345
Income (loss) before income taxes	(1,723)	6,183	4,460
Income tax expense	222	280 (1)	502
Net income (loss)	(1,945)	5,903	3,958
Net income attributable to noncontrolling interest (2)			2,677
Net income attributable to Black Rock Coffee Bar, Inc.			1,281
Basic and diluted net income per share (3)			$ 0.08
Shares used in basic and diluted per share calculations			15,467,125

(1) Represents an assumed income tax expense on our earnings which is calculated at 11.3% of income (loss) before income taxes. Following the Transactions, Black Rock Coffee Bar, Inc. will be subject to U.S. federal income taxes in addition to applicable state and local taxes with respect to its allocable share of net taxable income of Black Rock OpCo. Accordingly, we have provided income taxes assuming a blended federal, state and local rate of 24.6% on our allocable share of taxable income of Black Rock OpCo, and assuming no adjustments for non-taxable or non-deductible amounts of income and expenses. The actual rate could vary from the rate used in the pro forma financial statements.

(2) Reflects the portion of our net income allocable to the noncontrolling interest. After the Transactions, we will become the managing member of Black Rock OpCo with a 32.3% economic interest but will control the management of Black Rock OpCo. The Continuing Equity Owners will own the remaining 67.7% economic interest in Black Rock OpCo, which will be accounted for as a noncontrolling interest in our future consolidated financial statements. If the underwriters exercise their option to purchase additional shares of our Class A common stock in full, the economic interest held by the noncontrolling interest would be approximately 63.3%.

(3) Pro forma basic net income per share is computed by dividing the net income attributable to holders of Class A common stock by the weighted-average shares of Class A common stock outstanding during the period. Shares of Class B common stock and Class C common stock are not considered participating securities and are not included in the weighted-average shares outstanding for purposes of computing pro forma net income per share. Pro forma diluted net income per share considers the impact of applying the if-converted and treasury stock methods to the outstanding potentially dilutive securities. Pro forma diluted net income per share includes a numerator adjustment for the dilutive effect of outstanding unvested LLC units that reduces net income attributable to holders of Class A common stock when assumed to be vested. Diluted weighted average shares of Class A common stock outstanding is the same as basic because the potentially dilutive securities are excluded from the calculation of diluted net income per share as the Continuing Equity Owners may cause a pro rata redemption of LLC Units for shares of Class A common stock on a one-for-one basis, which would concurrently require Class B common stock and Class C common stock to be transferred to Black Rock Coffee Bar, Inc. for no consideration and be cancelled. Upon such redemption, net income per share attributable to Black Rock Coffee Bar, Inc. would remain unchanged, or is less dilutive than applying the treasury stock method, due to a corresponding increase in net income attributable to Black Rock Coffee Bar, Inc. (and a decrease in net income attributable to noncontrolling interests) and the number of weighted-average shares of Class A common stock outstanding.

(4) Concurrently with, and conditioned upon, the closing of this offering, we intend to refinance our existing Credit Facility and enter into New Credit Facilities. The adjustments below reflect the elimination of the historical interest expense and amortization of debt issuance costs and loan modification fees related to the existing Credit Facility, as well as the incurrence of interest expense and deferred financing costs related to the New Credit Facilities:

Interest expense under the existing Credit Facility	$	5,664
Amortization of debt issuance costs and loan modification fees under the existing Credit Facility		728
Interest expense under the New Credit Facilities		(1,538)
Amortization of deferred financing costs under the New Credit Facilities		(100)
Total	$	4,754

(5) Reflects the reversal of expense incurred related to the payment of fees associated with the Series A Redemption Agreement (as defined in “Certain Relationships and Related Party Transactions—Series A Preferred Unit Redemption”).

MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with our audited consolidated financial statements and unaudited condensed consolidated financial statements and the related notes together with our "Unaudited Pro Forma Combined and Consolidated Financial Information" and other financial information included elsewhere in this prospectus.

Some of the information contained in this discussion and analysis or set forth elsewhere in this prospectus, including information with respect to our current plans and strategy for our business, includes forward-looking statements that involve risks and uncertainties.

You should review the "Special Note Regarding Forward-Looking Statements" and "Risk Factors" sections of this prospectus for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis. Our historical results are not necessarily indicative of the results that may be expected for any period in the future. Except as required by applicable law, we are not undertaking any obligation to update any forward-looking statements or other statements we may make in the following discussion or elsewhere in this prospectus even though these statements may be affected by events or circumstances occurring after the forward-looking statements or other statements were made.

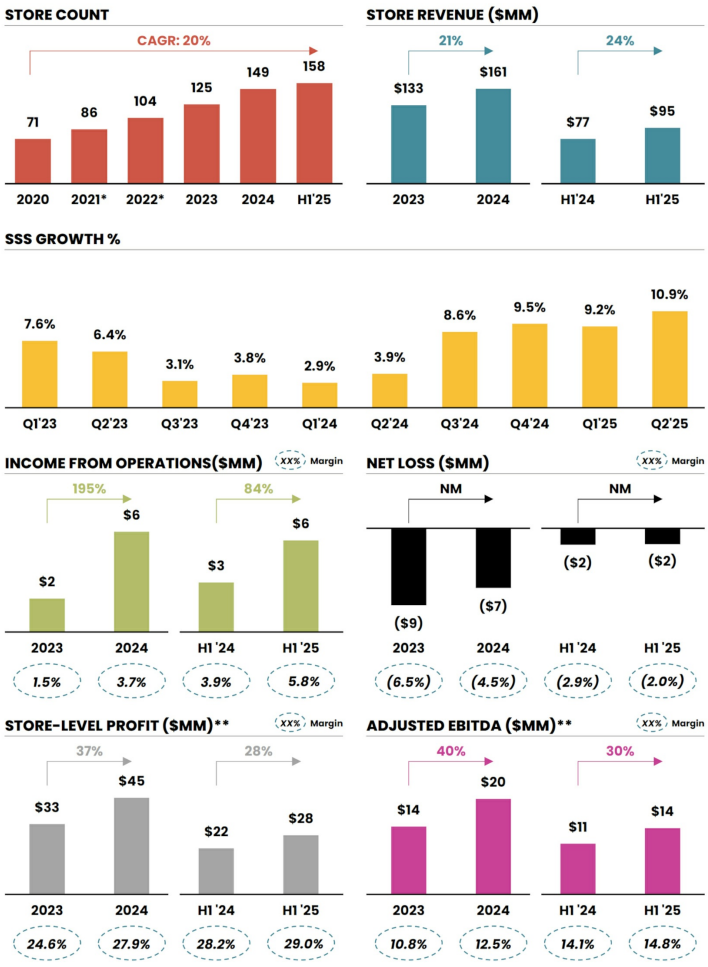
Overview

We are a high-growth operator of guest-centric, drive-thru coffee bars offering premium caffeinated beverages and an elevated in-store experience crafted by our engaging baristas. Black Rock Coffee Bar was founded in 2008 in Beaverton, Oregon, by our co-founders Daniel Brand and Jeff Hernandez. What started as a single 160 square foot coffee bar in 2008 is now one of the fastest growing beverage companies in the United States by revenue and the largest fully company-owned coffee retailer in the country, with 158 locations spanning seven states as of June 30, 2025, from the Pacific Northwest to Texas.

We were founded as a drive-thru only concept and evolved to include engaging seating areas, which we call "lobbies." All of our locations include efficient drive-thrus and approximately 75% of our locations include lobbies as of June 30, 2025. We expect most of our new locations to include both drive-thrus and lobbies as we continue to grow. Our modern, inviting store formats—paired with a robust digital platform—allow us to deliver a dynamic and multi-faceted guest experience.

Driven by a passion for Connection, Caffeine, and Community, Black Rock is a platform to do well by our baristas, guests, and the communities we serve. With a relentless focus on people and excellence, our culture has been key to our success.

These results demonstrate the strength and consistency of our model and highlight our genuine connection to our guests across diverse markets.


STORE COUNT
CAGR: 20%
71
86
104
125
149
158
2020
2021*
2022*
2023
2024
H1'25
STORE REVENUE ($MM)
21%
24%
$133
$161
$77
$95
2023
2024
H1'24
H1'25
SSS GROWTH %
7.6%
6.4%
3.1%
3.8%
2.9%
3.9%
8.6%
9.5%
9.2%
10.9%
Q1'23
Q2'23
Q3'23
Q4'23
Q1'24
Q2'24
Q3'24
Q4'24
Q1'25
Q2'25
INCOME FROM OPERATIONS($MM)
XX% Margin
195%
84%
$2
$6
$3
$6
2023
2024
H1 '24
H1 '25
1.5%
3.7%
3.9%
5.8%
NET LOSS ($MM)
XX% Margin
NM
NM
($9)
($7)
($2)
($2)
2023
2024
H1 '24
H1 '25
(6.5%)
(4.5%)
(2.9%)
(2.0%)
STORE-LEVEL PROFIT ($MM)**
XX% Margin
37%
28%
$33
$45
$22
$28
2023
2024
H1 '24
H1 '25
24.6%
27.9%
28.2%
29.0%
ADJUSTED EBITDA ($MM)**
XX% Margin
40%
30%
$14
$20
$11
$14
2023
2024
H1 '24
H1 '25
10.8%
12.5%
14.1%
14.8%

(*) Excludes 14 Roasters locations that were divested in May 2023 (see Note 5 to our audited consolidated financial statements included elsewhere in this prospectus).
(**) For more information, see "—Non-GAAP Financial Measures" for definitions of each non-GAAP metric and a discussion of Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin and reconciliation of each measure to its respective most directly comparable GAAP measure.

Growth Strategies and Outlook

With 158 stores as of June 30, 2025, we believe we are well-positioned to take advantage of significant growth opportunities due to our clear and consistent focus: creating authentic connections between baristas and guests, delivered through premium caffeinated beverages in modern, welcoming environments. We plan to expand our business by executing on the following growth strategies:

- ***Expanding Our Store Footprint in New and Existing Markets*** – We are in the early stages of our long-term growth journey, with significant whitespace in both existing and new markets. We have a robust pipeline for development to support future anticipated growth. In the near term, we expect to open approximately 30 stores in 2025 and expect our future average annual store growth to be consistent with our approximately 20% historical average annual store growth from 2020 through 2024. We believe that we can achieve 1,000 stores by 2035, with ample whitespace in our existing markets to support this growth.
- ***Continuous Menu Innovation*** – Menu innovation is core to our brand. We regularly develop new offerings in partnership with our team and community in an effort to ensure our menu is relevant and exciting. Each seasonal marketing window provides an innovative coffee-based offering that highlights our commitment to our coffee forward culture.
- ***Building Loyalty Through Our Differentiated Tech-Enabled Approach*** – We continue to invest in technology that supports human connection. Our mobile application and loyalty program streamline service while enabling personalized marketing and data-driven insights.
    - *Digital* – At 15% of store revenue for the three months ended June 30, 2025, our digital strategy is still in its early stages. Mobile orders reduce wait times, increase throughput, and showcase trending items in-store and in-app.
    - *Loyalty* – Since launching in June 2024, we have gained more than 1.8 million loyalty members and seen guests visit 129% more often following their enrollment into our loyalty program (based on a review of the transaction history of approximately 1,200 loyalty members in the 90 days before and after joining the loyalty program). This behavior drives higher frequency and larger check sizes.
- ***Fueling Brand Growth*** – Every new Black Rock location deepens brand visibility and introduces more guests to our *Fuel Your Story* philosophy. Our consistent, friendly barista interactions, premium beverages, and fast service turn each store into a medium for future connections.
    - *Local Community Engagement* – As we expand, we tailor our outreach efforts to local markets. Our baristas actively engage in their communities, helping to build trust and familiarity. In 2025, we have provided support to over 200 local businesses and high schools through donations, including gift cards and drinks, continuing our commitment to strengthening the communities we serve.
    - *Growing Our Social Community* – Our enthusiastic, growing fan base engages with Black Rock across social channels, and we meet them with timely content, branded moments, and community storytelling.
    - *Exclusive Products* – Our in-house Fuel line and other branded items, such as our K-Cup pods, custom blend roasted beans, and cold brew bags offer powerful brand touchpoints. This keeps Black Rock top of mind whether guests are in-store or on the go.

- ***Leverage Infrastructure*** – Our investments in people, facilities, and technology have built a strong foundation for scalable growth.
    - *People-First Organization* – With strong internal promotion practices and new key hires across functions, we are building a leadership bench ready to support expansion. Our team-first culture keeps us aligned as we grow.
    - *Roasting Facilities* – Our two roasting centers ensure freshness, consistency, and capacity to support national growth.
    - *Supply Chain* – A robust distribution network supports multi-state operations and helps us deliver high-quality products at scale.
    - *Technology Infrastructure* – We have built an integrated digital platform that supports everything from inventory control to real-time sales tracking and predictive scheduling. These systems help to reduce waste, control prime costs, and streamline daily operations.
    - *Product Innovation* – Our exclusive Fuel energy drinks were developed in-house, allowing us to capture greater margins and offer unique products that differentiate us in the market.

Reorganization Transactions

The historical results of operations discussed in this section are those of Black Rock OpCo prior to the consummation of the Transactions, including this offering, and do not reflect certain items that we expect will affect our results of operations and financial position after giving effect to the Transactions, including this offering and the use of proceeds from this offering.

Following the consummation of the Transactions, Black Rock Coffee Bar, Inc. will become the sole managing member of Black Rock OpCo. Although we will have a minority economic interest in Black Rock OpCo, we will have the sole voting interest in, and control of the business and affairs of, Black Rock OpCo. As a result, Black Rock Coffee Bar, Inc. will consolidate Black Rock OpCo and record a significant noncontrolling interest in a consolidated entity in Black Rock Coffee Bar, Inc.'s consolidated financial statements for the economic interest in Black Rock OpCo held by the Continuing Equity Owners. Immediately after the Transactions, investors in this offering will collectively own 95.1% of our outstanding Class A common stock, consisting of 14,705,882 shares (or 95.7% of our outstanding Class A common stock, consisting of 16,911,764 shares if the underwriters exercise in full their option to purchase additional shares of Class A common stock); Black Rock Coffee Bar, Inc. will own 15,467,125 LLC Units (or 17,673,007 LLC Units if the underwriters exercise in full their option to purchase additional shares of Class A common stock), representing 32.3% of the LLC Units (or 36.7% if the underwriters exercise in full their option to purchase additional shares of Class A common stock); and the Continuing Equity Owners will collectively own 32,348,485 LLC Units, representing 67.7% of the LLC Units (or 30,519,561 LLC Units, representing 63.3% if the underwriters exercise in full their option to purchase additional shares of Class A common stock). Accordingly, net income attributable to noncontrolling interests will represent 67.7% of the net income of Black Rock Coffee Bar, Inc. (or 63.3% if the underwriters exercise in full their option to purchase additional shares of Class A common stock). Black Rock Coffee Bar, Inc. is a holding company that conducts no operations and, as of the consummation of this offering, its principal asset will be LLC Units we purchase from Black Rock OpCo. As a result, the historical consolidated financial data may not give you an accurate indication of what our actual results would have been if the Transactions had been consummated at the beginning of the periods presented or of what our future results of operations are likely to be. See "Organizational Structure."

After consummation of the Transactions, Black Rock Coffee Bar, Inc. will become subject to U.S. federal, state, and local income taxes with respect to our allocable share of taxable income of Black Rock OpCo and will be taxed at the prevailing corporate tax rates. In addition to tax expenses, we also will incur expenses related to our status as a public company, plus payment obligations under the Tax Receivable

Agreement, which we expect to be substantial. We intend to cause Black Rock OpCo to make distributions to us in an amount sufficient to allow us to pay these expenses and fund any payments due under the Tax Receivable Agreement. See "Certain Relationships and Related Party Transactions—Black Rock OpCo LLC Agreement—Agreement in effect upon consummation of the Transactions—Distributions" and "Unaudited Pro Forma Combined and Consolidated Financial Information" for further discussion on the Tax Receivable Agreement, our tax treatment, and the comparability differences between our current and future financial statements.

Key Performance Measures and Non-GAAP Financial Measures

In assessing the performance of our business, in addition to considering a variety of measures in accordance with GAAP, our management team also considers a variety of key performance measures and non-GAAP financial measures. The key performance measures and non-GAAP financial measures used by our management to evaluate our performance are: Total Stores (End of Period), Net New Store Openings, Same Store Sales Growth, Average Unit Volume, Store revenue, Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin.

We believe that these measures provide useful information to users of our financial statements in understanding and evaluating our results of operations in the same manner as our management team. The presentation of non-GAAP financial measures is not intended to be considered in isolation or as a substitute for, or superior to, the financial information prepared and presented in accordance with GAAP. See "Non-GAAP Financial Measures" below.

The following table sets forth our key performance measures for the periods presented [(1)]:

	Six Months Ended June 30,			Year Ended December 31,		
($ in thousands)	**2025**	**2024**	**Change**	**2024**	**2023**	**Change**
Total Stores (End of Period)	158	137	21	149	125	24
Net New Store Openings	9	12	(3)	24	21	3
Same Store Sales Growth[(2)]	10.1 %	3.4 %	6.7 %	6.3 %	5.1 %	1.2 %
Average Unit Volume	$ 1,226	$ 1,158	$ 68	$ 1,186	$ 1,170	$ 16
Store revenue	$ 95,110	$ 76,542	$ 18,568	$ 160,682	$ 132,961	$ 27,721
Store-Level Profit[(3)]	$ 27,541	$ 21,547	$ 5,994	$ 44,780	$ 32,684	$ 12,096
Store-Level Profit Margin[(3)]	29.0 %	28.2 %	0.8 %	27.9 %	24.6 %	3.3 %
Adjusted EBITDA[(3)]	$ 14,063	$ 10,798	$ 3,265	$ 20,194	$ 14,394	$ 5,800
Adjusted EBITDA Margin[(3)]	14.8 %	14.1 %	0.7 %	12.5 %	10.8 %	1.7 %

(1) The presentation of Net New Store Openings, Same Store Sales Growth and AUV excludes 14 Roasters locations we owned for a total of 28 months that were divested in May of 2023 pursuant to the terms of a legal settlement (see Note 5 to our audited consolidated financial statements elsewhere in this prospectus). Net New Store Openings reflects the 2023 closure of a single store located within a stadium venue; this location was not one of our typical drive-thru locations and the closure reflects a decision to focus on our core development strategy. Same Store Sales Growth and AUV exclude this location.
(2) Same Store Sales Growth reflects the change in year-over-year sales for the comparable store base, which we define as stores open for 18 months or longer.
(3) See "Non-GAAP Financial Measures" for a discussion of Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA margin and reconciliation of each measure to its most directly comparable GAAP measure.

Net New Store Openings

Net New Store Openings reflect the number of stores opened during a particular reporting period, net of any permanent store closures during the same period. Before we open new stores, we incur pre-opening costs as described below. The opening of new stores has been and is expected to continue to be the primary driver of revenue growth. The total number of new store openings has, and will continue to have, an impact on our results of operations.

Same Store Sales Growth

Same Store Sales Growth is defined as the period-over-period sales comparison for stores in our comparable store base, which we define as stores that have been open for 18 months or longer. We use

Same Store Sales Growth to assess the performance of existing stores that have been open for 18 months or longer, as the impact of new store openings is excluded.

As of June 30, 2025 and 2024, there were 125 stores and 103 stores, respectively, in our comparable store base. As of December 31, 2024 and 2023, there were 115 stores and 94 stores, respectively, in our comparable store base.

Average Unit Volume

AUV represents total trailing twelve-month store revenue of operating stores in the comparable store base, divided by the number of stores in the comparable store base. We use AUV to assess and understand changes in spending patterns and overall performance. AUV is impacted by changes in guest traffic and the number of newer stores that are included in calculating AUVs.

Store revenue

Store revenue represents all revenue attributable to our stores in the specified period. We use store revenue to evaluate and track the aggregate beverage and food sales in our stores. Several factors affect store revenue in any given period, including number of stores open, same store sales and guest traffic.

Store-Level Profit and Store-Level Profit Margin

Store-Level Profit represents store revenue in the specific period less beverage, food and packaging, labor and related expenses, occupancy and related expenses, and other store operating expenses, excluding depreciation and amortization and pre-opening costs in the period.

Store-Level Profit Margin represents Store-Level Profit as a percentage of store revenue. We use Store-Level Profit and Store-Level Profit Margin in our evaluation of the performance and profitability of each store.

Adjusted EBITDA and Adjusted EBITDA Margin

Adjusted EBITDA is net loss adjusted to exclude interest expense, net, income tax expense, and depreciation and amortization, further adjusted to exclude certain items that we do not consider indicative of our ongoing operating performance, including transaction costs associated with this offering, capital restructuring costs, litigation costs, net, point-of-sale system transition costs and other non-core costs. Adjusted EBITDA Margin is Adjusted EBITDA as a percentage of Total revenue. We use Adjusted EBITDA and Adjusted EBITDA Margin to supplement GAAP measures of performance in the evaluation of the effectiveness of our business strategies, to make budgeting decisions, and to compare our performance against that of other peer companies using similar measures. See “Non-GAAP Financial Measures” below for our reconciliation of Adjusted EBITDA to net loss.

Components of Results of Operations

Store revenue represents the aggregate sales of beverages and food, net of discounts at our stores and gift card and loyalty breakage income.

Other includes sales of online retail products, net of discounts, and other non-store revenue.

Store Operating costs and expenses

Our store operating costs and expenses consist of (i) beverage, food and packaging costs, (ii) labor and related expenses, (iii) occupancy and related expenses and (iv) other store operating expenses.

Beverage, food and packaging costs consists primarily of beverage, food and packaging costs, including manufacturing costs and costs associated with our production facilities. The components of beverage, food and packaging costs are variable by nature, change with sales volume, are impacted by menu mix and subject to increases or decreases in commodity costs.

Labor and related expenses includes all store-level management and hourly labor costs, including salaries, wages, benefits, bonuses, payroll taxes and other indirect labor costs. Factors that influence labor costs include the minimum wage in the jurisdictions in which we operate, payroll tax legislation, inflation, the strength of the labor market for hourly team members, benefit costs, health care costs, and the number, size, and location of stores.

Occupancy and related expenses consists of store-level occupancy including rent, common area expenses, real estate and other taxes. Occupancy excludes expenses associated with unopened stores, which are recorded in pre-opening costs. Occupancy varies from location to location and is impacted by macroeconomic conditions, including inflation.

Other store operating expenses includes credit card fees, repairs and maintenance, utilities, software subscriptions, property taxes, and other operating expenses, incidental to operating our stores, such as store supplies, insurance, business permits and travel expense.

Selling, general and administrative expenses includes expenses associated with our corporate function that supports the development and operation of stores, including compensation and benefits, insurance, professional fees, technology support, travel expenses, certain marketing and advertising costs, and other costs related to our corporate offices and support teams.

Depreciation and amortization consists of depreciation of fixed assets including all equipment and leasehold improvements and amortization of intangible assets such as reacquired franchise rights and trademarks.

Pre-opening costs consists of grand opening expenses and start-up and promotional costs incurred prior to opening a new store and are made up of labor, relocation costs, supplies, recruiting expenses, payroll and training costs, travel costs and marketing costs. Pre-opening costs also include occupancy costs recorded during the period between the date of possession and the date we begin operations at a location. Pre-opening costs are expensed as incurred.

Interest expense, net includes cash and non-cash charges related to our Credit Facility, including the amortization of debt issuance costs and loan modification fees, net of capitalized interest associated with borrowings related to eligible capital expenditures and interest income earned on our related party note receivable and cash and cash equivalents.

Other (income) expense, net consists of miscellaneous income and expenses.

Income tax expense consists primarily of various state and local income taxes including corporate activity and franchise taxes.

Results of Operations

Comparison of the six months ended June 30, 2025 and 2024

The following table summarizes our results of operations for the periods presented below:

	Six Months Ended June 30,		Change	
($ in thousands)	**2025**	**2024**	**$**	**%**
Store revenue	$ 95,110	$ 76,542	$ 18,568	24.3 %
Other	104	108	(4)	(3.7)%
Total revenue	95,214	76,650	18,564	24.2 %
Store operating costs and expenses (exclusive of depreciation and amortization presented separately below):				
Beverage, food and packaging costs	27,355	22,258	5,097	22.9 %
Labor and related expenses	19,803	16,502	3,301	20.0 %
Occupancy and related expenses	7,607	6,415	1,192	18.6 %
Other store operating expenses	12,804	9,820	2,984	30.4 %
Total store operating costs and expenses	67,569	54,995	12,574	22.9 %
Selling, general and administrative expenses	14,740	12,563	2,177	17.3 %
Depreciation and amortization	5,826	4,801	1,025	21.3 %
Pre-opening costs	1,561	1,284	277	21.6 %
Total operating expenses	89,696	73,643	16,053	21.8 %
Income from operations	5,518	3,007	2,511	83.5 %
Interest expense, net	(6,157)	(5,115)	(1,042)	20.4 %
Other income (expense), net	(1,084)	(1)	(1,083)	108,300.0 %
Loss before income taxes	(1,723)	(2,109)	386	(18.3)%
Income tax expense	222	126	96	76.2 %
Net loss	$ (1,945)	$ (2,235)	$ 290	(13.0)%

Store revenue

Store revenue increased $18.6 million, or 24.3%, to $95.1 million for the six months ended June 30, 2025, compared to $76.5 million for the six months ended June 30, 2024. The increase in store revenue was primarily driven by 21 Net New Store Openings subsequent to June 30, 2024, which contributed $8.3 million, as well as 12 stores opened during the six month period ended June 30, 2024 that are not yet in the comparable store base, which contributed $2.9 million. The remainder of the increase was primarily driven by Same Store Sales Growth of 10.1%, which contributed $7.1 million, which consists of 3.8%, or $2.7 million, from menu price increases, and 8.4%, or $5.9 million, from increased traffic, offset by a decrease of 2.1%, or $1.5 million, due to decreased check size as a result of higher discounting for the six months ended June 30, 2025, compared to the six months ended June 30, 2024.

Other

Other remained relatively flat and decreased $4.0 thousand, or 4.0%, to $104.0 thousand for the six months ended June 30, 2025, compared to $108.0 thousand for the six months ended June 30, 2024.

Beverage, food and packaging costs

	Six Months Ended June 30,		Change	
($ in thousands)	**2025**	**2024**	**$**	**%**
Beverage, food and packaging costs	$ 27,355	$ 22,258	$ 5,097	22.9 %
As a percentage of Total revenue	28.7 %	29.0 %	*n/a*	(0.3)%

Beverage, food and packaging costs increased $5.1 million, or 22.9%, to $27.4 million for the six months ended June 30, 2025, compared to $22.3 million for the six months ended June 30, 2024. The increase in beverage, food and packaging costs was primarily driven by 21 Net New Store Openings subsequent to June 30, 2024, which contributed approximately $2.4 million of incremental expense.

As a percentage of total revenue, beverage, food and packaging costs decreased for the six months ended June 30, 2025 primarily due to menu price increases and volume pricing efficiencies gained driven by greater economies of scale as we continued to expand our store footprint.

Labor and related expenses

	Six Months Ended June 30,		Change	
($ in thousands)	**2025**	**2024**	**$**	**%**
Labor and related expenses	19,803	16,502	3,301	20.0 %
As a percentage of Total revenue	20.8 %	21.5 %	*n/a*	(0.7)%

Labor and related expenses increased $3.3 million, or 20.0%, to $19.8 million for the six months ended June 30, 2025, compared to $16.5 million for the six months ended June 30, 2024. The increase in labor and related expenses was primarily driven by 21 Net New Store Openings subsequent to June 30, 2024, which contributed approximately $1.9 million in incremental expense as well as an increase in prevailing wage rates in many of our markets.

As a percentage of total revenue, labor and related expenses decreased for the six months ended June 30, 2025 due to our ongoing efforts to improve employee retention and operational efficiency.

Occupancy and related expenses

	Six Months Ended June 30,		Change	
($ in thousands)	**2025**	**2024**	**$**	**%**
Occupancy and related expenses	$ 7,607	$ 6,415	$ 1,192	18.6 %
As a percentage of Total revenue	8.0 %	8.4 %	*n/a*	(0.4)%

Occupancy and related expenses increased $1.2 million, or 18.6%, to $7.6 million for the six months ended June 30, 2025, compared to $6.4 million for the six months ended June 30, 2024. The increase in occupancy and related expenses was primarily due to 21 Net New Store Openings subsequent to June 30, 2024, which contributed approximately $1.0 million in incremental expense.

Other store operating expenses

	Six Months Ended June 30,		Change	
($ in thousands)	**2025**	**2024**	**$**	**%**
Other store operating expenses	$ 12,804	$ 9,820	$ 2,984	30.4 %
As a percentage of Total revenue	13.4 %	12.8 %	*n/a*	0.6 %

Other store operating expenses increased $3.0 million, or 30.4%, to $12.8 million for the six months ended June 30, 2025, compared to $9.8 million for the six months ended June 30, 2024. The increase in

other store operating expenses was primarily drive n by higher delivery commissions and merchant processing fees associated with increased sales and transaction volumes, which contributed approximately $1.2 million of incremental expense, an increase in repairs and maintenance which contributed $604.3 thousand of incremental expense as well as increased facilities costs.

Selling, general and administrative expenses

	Six Months Ended June 30,		Change	
($ in thousands)	**2025**	**2024**	**$**	**%**
Selling, general and administrative expenses	$ 14,740	$ 12,563	$ 2,177	17.3 %
As a percentage of Total revenue	15.5 %	16.4 %	*n/a*	(0.9)%

Selling, general, and administrative expenses increased $2.2 million, or 17.3%, to $14.7 million for the six months ended June 30, 2025, compared to $12.6 million for the six months ended June 30, 2024. The increase in selling, general, and administrative expenses was primarily driven by a $1.5 million increase in our corporate payroll expenses and a $1.1 million increase in professional service fees, to support future growth and strategic initiatives.

Depreciation and amortization

	Six Months Ended June 30,		Change	
($ in thousands)	**2025**	**2024**	**$**	**%**
Depreciation and amortization	$ 5,826	$ 4,801	$ 1,025	21.3 %
As a percentage of Total revenue	6.1 %	6.3 %	*n/a*	(0.2)%

Depreciation and amortization incre ased $1.0 million, or 21.3%, to $5.8 million for the six months ended June 30, 2025, compared to $4.8 million for the six months ended June 30, 2024. The increase in depreciation and amortization was primarily driven by 21 Net New Store Openings subsequent to June 30, 2024.

Pre-opening costs

	Six Months Ended June 30,		Change	
($ in thousands)	**2025**	**2024**	**$**	**%**
Pre-opening costs	$ 1,561	$ 1,284	$ 277	21.6 %
As a percentage of Total revenue	1.6 %	1.7 %	*n/a*	(0.1)%

Pre-opening costs increased $277.0 thousand, or 21.6%, to $1.6 million for the six months ended June 30, 2025, compared to $1.3 million for the six months ended June 30, 2024. The increase in pre-opening costs was primarily driven by a $648.4 thousand increase in single lease cost related to unopened stores, partially offset by a decrease in payroll expense associated with training employees prior to store opening as a result of 3 less Net New Store Openings for the six months ended June 30, 2025 compared to the six months ended June 30, 2024.

Interest expense, net

Interest expense, net increased $1.0 million, or 20.4%, to $6.2 million for the six months ended June 30, 2025, compared to $5.1 million for the six months ended June 30, 2024. The increase in interest expense, net was primarily driven by higher borrowings on our term loan for the six months ended June 30, 2025, compared to the six months ended June 30, 2024.

Other income (expense), net

The change of $(1.1) million in other income (expense), net for the six months ended June 30, 2025 was primarily driven by $1.1 million in capital restructuring fees incurred during the six months ended June 30, 2025.

Income tax expense

Income tax expense was an immaterial amount for each of the six months ended June 30, 2025 and 2024.

Comparison of the year ended December 31, 2024 and 2023

The following table summarizes our results of operations for the periods presented below:

	Year Ended December 31,		Change	
($ in thousands)	**2024**	**2023**	**$**	**%**
Store revenue	$ 160,682	$ 132,961	$ 27,721	20.8 %
Other	235	201	34	16.9 %
Total revenue	160,917	133,162	27,755	20.8 %
Store operating costs and expenses (exclusive of depreciation and amortization presented separately below):				
Beverage, food and packaging costs	46,491	41,923	4,568	10.9 %
Labor and related expenses	35,132	30,236	4,896	16.2 %
Occupancy and related expenses	13,107	10,832	2,275	21.0 %
Other store operating expenses	21,172	17,286	3,886	22.5 %
Total store operating costs and expenses	115,902	100,277	15,625	15.6 %
Selling, general and administrative expenses	25,261	20,313	4,948	24.4 %
Depreciation and amortization	10,364	8,523	1,841	21.6 %
Pre-opening costs	3,357	2,007	1,350	67.3 %
Total operating expenses	154,884	131,120	23,764	18.1 %
Income from operations	6,033	2,042	3,991	195.4 %
Interest expense, net	(11,115)	(10,949)	(166)	1.5 %
Other income (expense), net	(1,835)	566	(2,401)	(424.2)%
Loss before income taxes	(6,917)	(8,341)	1,424	(17.1)%
Income tax expense	270	357	(87)	(24.4)%
Net loss	$ (7,187)	$ (8,698)	$ 1,511	(17.4)%

Store revenue

Store revenue increased $27.7 million, or 20.8%, to $160.7 million for the year ended December 31, 2024, compared to $133.0 million for the year ended December 31, 2023. The year ended December 31, 2023 includes $3.7 million in sales from Roasters stores that were divested in May of 2023. The in crease in store revenue was primarily dri ven by 24 Net New Store Openings during the year ended December 31, 2024 which contributed $13.7 million, as well as 10 stores opened during the year ended December 31, 2023, that are not yet in the comparable store base, which contributed $7.3 million. The remainder of the increase was primarily driven by Same Store Sales Growth of 6.3%, which contributed $7.4 million, which consists of 4.2%, or $4.9 million, from menu price increases, 1.6%, or $1.9 million, from increased check size and 0.5%, or $585 thousand, in guest traffic increases.

Other

Other increased $34.0 thousand, or 16.9%, to $235.0 thousand for the year ended December 31, 2024, compared to $201.0 thousand for the year ended December 31, 2023. The increase in other was primarily driven by an increase in online and subscription bean sales for the year ended December 31, 2024.

Beverage, food and packaging costs

	Year Ended December 31,		Change	
($ in thousands)	**2024**	**2023**	**$**	**%**
Beverage, food and packaging costs	$ 46,491	$ 41,923	$ 4,568	10.9 %
As a percentage of Total revenue	28.9 %	31.5 %	*n/a*	(2.6)%

Beverage, food and packaging costs increased $4.6 million, or 10.9%, to $46.5 million for the year ended December 31, 2024, compared to $41.9 million for the year ended December 31, 2023. The increase in beverage, food and packaging costs was primarily driven by 24 Net New Store Openings during the year ended December 31, 2024, which contributed approximately $4.0 million of incremental expense.

As a percentage of total revenue, beverage, food and packaging costs decreased for the year ended December 31, 2024 primarily due to menu price increases and volume pricing efficiencies gained driven by greater economies of scale as we continued to expand our store footprint.

Labor and related expenses

	Year Ended December 31,		Change	
($ in thousands)	**2024**	**2023**	**$**	**%**
Labor and related expenses	$ 35,132	$ 30,236	$ 4,896	16.2 %
As a percentage of Total revenue	21.8 %	22.7 %	*n/a*	(0.9)%

Labor and related expenses increased $4.9 million, or 16.2%, to $35.1 million for the year ended December 31, 2024, compared to $30.2 million for the year ended December 31, 2023. The increase in labor and related expenses was primarily driven by 24 Net New Store Openings during the year ended December 31, 2024, which contributed approximately $3.6 million in incremental expense as well as an increase in prevailing wage rates in many of our markets.

As a percentage of total revenue, labor and related expenses decreased for the year ended December 31, 2024 due to our ongoing efforts to improve employee retention and operational efficiency.

Occupancy and related expenses

	Year Ended December 31,		Change	
($ in thousands)	**2024**	**2023**	**$**	**%**
Occupancy and related expenses	$ 13,107	$ 10,832	$ 2,275	21.0 %
As a percentage of Total revenue	8.1 %	8.1 %	*n/a*	— %

Occupancy and related expenses increased $2.3 million, or 21.0%, to $13.1 million for the year ended December 31, 2024, compared to $10.8 million for the year ended December 31, 2023. The increase in occupancy and related expenses was primarily due to the 24 Net New Store Openings during the year ended December 31, 2024, which contributed approximately $1.6 million in incremental expense.

Other store operating expenses

($ in thousands)	Year Ended December 31, 2024	2023	Change $	Change %
Other store operating expenses	$ 21,172	$ 17,286	$ 3,886	22.5 %
As a percentage of Total revenue	13.2 %	13.0 %	*n/a*	0.2 %

Other store operating expenses increased $3.9 million, or 22.5%, to $21.2 million for the year ended December 31, 2024, compared to $17.3 million for the year ended December 31, 2023. The increase in other store operating expenses was primarily driven by higher delivery commissions and merchant processing fees associated with increased sales and transaction volumes, which contributed approximately $2.0 million of incremental expense, as well as increased facilities costs.

Selling, general and administrative expenses

($ in thousands)	Year Ended December 31, 2024	2023	Change $	Change %
Selling, general and administrative expenses	$ 25,261	$ 20,313	$ 4,948	24.4 %
As a percentage of Total revenue	15.7 %	15.3 %	*n/a*	0.4 %

Selling, general and administrative expenses increased $4.9 million, or 24.4%, to $25.3 million for the year ended December 31, 2024, compared to $20.3 million for the year ended December 31, 2023. The increase in selling, general and administrative expenses was primarily driven by investments in our corporate functions, including a $4.7 million increase in corporate payroll expenses, to support future growth and strategic initiatives.

Depreciation and amortization

($ in thousands)	Year Ended December 31, 2024	2023	Change $	Change %
Depreciation and amortization	$ 10,364	$ 8,523	$ 1,841	21.6 %
As a percentage of Total revenue	6.4 %	6.4 %	*n/a*	— %

Depreciation and amortization increased $1.8 million, or 21.6%, to $10.4 million for the year ended December 31, 2024, compared to $8.5 million for the year ended December 31, 2023. The increase in depreciation and amortization was primarily driven by 24 Net New Store Openings during the year ended December 31, 2024.

Pre-opening costs

($ in thousands)	Year Ended December 31, 2024	2023	Change $	Change %
Pre-opening costs	$ 3,357	$ 2,007	$ 1,350	67.3 %
As a percentage of Total revenue	2.1 %	1.5 %	*n/a*	0.6 %

Pre-opening costs increased $1.4 million, or 67.3%, to $3.4 million for the year ended December 31, 2024, compared to $2.0 million for the year ended December 31, 2023. The increase in pre-opening costs was primarily driven by an increase in lease expense related to unopened stores and an increase in wages and team costs associated with training employees prior to store opening.

Interest expense, net

Interest expense, net increased $166 thousand, or 1.5%, to $11.1 million for the year ended December 31, 2024, compared to $10.9 million for the year ended December 31, 2023. The increase in interest expense, net was primarily driven by higher borrowings on our term loan for the year ended December 31, 2024 compared to year ended December 31, 2023.

Other income (expense), net

Other income (expense), net decreased $2.4 million, shifting from other income, net to other expense, net for the year ended December 31, 2024. The decrease in other income (expense), net was primarily driven by $1.4 million in capital restructuring fees incurred for the year ended December 31, 2024.

Income tax expense

Income tax expense was an immaterial amount for each of the years ended December 31, 2024 and 2023.

Selected Quarterly Financial Data

The following table presents unaudited quarterly historical consolidated financial and other data for each of the periods indicated. The unaudited quarterly historical consolidated financial data have been derived from the unaudited consolidated financial statements of Black Rock OpCo and its subsidiaries. This information should be read in conjunction with our financial statements and related notes included elsewhere in this prospectus. The results of historical periods are not necessarily indicative of the results in any future period and the results of a particular quarter or other interim period are not necessarily indicative of the results for a full year[(1)].

	Three months ended									
($ in thousands)	**June 30, 2025**	**March 31, 2025**	**December 31, 2024**	**September 30, 2024**	**June 30, 2024**	**March 31, 2024**	**December 31, 2023**	**September 30, 2023**	**June 30, 2023**	**March 31, 2023**
Consolidated Statements of Operations data:										
Revenue	$ 50,394	$ 44,820	$ 42,812	$ 41,455	$ 40,592	$ 36,058	$ 33,697	$ 33,021	$ 34,537	$ 31,907
Income (loss) from operations	$ 3,267	$ 2,251	$ (112)	$ 3,138	$ 2,132	$ 875	$ (635)	$ 63	$ 1,099	$ 1,515
Income (loss) from operations margin	6.5 %	5.0 %	(0.3)%	7.6 %	5.3 %	2.4 %	(1.9)%	0.2 %	3.2 %	4.7 %
Net loss	$ (1,061)	$ (884)	$ (4,230)	$ (722)	$ (522)	$ (1,713)	$ (3,108)	$ (2,858)	$ (1,290)	$ (1,442)
Net loss margin	(2.1)%	(2.0)%	(9.9)%	(1.7)%	(1.3)%	(4.8)%	(9.2)%	(8.7)%	(3.7)%	(4.5)%
Other Financial And Operating data:										
Total Stores (End of Period)	158	154	149	144	137	133	125	121	116 [(2)]	109 [(2)]
Net New Store Openings	4	5	5	7	4	8	4	5	7	5
Same Store Sales Growth	10.9 %	9.2 %	9.5 %	8.6 %	3.9 %	2.9 %	3.8 %	3.1 %	6.4 %	7.6 %
Average Unit Volume (AUV)	$ 1,226	$ 1,203	$ 1,186	$ 1,168	$ 1,158	$ 1,161	$ 1,170	$ 1,157	$ 1,249	$ 1,175
Store revenue	$ 50,336	$ 44,774	$ 42,741	$ 41,399	$ 40,538	$ 36,004	$ 33,644	$ 32,972	$ 34,488	$ 31,857
Store-Level Profit	$ 14,855	$ 12,686	$ 11,580	$ 11,653	$ 11,657	$ 9,890	$ 7,986	$ 7,620	$ 9,124	$ 7,954
Store-Level Profit Margin	29.5 %	28.3 %	27.1 %	28.1 %	28.8 %	27.5 %	23.7 %	23.1 %	26.5 %	25.0 %
Adjusted EBITDA	$ 8,046	$ 6,017	$ 4,274	$ 5,122	$ 6,383	$ 4,415	$ 2,827	$ 3,131	$ 4,383	$ 4,053
Adjusted EBITDA Margin	16.0 %	13.4 %	10.0 %	12.4 %	15.7 %	12.2 %	8.4 %	9.5 %	12.7 %	12.7 %

(1) The presentation of Net New Store Openings, Same Store Sales Growth and AUV excludes 14 Roasters locations we owned for a total of 28 months that were divested in May of 2023 pursuant to the terms of a legal settlement (see Note 5 to our audited consolidated financial statements elsewhere in this prospectus).

(2) Exclusive of 14 Roasters locations that were divested in May 2023 (see Note 5 to our audited consolidated financial statements included elsewhere in this prospectus).

Non-GAAP Financial Measures

In addition to our consolidated financial statements, which are prepared in accordance with GAAP, we present Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin in this prospectus as supplemental measures of financial performance that are not required by, or presented in accordance with, GAAP. We believe that these non-GAAP financial measures assist investors and analysts in comparing our operating performance across reporting periods on a consistent basis by excluding items that we do not believe are indicative of our operating performance. Management believes Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin are useful to investors in highlighting trends in our operating performance, while other measures can differ significantly depending on long-term strategic decisions regarding capital structure, the tax jurisdictions in which we operate and capital investments. Management uses Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin to supplement GAAP measures of performance in the evaluation of the effectiveness of our business strategies, to make budgeting decisions and to compare our performance against that of other peer companies using similar measures. Management supplements GAAP results with non-GAAP financial measures to provide a more complete understanding of the factors and trends affecting our business than GAAP results alone provide.

Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin are not recognized terms under GAAP and should not be considered as alternatives to total revenue, net income (loss) and net income (loss) margin as measures of financial performance, or cash provided by operating activities as measures of liquidity, or any other performance measure derived in accordance with GAAP. Additionally, these measures are not intended to be measures of free cash flow available for management's discretionary use, as they do not consider certain cash requirements such as interest payments, tax payments, and debt service requirements. Because not all companies use identical calculations, the presentation of these measures may not be comparable to other similarly titled measures of other companies and can differ significantly from company to company.

Our Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin measures have limitations as analytical tools, and you should not consider them in isolation, or as substitutes for analysis of our results as reported under GAAP. Some of these limitations are:

- Store-Level Profit and Adjusted EBITDA do not reflect our cash expenditures or future requirements for capital expenditures or contractual commitments;
- Store-Level Profit and Adjusted EBITDA do not reflect changes in, or cash requirements for, our working capital needs;
- Store-Level Profit and Adjusted EBITDA do not reflect the interest expense, or the cash requirements necessary to service interest or principal payments, on our debts;
- Store-Level Profit and Adjusted EBITDA do not reflect period to period changes in taxes, income tax expense or the cash necessary to pay income taxes;
- Store-Level Profit and Adjusted EBITDA do not reflect the impact of earnings or cash charges resulting from matters we consider not to be indicative of our ongoing operations;
- Store-Level Profit is not indicative of our overall results and does not accrue directly to the benefit of shareholders, as corporate-level expenses are excluded;
- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized will often have to be replaced in the future, and Adjusted EBITDA does not reflect any cash requirements for such replacements; and
- other companies in our industry may calculate Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin differently than we do, limiting their usefulness as comparative measures.

Because of these limitations, Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin should not be considered as measures of discretionary cash available to invest in business growth or to reduce indebtedness.

The following tables provide reconciliations of net loss to Adjusted EBITDA and net loss margin to Adjusted EBITDA Margin as well as income from operations to Store-Level Profit and Store-Level Profit Margin for the periods presented:

	Year Ended December 31,	
($ in thousands)	**2024**	**2023**
Net loss	$ (7,187)	$ (8,698)
Non-GAAP Adjustments:		
Interest expense, net	11,115	10,949
Income tax expense	270	357
Depreciation and amortization	10,364	8,523
Transaction costs[1]	3,725	2,312
Capital restructuring costs	1,771	357
Legal settlement, net[2]	(831)	142
Point-of-sale system transition costs	579	15
Other costs[3]	388	437
Adjusted EBITDA	$ 20,194	$ 14,394
Net loss margin	(4.5)%	(6.5)%
Adjusted EBITDA Margin	12.5 %	10.8 %

(1) Includes non-recurring professional service fees and executive compensation related to this offering.
(2) For the year ended December 31, 2024, includes legal costs, offset by insurance proceeds, stemming from the Roasters settlement (refer to Note 5 in the audited consolidated financial statements included elsewhere in this prospectus), along with other non-recurring legal fees. For the year ended December 31, 2023, includes legal costs associated with the Roasters settlement, offset by the settlement gain, and other non-recurring legal costs.
(3) Non-recurring professional service and legal costs.

	Six Months Ended June 30,	
($ in thousands)	**2025**	**2024**
Net loss	$ (1,945)	$ (2,235)
Non-GAAP Adjustments:		
Interest expense, net	6,157	5,115
Income tax expense	222	126
Depreciation and amortization	5,826	4,801
Transaction costs[1]	2,585	1,734
Capital restructuring costs	1,071	343
Legal settlement, net[2]	(38)	146
Point-of-sale system transition costs	—	579
Other costs[3]	185	189
Adjusted EBITDA	$ 14,063	$ 10,798
Net loss margin	(2.0)%	(2.9)%
Adjusted EBITDA Margin	14.8 %	14.1 %

(1) Includes non-recurring professional service fees and executive compensation related to this offering.
(2) For the six months ended June 30, 2025, includes non-recurring legal costs, offset by insurance proceeds. For the six months ended June 30, 2024, includes legal costs stemming from the Roasters settlement (refer to Note 5 in the audited consolidated financial statements included elsewhere in this prospectus),
(3) Non-recurring professional service and legal costs.

($ in thousands)	Year Ended December 31, 2024	2023
Income from operations	$ 6,033	$ 2,042
Other	(235)	(201)
Selling, general and administrative expenses	25,261	20,313
Depreciation and amortization	10,364	8,523
Pre-opening costs	3,357	2,007
Store-Level Profit	$ 44,780	$ 32,684
Income from operations margin	3.7 %	1.5 %
Store-Level Profit Margin	27.9 %	24.6 %

($ in thousands)	Six Months Ended June 30, 2025	2024
Income from operations	$ 5,518	$ 3,007
Other	(104)	(108)
Selling, general and administrative expenses	14,740	12,563
Depreciation and amortization	5,826	4,801
Pre-opening costs	1,561	1,284
Store-Level Profit	$ 27,541	$ 21,547
Income from operations margin	5.8 %	3.9 %
Store-Level Profit Margin	29.0 %	28.2 %

	Three months ended									
($ in thousands)	June 30, 2025	March 31, 2025	December 31, 2024	September 30, 2024	June 30, 2024	March 31, 2024	December 31, 2023	September 30, 2023	June 30, 2023	March 31, 2023
Net loss	$ (1,061)	$ (884)	$ (4,230)	$ (722)	$ (522)	$ (1,713)	$ (3,108)	$ (2,858)	$ (1,290)	$ (1,442)
Non-GAAP Adjustments:										
Interest expense, net	3,115	3,042	2,927	3,073	2,565	2,550	2,412	2,787	2,794	2,956
Income tax expense	144	78	73	71	88	38	94	72	142	49
Depreciation and amortization	2,943	2,883	3,030	2,533	2,479	2,322	2,205	2,131	2,110	2,077
EBITDA	5,141	5,119	1,800	4,955	4,610	3,197	1,603	2,132	3,756	3,640
Transaction costs[1]	1,505	1,080	1,116	875	867	867	867	867	578	—
Capital restructuring costs	1,071	—	714	714	343	—	—	—	233	124
Legal settlement, net[2][3]	202	(240)	509	(1,486)	83	63	215	126	(280)	81
Point-of-sale system transition costs	—	—	—	—	398	181	15	—	—	—
Other costs[4]	127	58	135	64	82	107	127	6	96	208
Adjusted EBITDA	$ 8,046	$ 6,017	$ 4,274	$ 5,122	$ 6,383	$ 4,415	$ 2,827	$ 3,131	$ 4,383	$ 4,053
Income (loss) from operations	$ 3,267	$ 2,251	$ (112)	$ 3,138	$ 2,132	$ 875	$ (635)	$ 63	$ 1,099	$ 1,515
Other	(58)	(46)	(71)	(56)	(54)	(54)	(53)	(49)	(49)	(50)
Selling, general and administrative expenses	7,860	6,880	7,804	4,894	6,581	5,982	6,243	4,885	5,243	3,942
Depreciation and amortization	2,943	2,883	3,030	2,533	2,479	2,322	2,205	2,131	2,110	2,077
Pre-opening costs	843	718	929	1,144	519	765	226	590	721	470
Store-Level Profit	$ 14,855	$ 12,686	$ 11,580	$ 11,653	$ 11,657	$ 9,890	$ 7,986	$ 7,620	$ 9,124	$ 7,954

(1) Includes non-recurring professional service fees and executive compensation related to this offering.
(2) For periods within the year ended December 31, 2024, includes legal costs, offset by insurance proceeds, stemming from the Roasters settlement (refer to Note 5 in the audited consolidated financial statements included elsewhere in this prospectus), along with other non-

recurring legal fees. For periods within the year ended December 31, 2023, includes legal costs associated with the Roasters settlement, offset by the settlement gain, and other non-recurring legal costs.
(3) For the three months ended March 31, 2025, includes legal costs, offset by insurance proceeds. For the three months ended June 30, 2025 includes non-recurring legal costs.
(4) Non-recurring professional service and legal costs.

Liquidity and Capital Resources

We assess our liquidity in terms of our ability to generate adequate amounts of cash to meet current and future needs. Our primary requirements for liquidity are to fund our working capital needs, operating lease obligations, capital expenditures and general corporate needs. Our requirements for working capital are generally not significant because our guests pay for their beverage and food purchases in cash or on debit or credit cards at the time of the sale and we are able to sell many of our inventory items before payments are due to the supplier of such items. Our ongoing capital expenditures are principally related to opening new stores, existing store capital investments for maintenance, as well as investments in our corporate technology infrastructure to support our corporate office, store locations and digital strategy. We have historically funded our operations primarily through cash provided by operating activities, draws under our Credit Facility as well as the issuance and sales of securities through private placements. Although we have no specific current plans to do so, if we decide to pursue one or more significant acquisitions, we may incur additional debt or sell additional equity securities to finance such acquisitions, which would result in additional expenses or dilution to our shareholders.

After the consummation of this offering, Black Rock Coffee Bar, Inc. will be a holding company and will have no material assets other than its ownership of LLC Units (which may be held indirectly through certain of our wholly owned corporate subsidiaries). Black Rock Coffee Bar, Inc. will have no independent means of generating revenue. The Black Rock OpCo LLC Agreement that will be in effect at the time of the consummation of this offering provides for the payment of certain distributions to the TRA Parties and to Black Rock Coffee Bar, Inc. in amounts sufficient to cover the income taxes imposed on such members with respect to the allocation of taxable income from Black Rock OpCo as well as to cover Black Rock Coffee Bar, Inc.'s obligations under the Tax Receivable Agreement and other administrative expenses.

Regarding Black Rock OpCo's ability to make distributions to Black Rock Coffee Bar, Inc., the terms of our Credit Facility contain covenants that may restrict Black Rock OpCo from paying such distributions, subject to certain exceptions. Further, Black Rock OpCo is generally prohibited under Delaware law from making a distribution to a member to the extent that, at the time of the distribution, after giving effect to the distribution, Black Rock OpCo's liabilities (with certain exceptions), as applicable, exceed the fair value of Black Rock OpCo's assets.

Following the consummation of this offering, we will be obligated to make payments under the Tax Receivable Agreement. The actual timing and amount of any payments that may be made under the Tax Receivable Agreement will vary depending upon a number of factors, including the timing of redemptions or exchanges by the TRA Parties, the amount of gain recognized by the TRA Parties, the amount and timing of the taxable income we generate in the future, and the federal tax rates then applicable. However, we expect that the payments that we will be required to make to the TRA Parties will be substantial. Any payments made by us to the TRA Parties under the Tax Receivable Agreement will generally reduce the amount of overall cash flow that might have otherwise been available to use and, to the extent that we are unable to make payments under the Tax Receivable Agreement for any reason, the unpaid amounts generally will be deferred and will accrue interest until paid by us.

If Black Rock Coffee Bar, Inc. does not have sufficient funds to pay taxes, payments under the Tax Receivable Agreement or other liabilities or to fund its operations, it may have to borrow funds, which could materially adversely affect its liquidity and financial condition and subject it to various restrictions imposed by any such lenders. To the extent it is unable to make payments under the Tax Receivable Agreement for any reason, such payments generally will be deferred and will accrue interest until paid; provided, however, that nonpayment for a specified period may constitute a material breach of a material obligation under the Tax Receivable Agreement and therefore accelerate payments due under the Tax Receivable Agreement. In addition, if Black Rock OpCo does not have sufficient funds to make

distributions, the ability of Black Rock Coffee Bar, Inc. to declare and pay cash dividends will also be restricted or impaired.

In addition, we may require additional capital resources to execute strategic initiatives to grow our business in the future. We believe, however, that cash provided by operating activities and existing cash on hand, together with amounts available under our Credit Facility and the proceeds from this offering, will be sufficient to satisfy our anticipated cash requirements for the next twelve months and the foreseeable future, including our expected capital expenditures for expansion of our store base and production facilities, debt service requirements, operating lease obligations, and working capital obligations. See Note 7 and Note 8 to our consolidated financial statements included elsewhere in this prospectus for more information. Our sources of liquidity could be affected by factors described under "Risk Factors" depending on the severity and direct impact of these factors on us, we may not be able to secure additional financing on acceptable terms, or at all.

Cash Overview

We had cash and cash equivalents of $14.6 million and $10.2 million as of June 30, 2025 and December 31, 2024, respectively.

Cash Flows

The following table summarizes our cash flows for the periods presented:

	Six Months Ended June 30,		Change		Year Ended December 31,		Change	
Summary of Cash Flows	**2025**	**2024**	**$**	**%**	**2024**	**2023**	**$**	**%**
($ in thousands)								
Net cash provided by operating activities	$ 8,419	$ 5,339	$ 3,080	57.7 %	$ 13,305	$ 5,167	$ 8,138	157.5 %
Net cash used in investing activities	$ (15,143)	$ (11,779)	$ (3,364)	28.6 %	(22,921)	(15,446)	(7,475)	48.4 %
Net cash provided by financing activities	$ 11,137	$ 7,700	$ 3,437	44.6 %	2,643	21,562	(18,919)	(87.7)%
Net increase (decrease) in cash and cash equivalents	$ 4,413	$ 1,260	$ 3,153	250.2 %	$ (6,973)	$ 11,283	$ (18,256)	(161.8)%

Operating Activities:

The increase in net cash provided by operating activities for the six months ended June 30, 2025, compared to the six months ended June 30, 2024, was primarily driven by an increase in sales due to nine Net New Store Openings, incremental revenue generated from 12 stores opened during the six months ended June 30, 2024, that are not yet in the comparable store base and Same Store Sales Growth of 10.1%, as well as improved operating performance as a result of improved labor efficiency and working capital management.

The increase in net cash provided by operating activities for the year ended December 31, 2024 compared to the year ended December 31, 2023, was primarily driven by an increase in sales due to 24 Net New Store Openings, incremental revenue generated from 10 stores opened during the year ended December 31, 2023, that are not yet in the comparable store base and Same Store Sales Growth of 6.3%, as well as improved operating performance as a result of volume pricing efficiencies gained from our expanded store footprint, and improved labor efficiency and working capital management.

Investing Activities:

The increase in net cash used by investing activities for the six months ended June 30, 2025, compared to the six months ended June 30, 2024, was primarily driven by our investments in capital expenditures as a result of Net New Store Openings.

The increase in net cash used by investing activities for the year ended December 31, 2024, compared to the year ended December 31, 2023, was primarily driven by our investments in capital expenditures as a result of Net New Store Openings.

Financing Activities:

The increase in net cash provided by financing activities for the six months ended June 30, 2025, compared to the six months ended June 30, 2024, was primarily driven by an increase in drawdowns on our delayed draw term loan.

The decrease in net cash provided by financing activities for the year ended December 31, 2024, compared to the year ended December 31, 2023, was primarily driven by our purchase of Series A Preferred Units under the Series A Redemption Agreement (as defined herein), and lower proceeds from securities offerings, partially offset by borrowings of long-term debt. See "Certain Relationships and Related Party Transactions—Series A Preferred Unit Redemption."

Material Cash Requirements

Material cash requirements from known contractual obligations arising in the normal course of business primarily consist of operating lease obligations and long-term debt. The following table summarizes our current and long-term material cash requirements as of June 30, 2025:

	Payments Due by Period				
($ in thousands)	**Total**	**2025**	**2026-2027**	**2028-2029**	**2030 and thereafter**
Operating leases	$ 190,013	$ 8,175	$ 31,615	$ 31,946	$ 118,277
Long-term debt[1]	123,431	6,401	117,030	—	—
Total	$ 313,444	$ 14,576	$ 148,645	$ 31,946	$ 118,277

(1) Long-term debt includes the principal amount of borrowings outstanding under our Credit Facility and the interest payments on our Credit Facility which are based on interest rates in effect as of June 30, 2025. As contractual interest rates and the amount of debt outstanding are variable in certain cases, actual cash payments may differ from the estimates provided.

Credit Facility

On May 31, 2024, we entered into the Credit Facility with RCS SBIC Fund II, L.P. and TCW Asset Management Company, LLC consisting of a $112.5 million term loan and a $25.0 million delayed draw term loan and an option allowing the Company to increase the size of the credit facility by $20.0 million through incremental delayed draw term loans.

Loans under the Credit Facility will mature and all amounts outstanding will be due and payable on September 30, 2026. The Credit Facility is payable in quarterly principal installments equal to 0.25% of the principal balance and accrues current pay interest at 0.50% per annum. Loans under the Credit Facility bear interest at either (a) the Secured Overnight Financing Rate ("SOFR"), plus 6.00%, plus a 0.50% spread; or (b) the greatest of (i) 2.50% per annum, (ii) the Federal Funds Rate plus 0.5%, (iii) the Prime Rate, and (iv) the Adjusted Term SOFR Rate for a one-month tenor in effect on such date plus 1.0%, in each case, plus 5.00% and a 0.5% spread, with the amount of spread in both scenarios based on a pricing grid tied to our total net leverage ratio. In addition, the Credit Facility has a commitment fee payable on a quarterly basis, at a rate per annum of 1.00% that is based on the total delayed draw term loan commitment. Black Rock OpCo's obligations under the Credit Facility are guaranteed by us and certain of our subsidiaries and secured by first priority liens on substantially all of our assets as well as equity interests held by certain of its securityholders.

The Credit Facility contains financial covenants that require us to not exceed a maximum net leverage ratio and to maintain a minimum fixed charge coverage ratio. In addition, the Credit Facility also contains certain negative covenants that, among other things, limit our ability to incur additional debt, grant liens on assets, merge with or acquire other companies, make other investments, dispose of assets, and make restricted payments. As of the date of this prospectus, we were in compliance with all covenants under the Credit Facility.

As of December 31, 2024, we had $92.6 million in aggregate outstanding principal balance under the Credit Facility. In January 2025, we drew $10.0 million on the delayed draw term loan. In April 2025, we amended the Credit Facility through the Fifth Amendment to the Credit Facility (the "Fifth Amendment") which increased the delayed draw term loan commitment by $10.0 million and extended the delayed draw availability period from September 30, 2025 to March 31, 2026. In May 2025, we drew another $6.0 million on the delayed draw term loan. As of June 30, 2025, we had $108.2 million in aggregate outstanding principal balance under the Credit Facility.

New Credit Facilities

Concurrently with, and conditioned upon, the closing of this offering, we intend to refinance our existing Credit Facility and enter into new credit facilities with a total capacity of $75.0 million, consisting of (i) $50.0 million available under a term loan (the "New Term Loan") and (ii) $25.0 million available under a revolving credit facility (the "New Revolving Credit Facility" and, together with the New Term Loan, the "New Credit Facilities"). As of the closing of this offering, the aggregate principal amount borrowed under the New Credit Facilities will be $50.0 million from the New Term Loan. We intend to use the net proceeds from the New Term Loan, together with a portion of the net proceeds we receive from this offering, to repay all amount outstanding under our existing Credit Facility. See "Use of Proceeds." These transactions are collectively referred to herein as the Refinancing. The following is a summary of the expected material terms of our New Credit Facilities. However, the final terms may not be determined until shortly before the completion of this offering and may differ from those described below.

We expect Black Rock OpCo, as borrower, to enter into a new credit agreement with JPMorgan Chase Bank, N.A., as administrative agent, and various lenders (the "New Credit Agreement") to provide for (i) the New Term Loan, and (ii) the New Revolving Credit Facility.

Pursuant to the New Credit Agreement, certain subsidiaries of Black Rock OpCo will be guarantors of the obligations under the New Credit Agreement. Simultaneously with the execution of the New Credit Agreement, Black Rock OpCo and its subsidiaries will enter into a pledge and security agreement. Pursuant to the pledge and security agreement, the New Credit Facilities will be secured by liens on substantially all of our assets, including our intellectual property and the equity interests of our various subsidiaries.

The New Credit Agreement will contain certain affirmative and negative covenants, including, among other things, restrictions on indebtedness, liens on assets, issuance of preferred equity interests, fundamental changes and asset sales, investments, negative pledges, repurchase of stock, dividends and other distributions, and transactions with affiliates. In addition, the New Credit Agreement also contains financial covenants that require us to not exceed a maximum net rent adjusted leverage ratio and to maintain a minimum fixed charge coverage ratio.

Borrowings under the New Credit Agreement will be available as alternate base rate ("ABR") or term benchmark loans. ABR loans under the New Credit Agreement are expected to accrue interest at an alternate base rate plus an applicable rate, and term benchmark loans are expected to accrue interest at an adjusted SOFR rate plus an applicable rate, each of which will be set out in the New Credit Agreement. The ABR rate will represent the greater of (i) the prime rate, (ii) the Federal Reserve's Bank of New York overnight rate plus 0.5% and (iii) the one-month adjusted term SOFR rate plus 1.0%. The applicable rate for the ABR and term benchmark loans will be tied to a pricing grid tied to our net rent adjusted leverage ratio. The applicable rate spread for ABR and term benchmark loans ranges from 0.50% to 1.75% and 1.50% to 2.75%, respectively.

The New Revolving Credit Facility will also have a variable commitment fee, which is based on our net rent adjusted leverage ratio. We expect the commitment fee to range from 0.25% to 0.35% per annum. We will be obligated to pay a fixed fronting fee for letters of credit of 0.125% per annum.

Amounts borrowed under the New Revolving Credit Facility may be repaid and re-borrowed through maturity of the New Credit Facilities in September 2030. The New Term Loan matures in September 2030. The New Term Loan may be repaid or prepaid but may not be re-borrowed.

Seasonality

Our business is subject to seasonal fluctuations in that our sales are typically nominally higher during the spring and fall months affecting the second and third quarters.

Off Balance Sheet Arrangements

As of June 30, 2025, we did not have any off-balance sheet arrangements, except for operating leases entered in the normal course of business where we have not taken physical possession of the leased property.

Critical Accounting Policies and Use of Estimates

Our management's discussion and analysis of our financial condition and results of operations are based on our financial statements, which have been prepared in accordance with GAAP. The preparation of financial statements in conformity with GAAP requires us to make certain estimates and assumptions that affect the reported amount of assets and liabilities and disclosure of contingent assets and liabilities as of the balance sheet date, as well as report amounts of revenue and expenses during the period. We base our estimates on historical experience, known trends and events, as well as management's judgement. Although management believes the judgement applied in preparing estimates is reasonable based on circumstances and information known at the time, actual results could vary materially from estimates based on assumptions used in the preparation of our financial statements. We evaluate our judgements and estimates on an ongoing basis in light of changes in circumstances, facts and experience. The effects of material revisions in estimates, if any, are reflected in the financial statements prospectively from the date of change in estimates. To the extent that there are differences between our estimates and actual results, our future financial statement presentation, financial condition, results of operations, and cash flows will be affected.

We believe that the following critical accounting policies involve a greater degree of judgement and complexity than our other significant accounting policies. Accordingly, these are the policies we believe are the most critical to understanding when evaluating our consolidated financial conditions and results of operations. Our significant accounting policies are more fully described in Note 2 to our consolidated financial statements and our condensed consolidated financial statements included elsewhere in this prospectus.

Leases

We lease stores, warehouse facilities and corporate offices under various lease agreements. At inception of a lease, we determine its classification as an operating or finance lease. All of our leases are classified as operating leases. Determining the probable term for each lease requires judgement by management and can impact the classification and accounting for a lease as financing or operating, as well as the period for straight-lined rent expense and depreciation period for leasehold improvements. To determine the length of the lease term at inception, we consider both termination and renewal option periods available. Reasonably certain renewal periods are included in the lease term at commencement.

We calculate operating lease right-of-use assets and lease liabilities at the present value of fixed lease payments over the reasonably certain lease term beginning at the commencement date. We use an incremental borrowing rate ("IBR") in determining the present value of future lease payments as there are no explicit rates provides in the leases. The IBR is an estimate based on several factors, including

financial market conditions, comparable company and credit analysis as well as management judgement. If the IBR was changed, our operating lease right-of-use assets and lease liabilities could differ materially. See Note 8 to our consolidated financial statements included elsewhere in this prospectus.

JOBS Act Election

We are currently an "emerging growth company," as defined in the JOBS Act. Under the JOBS Act, emerging growth companies can delay adopting new or revised accounting standards until such time as those standards apply to private companies. We have elected to use this extended transition period for complying with new or revised accounting standards that have different effective dates for public and private companies until the earlier of the date we (i) are no longer an emerging growth company or (ii) affirmatively and irrevocably opt out of the extended transition period provided in the JOBS Act. As a result, our financial statements may not be comparable to companies that comply with new or revised accounting pronouncements as of public company effective dates.

We will remain an emerging growth company until the earliest of (i) last day of the fiscal year following the fifth anniversary of the date of the consummation of this offering, (ii) the last day of the first fiscal year in which our annual gross revenue exceeds $1.235 billion, (iii) the date that we become a "large accelerated filer" as defined in Rule 12b-2 under the Exchange Act, which would occur if the market value of our common stock that is held by non-affiliates exceeds $700 million as of the last business day of our most recently completed second fiscal quarter, or (iv) the date on which we have issued more than $1 billion in non-convertible debt during the preceding three-year period.

Qualitative and Quantitative Disclosure About Market Risk

Commodity Risks

Our business is dependent on, among other things, our ability to anticipate and react to changes in the costs of key operating resources, including beverage commodities, energy and other commodities. In many cases, we believe we will be able to address material commodity cost increases through purchasing contracts, pricing arrangements, adjusting our menu pricing, or other operational adjustments that increase productivity. However, we cannot assure you that these measures will be able to fully offset tariffs, sustained inflation of, or substantial increases in costs and expenses, including coffee, dairy, fuel, sugar, cocoa and packaging commodities pricing, which could increase store operating costs as a percentage of store sales and impact our results of operations.

Labor Costs

We have experienced minimum wage increases, which directly affect our labor costs, and other upward pressure on wage rates in several states where we have stores. While we generally seek to offset any wage increases with operational efficiencies and by leveraging Same Store Sales Growth, such measures may not fully offset any wage increases and we may seek to increase our menu prices. We cannot assure you that we will be able to fully offset wage increases through these measures.

Interest Rate Risk

We have historically been exposed to interest rate risk through fluctuations in interest rates on our debt obligations. Our Credit Facility carries interest at a floating rate. We seek to manage exposure to adverse interest rate changes through our normal operating and financing activities. As of June 30, 2025 we had $108.2 million in aggregate outstanding principal balance under the Credit Facility and a hypothetical 1.0% increase of interest rates would result in an increase in our annual interest expense of approximately $1.1 million.

Impact of Inflation

The primary inflation factors affecting our operations are commodity and supply costs, labor costs, and construction costs of stores. Increases in minimum wage requirements directly affect our labor costs. Our

leases require us to pay taxes, maintenance, repairs, insurance and utilities, all of which are generally subject to inflationary increases. Finally, the total cost to build our stores is impacted by inflation. Specifically, increases in sitework and permitting, construction materials, labor, and equipment costs may increase our overall development costs and capital expenditures, and potentially result in higher rent expenses for new stores. We continue to encounter current commodity inflation, known or pending legislation that will increase minimum wages in certain states, and labor market forces that at times may cause us to increase wages in order to adequately staff our stores. We expect these factors to affect our operating results in the foreseeable future. While these cost increases have impacted our operating results, we have taken measures to gradually increase our menu prices and make operating adjustments that increase productivity to help offset these pressures. Price increases and other inflationary pressures may lead to decreases in consumer demand.

Controls and Procedures

Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements in accordance with GAAP. Under standards established by the Public Company Accounting Oversight Board ("PCAOB") a deficiency in internal control over financial reporting exists when the design or operation of control does not allow management or personnel, in the normal course of performing their assigned functions, to prevent or detect misstatement on a timely basis.

We have not performed an evaluation of our internal control over financial reporting, as required by Section 404 of the Sarbanes-Oxley Act, nor have we engaged an independent registered public accounting firm to perform an audit of our internal control over financial reporting as of any balance sheet date or for any period reported in our financial statements. Our management is not presently required to perform an annual assessment of the effectiveness of our internal control over financial reporting. For as long as we are an "emerging growth company," our independent registered public accounting firm will not be required to perform an audit of the effectiveness of our internal control over financial reporting. When we lose our status as an "emerging growth company," our independent registered public accounting firm will be required to perform an audit of the effectiveness of our internal control over financial reporting.

BUSINESS

Our Mission: To Fuel People Forward – One Connection, One Moment, One Cup at a Time

We are a high-growth operator of guest-centric, drive-thru coffee bars offering premium caffeinated beverages and an elevated in-store experience crafted by our engaging baristas. Black Rock Coffee Bar was founded in 2008 in Beaverton, Oregon, by our co-founders Daniel Brand and Jeff Hernandez. What started as a single 160 square foot coffee bar in 2008 is now one of the fastest growing beverage companies in the United States by revenue and the largest fully company-owned coffee retailer in the country, with 158 locations spanning seven states as of June 30, 2025, from the Pacific Northwest to Texas.

We were founded as a drive-thru only concept and evolved to include engaging seating areas, which we call “lobbies.” All of our locations include efficient drive-thrus and approximately 75% of our locations include lobbies as of June 30, 2025. We expect most of our new locations to include both drive-thrus and lobbies as we continue to grow. Our modern, inviting store formats—paired with a robust digital platform—allow us to deliver a dynamic and multi-faceted guest experience.

Driven by a passion for Connection, Caffeine, and Community, Black Rock is a platform to do well by our baristas, guests, and the communities we serve. With a relentless focus on people and excellence, our culture has been key to our success.

Connection

We are a people first organization and we win with authentic connections. Our success is fueled by the personal connections between our store teams and our diverse range of guests that are cultivated while serving premium, caffeinated beverages with speed and consistency. These daily interactions, whether over a drink hand-off at a drive-thru window or a longer visit in one of our inviting lobbies, create “moments that matter” with our guests. Our exceptional guest satisfaction score, according to the September 2024 study, confirms our ability to consistently deliver on our brand promise while creating meaningful connections.

We invest in making meaningful internal connections with our team members through a combination of extensive on-the-job training and career advancement opportunities. Black Rock offers more than a job—it is a platform for long-term development. Providing our team members with the tools and opportunities to advance fuels a more engaged, high-performing workforce. This commitment to professional growth leads to stronger guest relationships, excellent retention, and lasting brand loyalty.

Caffeine

Our approach to coffee and handcrafted beverages reflects the same attention to detail and care that we show every guest. Our team members are passionate about delivering high-quality, premium coffee and caffeinated beverages. That commitment starts with our exclusive use of premium beans that we roast in small batches in one of our two roasting facilities, promoting consistency, flavor integrity, and freshness. Coffee beans are delivered to our stores weekly and consumed within 14 days of roasting to maintain optimal taste and quality. We offer a broad range of premium coffee beverages, from our deliciously refreshing Nitro Cold Brew to our unapologetically indulgent Caramel Blondie. We also offer competitively priced, premium classics, including the Americano and customizable Lattes, providing a high perceived value offering to our guests. The breadth and flexibility of our menu supports long-term guest engagement, allowing individuals to evolve their drink choices over time without compromising on quality. This consistency strengthens brand trust and enhances overall guest experience.

Our proprietary Iced and Frozen Fuel energy drinks further broaden our appeal, offering a customizable, flavor-forward option that resonates with a wide demographic. With a simplified menu and a wide variety

of flavor combinations, Fuel provides an energizing and refreshing alternative that is suitable any time of day. Fuel showcases our ability to innovate while aligning with guest demand for bold, flexible options. Fuel has quickly grown into a popular product category, helping drive increased transaction volume and guest frequency.

Community

At Black Rock, we build genuine connections with our guests, support their daily lives, and foster a sense of community. These relationships—formed through shared moments and premium beverages—enable us to create a highly engaged guest base. Many of our guests refer to our stores as “my Black Rock,” reflecting a sense of ownership and belonging that is uncommon in our category.

Our modern, purposefully designed stores serve as welcoming hubs where people come together. This environment is powered by our baristas, whose friendly, attentive service ensures guests feel recognized, welcomed and respected. Whether hosting a business meeting, a study group, a casual catch-up, or a first date, our locations offer a space where people connect and return regularly.

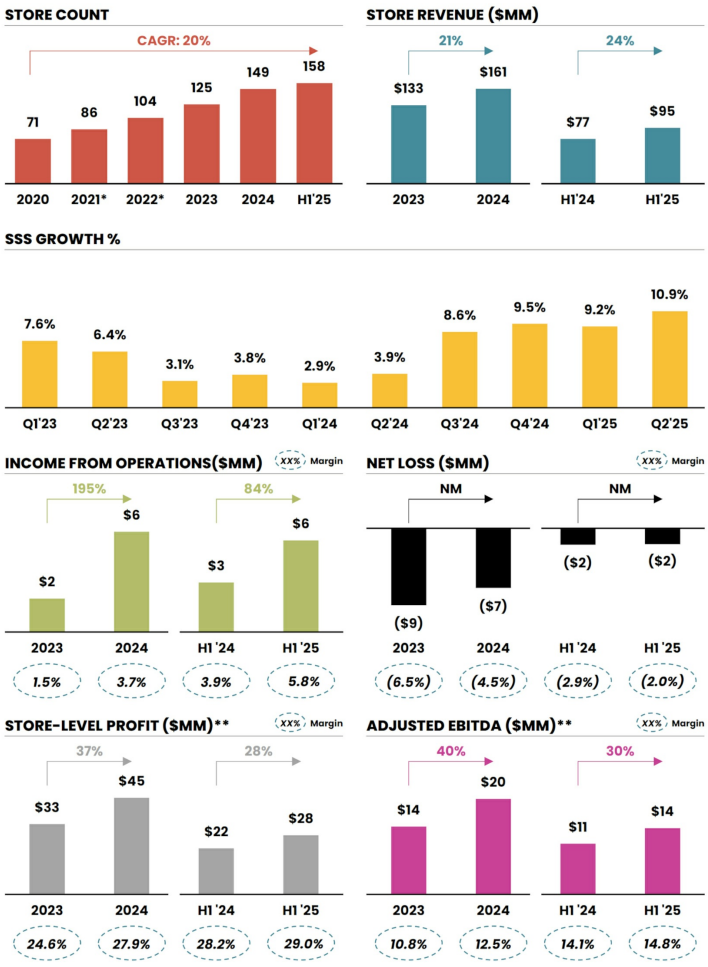
Our commitment to the communities we serve is further reflected in our Give Back Days—localized events where we donate a portion of the day’s proceeds to individuals experiencing significant challenges such as illness, loss, or personal hardship. Our giveback days are an additional way for our store teams to deepen their connection within the community. It’s important for us to always support our guests in their time of need, to stay true to who we are as a brand.

As we expand into new and existing markets, our emphasis on building strong local ties remains central to our growth strategy. Our consistent, people-first approach helps ensure that each Black Rock location continues to function not just as a coffee bar, but as a trusted part of the communities we serve.

Rapid Growth

We have delivered strong performance by staying true to our core pillars: Connection, Caffeine, and Community. These values continue to guide our strategy and contribute to our ongoing momentum. As we scale our business, each new unit brings new, local baristas into the Black Rock family—deepening our connection with guests and fueling their daily routines. Our continued investment in people, infrastructure, and a distinctive guest experience supports sustained growth and operational excellence.

These results demonstrate the strength and consistency of our model and highlight our genuine connection to our guests across diverse markets.


STORE COUNT
CAGR: 20%
71
86
104
125
149
158
2020
2021*
2022*
2023
2024
H1'25
STORE REVENUE ($MM)
21%
24%
$133
$161
$77
$95
2023
2024
H1'24
H1'25
SSS GROWTH %
7.6%
6.4%
3.1%
3.8%
2.9%
3.9%
8.6%
9.5%
9.2%
10.9%
Q1'23
Q2'23
Q3'23
Q4'23
Q1'24
Q2'24
Q3'24
Q4'24
Q1'25
Q2'25
INCOME FROM OPERATIONS($MM)
XX% Margin
195%
84%
$2
$6
$3
$6
2023
2024
H1 '24
H1 '25
1.5%
3.7%
3.9%
5.8%
NET LOSS ($MM)
XX% Margin
NM
NM
($9)
($7)
($2)
($2)
2023
2024
H1 '24
H1 '25
(6.5%)
(4.5%)
(2.9%)
(2.0%)
STORE-LEVEL PROFIT ($MM)**
XX% Margin
37%
28%
$33
$45
$22
$28
2023
2024
H1 '24
H1 '25
24.6%
27.9%
28.2%
29.0%
ADJUSTED EBITDA ($MM)**
XX% Margin
40%
30%
$14
$20
$11
$14
2023
2024
H1 '24
H1 '25
10.8%
12.5%
14.1%
14.8%

(*) Excludes 14 Roasters locations that were divested in May 2023 (see Note 5 to our audited consolidated financial statements included elsewhere in this prospectus).
(**) For more information, see "Management's Discussion and Analysis of Financial Condition and Results of Operations—Non-GAAP Financial Measures" for definitions of each non-GAAP metric and a discussion of Store-Level Profit, Store-Level Profit Margin, Adjusted EBITDA and Adjusted EBITDA Margin and reconciliation of each measure to its respective most directly comparable GAAP measure.

How We Fuel Our Story

At Black Rock, our growth is driven by a clear and consistent focus: creating authentic connections between baristas and guests, delivered through premium caffeinated beverages in modern, welcoming environments. These results validate the strength of our differentiated positioning and indicate significant room for continued growth across both new and existing markets. Everything we do is rooted in our commitment to Connection, Caffeine, and Community, which collectively define our differentiated guest experience.

People First Culture

Our people are our foundation. As we have scaled, we have intentionally built a culture that stands apart from "corporate coffee"—where service often takes a backseat to transactions. Instead, we invest in hiring and developing exceptional individuals who deliver memorable experiences. We operate with a merit-based approach that values performance, hard work, and advancement. By taking care of our team, we foster a culture that translates directly into consistent, high-quality guest interactions.







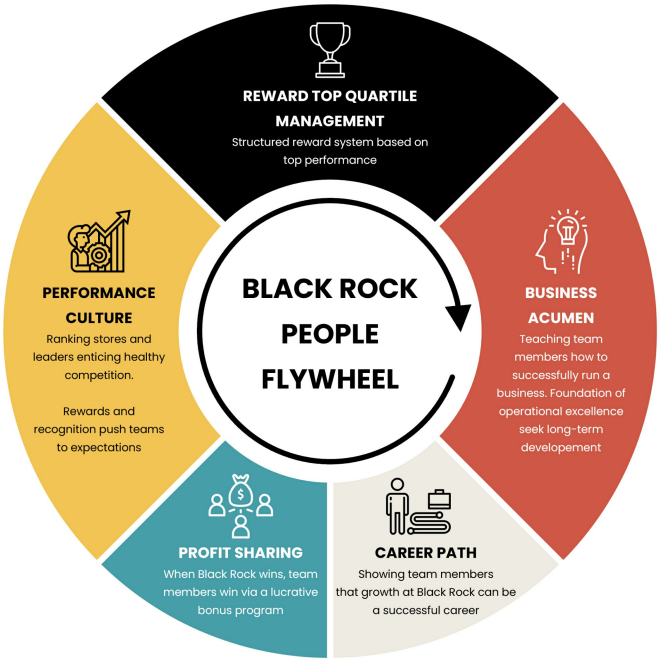


Consumers increasingly expect brands to reflect strong internal values. According to a 2021 Jobcase study, 61% of consumers said they were more likely to shop with a company that treats its employees well. Our commitment to our internal community is central to how we operate and to the trust we build externally. We have assembled an exceptional leadership team with the experience necessary to guide us through our next phase of expansion.

At the foundation of our People First Flywheel, we teach our store leaders “Business Acumen,” equipping them with the skills to understand, manage, and grow their store’s performance. As team members demonstrate business acumen across defined performance metrics, they can advance rapidly through our internal Career Path pipeline—from Barista to Shift Lead, Assistant Store Lead, Store Lead, and then to Multi-Store Lead.

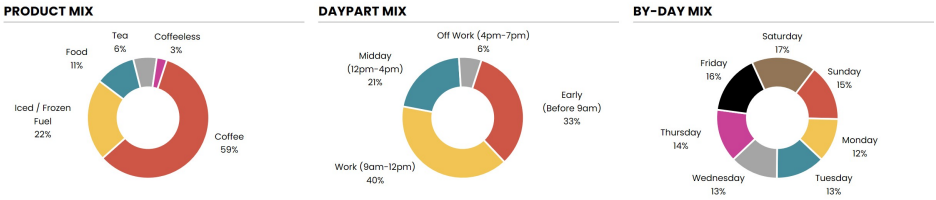
Above the store level, high-performing leaders may progress into senior management roles such as Area Manager and then to Director of Operations, overseeing between 20 and 55 stores. From the Assistant Store Lead level onward, team members are eligible for Profit Sharing, creating alignment between their personal growth and company success. The metrics for Profit Sharing eligibility, along with transparent store ranking and healthy, objective internal competition, yields a dynamic Performance Culture that is ultimately recognized, rewarded and celebrated by exclusive invitations into the Top Quartile Meeting for the top performing 25% individuals at each operational level.

This disciplined approach to team development has fueled our strong retention and allowed our best operators to lead new markets as we grow. By continuously investing in our people and preparing them for larger roles, we focus on ensuring our culture scales with our footprint.



Fueling Your Day

Our thoughtfully curated, highly customizable menu plays a key role in engaging our guests and driving sales across all day parts and occasions.



Based on store revenue for the year ended December 31, 2024.

Our beverage platform is designed to balance approachability with personalization—allowing guests to tailor their drinks based on espresso strength, sweetness level, color, flavor additions, and toppings. This flexibility enables us to serve a wide range of preferences while maintaining operational simplicity, allowing baristas to focus on connection and consistency.





We are now crafting our seasonal drinks to align more closely with the experiences and moods our guests are naturally embracing during each promotional period. For instance, our current Camp Black Rock campaign taps into the nostalgia of summer. Additionally, we have started developing exclusive recipes

with limited-time flavors and toppings that are not available year-round, encouraging guests to visit more frequently. By leveraging these offerings and staying in tune with guest preferences, we are seeing our Camp Black Rock campaign outperform previous campaigns we held during the spring and summer promotional periods of 2024 and 2025.

We recognize that the energy category continues to present significant growth opportunities for us, which resulted in the introduction of Fuel, our proprietary energy drink developed in-house. Fuel has quickly become a major growth driver, boosted by the integration of Frozen Fuel, growing the Fuel category to 23.8% of store revenue for the six months ended June 30, 2025. This new offering provides our guests with a refreshing, frozen version of our popular Iced Fuel energy drink, perfect for those warm days when they're looking for something cool and energizing. Frozen Fuel gives guests a new way to enjoy the energizing benefits of our Fuel drink, blending the familiar with a fun, icy twist. These unique offerings differentiate us from competitors, create incremental occasions for visits, and appeal to a broad demographic—especially younger guests who are introduced to our brand through these beverages. As guest preferences evolve, our classic coffee offerings are available to meet these new preferences, which allows us to retain guest loyalty thanks to the consistent quality and guest experience. By expanding our energy drink options in this way, we are tapping into the growing demand of our guests, while continuing to innovate in a space that holds strong growth potential.



In addition to beverages, our "All-Day Breakfast" platform supports traffic and check growth by providing convenient, high-quality food options that complement any order. This includes a variety of savory and sweet items such as breakfast burritos, sausage cheddar sandwiches, banana bread, and glazed donut holes. We also tailor parts of our menu to reflect regional tastes and showcase local favorites. We expect to introduce egg bites in the near future. We recognize that our guests desire a savory, protein-packed snack, and we are excited to offer something that fits those cravings. We will continue to explore and innovate new menu items to stay ahead of guest preferences and deliver on their evolving food needs.

Our well-rounded, premium menu offering enhances the guest experience, increases transaction frequency, and contributes meaningfully to AUV. By maintaining both quality and speed of service, we are able to capture more occasions throughout the day and sustain strong guest engagement.

Flexible Format of Store Models Meets Guests Where They Are

We lead with drive-thru-first convenience, complemented by modern and inviting lobbies—ensuring we meet the needs of our guests for every occasion. As of June 30, 2025, all 158 stores had drive-thrus, and 118 included lobby spaces.

We deliver an exceptional guest experience by seamlessly blending speed with personal connection. Our drive-thrus allow guests to enjoy their favorite hand-crafted beverages and food on the go within a target ninety second order to delivery window. Our welcoming lobbies are the perfect place to hang out, unwind, or kick back with your favorite drinks and good vibes. This dual-format model differentiates us, serving guests wherever they are between convenience and connection. While our strategy is flexible, we expect to predominantly develop drive-thru stores that include lobbies.



(1) Based on store revenue for the six months ended June 30, 2025 for stores that contain a lobby and drive-thru; excludes all third-party digital transactions.
(2) For the three months ended June 30, 2025.

We are relentlessly focused on guest convenience and speed. This speed drives throughput, convenience, guest loyalty, and repeat business without compromising on quality.

Drive-thru

Our drive-thru experience is purpose-built for speed, ease, and elevated convenience. Designed to meet guests in their daily routines, many of our locations feature speaker boxes and dynamic line-busting solutions—like baristas who greet guests at their vehicles with tablets in hand to keep lines moving. Backed by our team's deep operational expertise and commitment to service, we deliver fast, seamless experiences without compromise.

We paired our dual-lane drive-thru format with an optimized site plan and a high-efficiency dual-bar layout—together capable of supporting annual volumes exceeding $3 million at a single store. It is convenience, designed for today's guest.

Lobby

Our lobbies are designed to feel like more than a waiting area—they are a place to settle in, catch up with friends, or just enjoy a quiet moment with a great drink and a bite to eat. With comfortable seating, energetic music, and brand-forward design, our spaces reflect the heart and personality of Black Rock. Lobbies also provide our teams more opportunities to connect with guests face-to-face, bringing our core values—Connection, Caffeine, and Community—to life in small but meaningful ways. Whether for hosting a business meeting, a study group, a casual catch-up, or a first date, these spaces are built to welcome everyone. By combining great products with an atmosphere that feels good to spend time in, we deepen loyalty and create spaces people want to return to.

Digital

We have built digital tools with the same mindset we bring to our stores: make it easier, make it personal, and make it meaningful. Features like exclusive offers, order-ahead, and seamless checkout allow guests to get what they need—quickly and on their terms—while giving our baristas more space to focus on connection.

Recently added digital capabilities have allowed us to move faster during peak times and support our teams behind the bar. For the three months ended June 30, 2025, digital made up 15% of store revenue, and our mobile application currently has more than 780,000 downloads since launch.

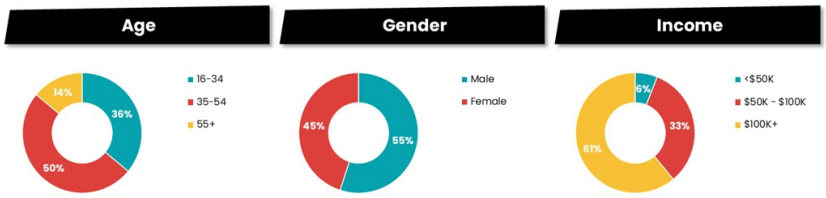
In June 2024 we launched our digital loyalty program, which has been a powerful tool for connection and retention. As of June 30, 2025, we had more than 1.8 million loyalty members, with loyalty members making up 64% of all transactions and spending more per order than non-loyalty guests.

Engaged Guest Community

With a team-first culture, an accessible menu, and stores designed for comfort and speed, we have built a community of guests who truly engage with the brand. The September 2024 study found that 67% of loyalty members consider coffee a daily ritual—showing just how integral we are to their everyday lives. Whether at the drive-thru, in the lobby, or on our app, we focus on showing up for people in an authentic way that centers around meaningful connection.

Our loyalty program helps reinforce that connection as members exhibit increased visit frequency and larger check sizes which demonstrate a stronger connection with our brand and products. These guests are not just customers—they are our advocates.

Our guest base is wide-ranging in age, income, and lifestyle, and that diversity reflects our broad menu appeal. We connect especially well with younger audiences, which puts us in a strong position to grow while continuing to serve a multi-generational community.



Source: September 2024 White Label study.

Seasoned, Founder-Backed Leadership and Management Team Driving Results

Our culture—grounded in Connection, Caffeine, and Community—has been deeply shaped by the hands-on leadership of our founders. Since launching in 2008 with a 160 square foot coffee bar in Beaverton, Oregon, Daniel Brand and Jeff Hernandez have built a purpose-driven business that today spans 158 stores across seven states. Their vision and values remain central to how we grow and operate.

In 2018, partners Jake Spellmeyer and Bryan Pereboom joined the leadership team, helping to scale our brand while ensuring the guest experience remained personal and community-driven. Together with our more than 2,400 team members as of June 30, 2025, we remain committed to delivering moments that matter—fueling the stories of our guests through meaningful daily interactions.

Our founders have also built a strong leadership team of experienced operators to support the next phase of growth, including:

- *Mark Davis*, our Chief Executive Officer, has more than 32 years of experience in foodservice and was the Vice President of Operations at Panera during their rapid phase of growth.
- *Rodd Booth*, our Chief Financial Officer, brings more than 16 years of financial management experience serving most recently as a Senior Manager and Audit Practice Leader at Aldrich Advisors after starting his career at Grant Thornton.
- *Jessica Wegener-Beyer*, our Chief Marketing Officer, who previously served as the Senior Director of Digital Marketing & Consumer Insights at True Food Kitchen, leverages 17 years of digital marketing experience.
- *Clay Geyer*, our Chief Operating Officer, brings over 13 years of operations experience in the coffee industry.
- *Robert Kaufmann*, our Chief Development Officer, contributes 11 years of experience in development leadership.

This combination of founder-led passion and deep operational expertise positions us for continued success as we scale while staying true to our values.

Market Opportunity

Our model—centered around premium beverages, energizing food options, and a people-first culture—uniquely positions us to win across both the coffee and limited-service restaurant categories.

According to Technomic, the U.S. retail coffee market grew at an annual rate of 7% from 2019 to 2024, reaching $56 billion. With 66% of Americans drinking coffee daily according to the Spring 2025 National Coffee Data Trends report, the demand for premium, convenient offerings continues to rise.

In parallel, we compete in the limited-service restaurant category, which grew at an annual rate of 6% from 2019 to 2024, according to Technomic, reaching $396 billion and in the large and expanding energy drink category, thanks to our all-day breakfast menu and proprietary Fuel energy drinks. We believe there is no other brand offering the same blend of fast, friendly service, elevated beverage and food quality, and welcoming lobbies—a combination that allows us to stand out and drive continued share gains.

As we grow, so does our opportunity to expand our markets and serve more guests with an experience that feels fresh, energizing, and personal.

Exceptional Unit Economics with Proven Portability Drive Financial Performance

Exceptional Unit Economics

Our commitment to a guest-centric experience—anchored in human connection and operational excellence—has created a unit economic model that is both efficient and resilient. Our stores deliver strong AUVs, attractive store-level profit margins, and compelling Cash-on-Cash Return.

Our average annual store count has grown at approximately 20% since 2020 and we have also grown AUVs through consistent same store sales increases. This growth reflects our ability to scale while continuing to meet guest expectations around product quality, speed, and service.

With a capital efficient model and experienced store leaders, our new store opening processes are streamlined, predictable and allow for strong margins. As we continue to refine our site selection and operating model, we expect to drive further AUV growth and margin expansion across both new and existing locations.

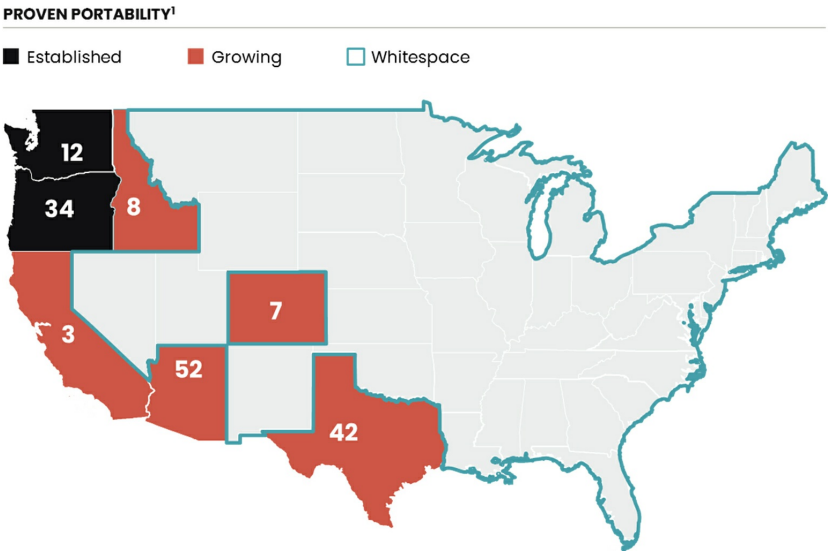
For the six months ended June 30, 2025, we achieved an AUV of $1.2 million, and average store-level profit margins of 29%. These results highlight the strength and scalability of our model.

Target Average New Unit Economics at 18 months ($ in millions)		
AUV[(1)]	$	1.1
Store-Level Profit Margin[(2)]		22%
Net Capital Expenditures per Unit	$	0.6
Cash-on-Cash Return[(3)]		40%

(1) AUV represents the total trailing twelve-month store revenue of operating stores in the comparable store base, divided by the number of stores in the comparable store base.
(2) Store-Level Profit Margin represents Store-Level Profit as a percentage of store revenue.
(3) Cash-on-Cash Return is calculated as trailing twelve months Store-Level Profit after the store enters the comparable store base (which occurs after month 18) divided by total investment costs (net of tenant improvement allowances).

Proven Portability

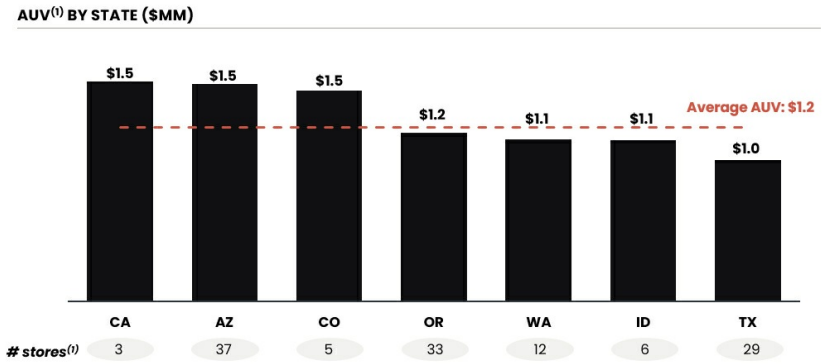
With stores in seven states, we have demonstrated that our model performs well across a wide range of markets. Our brand translates well across geographies, thanks to its broad appeal, flexible formats, and focus on guest experience.



As of June 30, 2025.

Our volumes and profitability yield attractive returns across our existing markets, and our Same Store Sales Growth is generated by both new openings and seasoned stores. We expect our brand awareness will continue to increase as we densify markets. When coupled with our strategies around menu

innovation, digital, and loyalty, we believe that increased brand awareness will drive sustained Same Store Sales Growth and higher AUVs.



(1) Includes stores that have been open for 18 months or longer as of June 30, 2025.

Strategies for Continued Growth

Expanding Our Store Footprint in New and Existing Markets

We are in the early stages of our long-term growth journey, with significant whitespace in both existing and new markets. We have a robust pipeline for development to support future anticipated growth. In the near term, we expect to open approximately 30 stores in 2025 and expect our future average annual store growth to be consistent with our approximately 20% historical average annual store growth from 2020 through 2024. We believe that we can achieve 1,000 stores by 2035, with ample whitespace in our existing markets to support this growth. We expect to favor growth in markets where we currently have a presence while also taking a disciplined and methodical approach to enter new markets where we anticipate successful expansion to achieve our growth goals.

Existing Markets

Our positive momentum and success of new openings confirms the significant demand for new Black Rock stores. We will focus our growth in existing markets where we believe there is an opportunity to increase density with minimal sales transfer. We also believe there is upside in our brand awareness that will enable further growth of our AUVs in these markets. In addition, we intend to continue growing in our more established markets like Oregon and Washington and will responsibly build stores in additional cities within our existing states as we see opportunity to do so.

New Markets

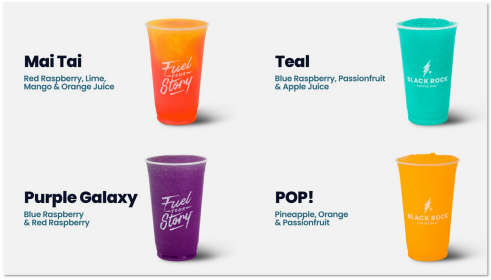
We have achieved success and demonstrated portability across seven states as of June 30, 2025. Our whitespace opportunity extends beyond these existing markets. We have the brand strength, offering, portable unit economics, people, culture, and infrastructure to support our long-term expansion across the country. Our momentum gives us confidence. For example, in Phoenix, we scaled from two stores in 2017 to 41 by the end of 2024, growing sales from $2 million to $56 million, while growing AUVs from $1.1 million to $1.5 million, as well as improving margins and brand awareness over that same period. We have also opened another three stores in Phoenix during the first half of 2025.

Continuous Menu Innovation

Menu innovation is core to our brand. We regularly develop new offerings in partnership with our team and community in an effort to ensure our menu is relevant and exciting. Each seasonal marketing window provides an innovative coffee-based offering that highlights our commitment to our coffee forward culture.



For the year ended December 31, 2024 and the six months ended June 30, 2025, our Fuel and Frozen Fuel energy drinks accounted for approximately 22% and 24% of our total revenue, respectively. Iced Fuel is available in Original, Organic, and Sugar-Free varieties, each providing a refreshing boost. For those seeking a cooler option, our Frozen Fuel delivers a revitalizing experience. Guests can further personalize their drinks from a selection of 33 flavors with dozens of flavor combinations as well as add-ons like Dried Fruit and Make it Sour, further enhancing their Fuel experience.



Building Loyalty Through Our Differentiated Tech-Enabled Approach

We continue to invest in technology that supports human connection. Our mobile application and loyalty program streamline service while enabling personalized marketing and data-driven insights.

- **Digital** – At 15% of store revenue for the three months ended June 30, 2025, our digital strategy is still in its early stages. Mobile orders reduce wait times, increase throughput, and showcase trending items in-store and in-app.
- **Loyalty** – Since launching in June 2024, we have gained more than 1.8 million loyalty members and seen guests visit 129% more often following their enrollment into our loyalty program (based on a review of the transaction history of approximately 1,200 loyalty members in the 90 days before and after joining the loyalty program). This behavior drives higher frequency and larger check sizes.

By building digital tools that serve—not replace—human interaction, we are strengthening the bond between guests and our brand. In addition to our investments into in-store technology, we also utilize third-party delivery to serve our guests off-premises. Third-party delivery comprised 8.6% of store revenue for the six months ended June 30, 2025.

Fueling Brand Growth

Every new Black Rock location deepens brand visibility and introduces more guests to our *Fuel Your Story* philosophy. Our consistent, friendly barista interactions, premium beverages, and fast service turn each store into a medium for future connections.

To support growth, we invest in marketing strategies that drive awareness and connection:

- **Local Community Engagement** – As we expand, we tailor outreach efforts to local markets. Our baristas actively engage in their communities, helping to build trust and familiarity. In 2025, we have provided support to over 200 local businesses and high schools through donations, including gift cards and drinks, continuing our commitment to strengthening the communities we serve.
- **Growing Our Social Community** – Our enthusiastic, growing fan base engages with Black Rock across social channels, and we meet them with timely content, branded moments, and community storytelling.
- **Exclusive Products** – Our in-house Fuel line and other branded items, such as our K-Cup pods, custom blend roasted beans, and cold brew bags offer powerful brand touchpoints. This keeps Black Rock top of mind whether guests are in-store or on the go.



Leverage Infrastructure

Our investments in people, facilities, and technology have built a strong foundation for scalable growth.

- **People-First Organization** – With strong internal promotion practices and new key hires across functions, we are building a leadership bench ready to support expansion. Our team-first culture keeps us aligned as we grow.
- **Roasting Facilities** – Our two roasting centers ensure freshness, consistency, and capacity to support national growth.
- **Supply Chain** – A robust distribution network supports multi-state operations and helps us deliver high-quality products at scale.
- **Technology Infrastructure** – We have built an integrated digital platform that supports everything from inventory control to real-time sales tracking and predictive scheduling. These systems help to reduce waste, control prime costs, and streamline daily operations.
- **Product Innovation** – Our exclusive Fuel energy drinks were developed in-house, allowing us to capture greater margins and offer unique products that differentiate us in the market.

Our People

We are powered by our exceptional people. We have grown through hiring and empowering authentic, engaging baristas who provide an exceptional experience to our guests, which in turn drives our strong results.

As of June 30, 2025, we employed more than 2,400 team members across our stores, roasting facilities and corporate operations. None of our team members are represented by a labor union, and we believe the opportunities and career path we provide to our team members to grow within our organization and our excellent retention demonstrate the strong relationship we have with our teams. According to a 2021 Jobcase study, 61% of consumers said they were more likely to shop with a company that treats its employees well. This purchasing behavior combined with the opportunities we provide to our team members and the culture that permeates our organization, positions us for continued success.

Culture Driven by Grit, Growth, Gratitude and Grace

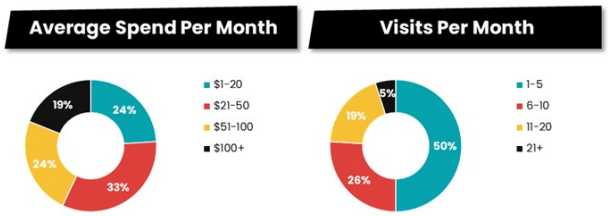
Our culture is built on our "4G" ethos.



Commitment to our foundational values through the 4Gs plays a pivotal role in fostering both high employee retention and exceptional guest satisfaction, which underpin our success to date and provide the foundation for continued growth.

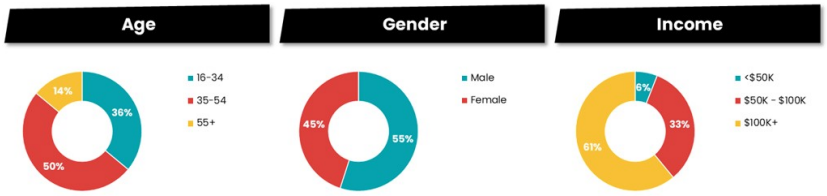
Our Highly Engaged, Loyal Guests

We have created an environment that nurtures and strengthens connections between our authentic, engaging baristas and our guests. This connection alongside our premium beverage and food offering, as well as our differentiated store model, leads to highly engaged and loyal guests. According to the August 2024 study, 96% of our guests reported being satisfied with Black Rock Coffee Bar and 96% rated their overall customer experience positively. We believe these results drive the enduring support we observe from our guests, particularly among our loyalty members who visit 129% more often following their enrollment into our loyalty program (based on a review of the transaction history of approximately 1,200 loyalty members in the 90 days before and after joining the loyalty program).



_____
Source: September 2024 White Label study.

Our guest base is wide-ranging in age, income, and lifestyle, and that diversity reflects our broad menu appeal. We connect especially well with younger audiences, which puts us in a strong position to grow while continuing to serve a multi-generational community.



Source: September 2024 White Label study.

Our connection with our guests drives our unique value proposition – we meet our guests wherever they are with a curated menu offering that can be tailored to their preferences. As we continue to expand geographically, we are confident we will maintain the Black Rock experience and strong guest satisfaction through our embedded talent pipeline across our existing store base.

Our Exceptional Guest Experience

At Black Rock, we are all about Connection, Caffeine and Community. We create a powerful guest experience built upon our authentic barista-guest connections, premium and customizable menu offerings and differentiated store model. Our team members cultivate connections and deliver the Fuel Your Story ethos to our guests every day. We showcase hand-crafted beverages and delicious food in our modern, industrial-designed lobbies featuring plenty of seating options to cater to any occasion. Whether a guest is in our lightning-fast drive-thru for less than 90 seconds or in our lobby for an afternoon, we pride

ourselves in providing a high quality, friendly and engaging experience. Our efforts have resulted in strong guest loyalty and exceptional guest satisfaction of 96% according to the September 2024 study.



Our Growing Footprint and Differentiated Store Format

Store Footprint

We operate a growing footprint of company-owned Black Rock Coffee Bar stores across the Northwest and Southwest with demonstrated success across multiple regions within suburban markets. As of June 30, 2025, we had 158 stores across seven states, all featuring our lightning-fast, convenient drive-thrus and approximately 75% featuring our modern, inviting lobbies.



High-Energy Stores Built for Speed and Connection

Each Black Rock Coffee Bar store is purpose-built to deliver an upscale, energetic guest experience, to drive throughput while fostering genuine guest engagement. Our differentiated store format provides our guests with the best of both worlds: lightning-fast drive-thru service with the ambiance of a local coffee shop.

Key features of our stores include:

- *Outdoor Seating Areas:* Welcoming spaces designed for groups and families, these areas support dwell time and community-based brand engagement.
- *Optimized and Efficient Drive-Thru Layouts:* Many of our locations feature speaker boxes and dynamic line-busting solutions—like baristas who greet guests at their vehicles with tablets in hand to keep lines moving. At certain locations, we also feature dual-lane drive-thrus, further improving our throughput and helping to ensure lightning-fast service at even the busiest times of day.
- *Next-Generation Building Exteriors:* Our architectural approach emphasizes clean, industrial lines with modern finishes, enhancing curb appeal and brand consistency.
- *Dual-Bar Layout:* We paired our dual-lane drive-thru format with an optimized site plan and a high-efficiency dual-bar layout—together capable of supporting annual volumes exceeding $3 million at a single store.
- *Upscale, Modern Guest Lobbies:* Our stores with lobbies feature modern interiors that blend steel and wood finishes with branded elements to enhance the guest experience.
- *Rapid Service Times:* We target service times of approximately 90 seconds from order to handoff, positioning us competitively within the high-frequency beverage category.

These design elements work together to create an efficient, inviting environment that supports authentic barista-guest connections and high volumes.

A Disciplined, Scalable Approach to Site Selection and Development

We take a rigorous, data-driven approach to site selection and new store development. New markets and trade areas are analyzed using demographic and psychographic indicators, vehicle traffic patterns, mobility data and proximity to other high-performing retail or limited-service restaurant locations. This flexible and data-informed development strategy enables us to thoughtfully scale our store footprint while maintaining strong returns and preserving brand integrity.

Our stores are 100% company-operated, and we enter into multiple types of lease arrangements including Build to Suit, Reverse Build to Suit, and ground leases. We do not own the land for any of our stores. When we enter into a Build to Suit arrangement, the developer has secured the land, prepped the site, constructs the building and retains ownership of the property; we purchase equipment directly and pay the developer rent. With Reverse Build to Suit, we act as developer and manage construction of the building, while the landlord retains ownership of the land and resulting building. In a ground lease, we manage the entire project from site prep to construction and equipment install, leasing the land only.

Our real estate and development teams work closely with internal operations to design our stores for peak efficiency and brand consistency. We leverage multi-year relationships with national and regional developers to select from top-quality new location sites which supports our goal of continued, disciplined expansion and reaching our store growth targets.

Our new store development costs have historically averaged approximately $600,000 per store, which represents a blended cost based on various build types. Our contribution ranges from approximately $230,000 for a build-to-suit project to the entire project costs in the case of a ground lease. We generally

target a first 18-month AUV of $1.1 million, store-level profit margin for mature stores (i.e. stores in the comparable store base) in excess of approximately 22% and Cash-on-Cash Return of approximately 40%.

Team members—from baristas to multi-store leads—in each market adopt an ownership mindset at the stores they operate and manage. They view each store as “my site,” which helps to ensure alignment across the team and a unified effort toward continuously improving operations and driving growth. When team members take ownership of the stores they manage, they enhance the accountability of the team and foster a stronger connection to the success of each store, leading to greater efficiency and overall performance.

We continue to see strong performance across both drive-thru-only stores and locations with lobbies. While we generally prefer to include lobbies to enhance the guest experience, our primary focus remains on securing high-quality real estate in attractive locations with a high return on investment. Drive-thru only formats are typically pursued in high-traffic commuter corridors.

Focused Growth Within Existing Markets and Strategic New Market Entry

Our expansion strategy is designed to balance near-term growth within our existing footprint with disciplined entry into new, high-potential markets. Our succession planning pipeline gives us confidence that we have the team in place to support ongoing expansion. We believe there is an opportunity to increase density in existing markets with minimal sales transfer and also believe there is upside in our brand awareness that will enable further growth of our AUVs in these markets. In addition, we intend to continue growing in our more established markets like Oregon and Washington and will responsibly build stores in additional cities within our existing states as we see opportunity to do so. Growth within existing geographies enables us to leverage our existing infrastructure and overhead, resulting in improved operating efficiency while also further driving brand awareness in those markets.

When entering new markets, our strategy is to initially establish density by opening several stores. This clustered development approach helps build brand awareness quickly, drives operational efficiency, and supports local marketing efforts. To ensure consistency in execution and an exceptional guest experience, we also bring certain tenured members of our team into each new market to help support new locations during the initial ramp period. As we look ahead, potential new markets include designated market areas adjacent to our existing footprint, which provide geographic continuity.

Our disciplined expansion strategy, underpinned by strong unit-level economics and supported by experienced field leadership and embedded talent pipeline, positions us well for continued growth while preserving our culture and guest-first ethos.

Our Curated, Customizable, Broadly Appealing Menu

Our menu is thoughtfully curated and fully customizable with something for everyone. We offer a wide range of caffeinated beverage options, ranging from the classics, like Lattes, Americanos, and Cold Brew, to innovative customer favorites and coffeeless options like hot tea or our Matcha Latte. Our beverage platform is designed to balance approachability with personalization—allowing guests to tailor their drinks based on espresso strength, sweetness level, color, flavor additions, and toppings. Our menu also

features our exclusive Fuel energy drinks and delicious “All-Day Breakfast” food offering. Our menu offerings enable us to serve a wide range of tastes and preferences.



Coffee

Our espresso-based drinks include premium classics and we also innovate with favorites like our Caramel Blondie (caramel white mocha), Mexican Mocha (hints of vanilla, almond, and cinnamon), or our Blackout (hazelnut mocha). We exclusively use premium Rancilio espresso machines in our stores to pull incredibly smooth espresso shots. We focus on small batch roasting at our two company-owned, strategically located roasting facilities. Coffee is delivered to our stores weekly and consumed within 14 days of roasting to maintain optimal taste and quality. Guests who would like to enjoy Black Rock Coffee at home can also order or set up subscriptions for our custom coffee blends through our website.

Fuel

For the year ended December 31, 2024 and the six months ended June 30, 2025, Fuel and Frozen Fuel energy drinks accounted for approximately 22% and 24% of our total revenue, respectively. Iced Fuel, our traditional Fuel served over ice, is available in Original, Organic, and Sugar-Free varieties, each providing a refreshing boost. For those seeking a cooler option, our Frozen Fuel, our slushed energy drink, delivers a revitalizing experience. Guests can further personalize their drinks with dozens of flavor combinations and add-ons like Dried Fruit and Make it Sour, enhancing their Fuel experience. These unique offerings differentiate us from competitors, create incremental occasions for visits, and appeal to a broad demographic—especially younger guests who are introduced to our brand through these beverages. As guest preferences evolve, we expect many guests transition toward our classic coffee offerings, retaining their loyalty to us thanks to our consistent quality and guest experience.

Food

In addition to beverages, our “All-Day Breakfast” platform supports traffic and check growth by providing convenient, high-quality food options that complement any order. This includes a variety of savory and sweet items such as breakfast burritos, sausage cheddar sandwiches, banana bread, and glazed donut holes. We tailor parts of our menu to reflect regional tastes and showcase local favorites. We believe our high-quality, delicious offering encourages not only attachment but also serves as an intentional occasion for guests, driving traffic to our stores throughout the day and increasing average unit volume.



Our Thoughtful Sourcing and Roasting Capabilities

Coffee Sourcing Philosophy

We are committed to offering premium coffee with a consistent flavor profile by sourcing high-quality beans from Brazil, Ethiopia, Colombia and Mexico, among other countries. Our blends are carefully curated to highlight the flavor profiles our guests have come to love, including our signature Old Town, bold Steel Bridge, and vibrant Single Origin – Ethiopia blend. We believe that our focus on quality strengthens guest loyalty and differentiates our brand in a competitive coffee landscape.

Roasting Capabilities and Logistics

Our roasting operations are centralized in two facilities located in Tempe, Arizona and Vancouver, Washington. Together, these facilities roast approximately 26,500 pounds of coffee each week and are capable of handling up to 1,600 pounds per hour. This robust capacity enables us to maintain a steady supply of freshly roasted, high-quality coffee across our footprint.

- **Tempe, Arizona facility:** Services stores in Arizona, California, and Texas
- **Vancouver, Washington facility:** Services stores in Colorado, Idaho, Oregon, and Washington

Both roasting facilities are equipped with high performance Probat G120 roasters, as well as smaller batch roasters for testing and specialty blends. These facilities not only handle the production of our core coffee blends but also fulfill all online orders directly, which contributes to consistency and freshness across all sales channels.

Our strategically located roasting facilities allow us to ship coffee to stores within three to seven days of roasting, ensuring optimal freshness. Additionally, both facilities have substantial excess capacity, to support our expansion strategy and the increasing demands of our growing store base.

Cost Management and Inflationary Pressures

We, like others in the industry, remain mindful of the inflationary environment and potential future impacts from tariffs. We do, however, see our most significant tariff exposure moving forward stemming from refrigeration units, espresso machines, and coffee beans. We believe this exposure can be mitigated through sourcing these items domestically when necessary. See “Risk Factors—Risks Related to Our Business and Industry—Increases or sustained inflation in the cost of high-quality arabica coffee beans, dairy or other commodities or decreases in the availability of high-quality arabica coffee beans, dairy or other commodities could have an adverse impact on our business and financial results.”

To further support our cost structure, effective April 2025, we have implemented new internal inventory management programs aimed at minimizing waste and reducing cost of goods sold.

Growing Our Brand

We believe our marketing initiatives and loyalty program are core to our ability to connect with our guests and communities and grow the Black Rock brand.

Brand Awareness

In addition to growing our brand awareness through our expanding footprint of stores, we are focused on growing awareness through digital marketing, social media engagement and community-focused campaigns. We have significant opportunities to increase our marketing efforts and improve our brand awareness in new and existing markets. According to the September 2024 study, our aided brand awareness within our existing markets is 47% (compared to 97% for Starbucks and 83% for Dutch Bros). Our marketing costs represented only 1.1% of total revenue for the year ended December 31, 2024. We expect increases in marketing spend as a percentage of revenue to drive future growth and increase our brand awareness.

We effectively and efficiently introduce new guests to our brand through both targeted and organic marketing efforts. Our marketing budget includes paid media, online ads (through platforms such as Google and Meta) and in-store marketing displays. Marketing is also driven by word of mouth, including advocacy from our baristas, influencers and social media. Our influencer marketing is driven organically – we connect with influencers who are often already frequent guests at our stores. We share merchandise, curated influencer boxes and gift cards with influencers to encourage continued engagement that drives strong, positive associations with our brand. On social media, we engage with followers on our channels and other social media users through giveaways and top-of-mind content. As of June 30, 2025, we had more than 160,000 followers across our social media platforms. The combination of our targeted, paid and organic marketing efforts drives increased guest engagement and brand visibility.

Tech-Enabled Approach

We continue to invest in technology that supports human connection. Our mobile application and loyalty program streamline service while enabling personalized marketing and data-driven insights.

- **Digital:** At 15% of store revenue for the three months ended June 30, 2025, our digital strategy is still in its early stages. Mobile orders reduce wait times, increase throughput, and showcase trending items in-store and in-app.
- **Loyalty:** Since launching in June 2024, we have gained more than 1.8 million loyalty members and seen guests visit 129% more often following their enrollment into our loyalty program (based on a review of the transaction history of approximately 1,200 loyalty members in the 90 days before and after joining the loyalty program). This behavior drives higher frequency and larger check sizes.

By building digital tools that serve—not replace—human interaction, we are strengthening the bond between guests and our brand. The digital initiatives that come with our loyalty program have created a more streamlined experience for our guests while providing data and insights into guests’ purchasing

behavior. Guests can order ahead with our mobile application and collect Bolts, which can be redeemed for future food, beverages, and exclusive perks. We see significant opportunity to drive greater traffic as we continue to add more loyalty members in existing and new markets.

Our loyalty program provides another opportunity to connect with guests and learn more about their tastes and preferences. Black Rock Rewards enables us to aggregate data and insights we can use for in-app marketing promotions to drive frequency and increase average check size.



Digital Marketing

With the successful launch of our enhanced loyalty program and integration of an upgraded technology stack with Paytronix, we have strengthened our digital platform. This robust platform enables us to provide a personalized and efficient experience for our guests while gathering valuable data and insights to improve the guest journey. The re-launch of Black Rock Rewards in June 2024 significantly improved the guest experience, allowing members to earn rewards both in-store or via the option of online ordering from our mobile app.

We can tailor messaging to our guests by leveraging data from our loyalty members, ensuring that the care and personalized service our baristas provide in-store is also reflected across our digital channels. Our marketing team regularly tests new limited time offers, adjusts menu items, and sends promotions customized to guest preferences. This personalized approach allows us to not only optimize our marketing strategy effectively, but also drive adoption of both our loyalty program and digital ordering.

Our technology platform underpins a comprehensive loyalty strategy, enabling direct engagement with guests across multiple touchpoints, including push notifications, email, and in-app alerts. By seamlessly integrating loyalty into our digital ecosystem, we aim to increase guest frequency and foster deeper connections with our most loyal guests.

Community Impact and Giving Back

Our commitment to positively impacting the communities where we operate is at the heart of everything we do. We strive to build strong, meaningful relationships with our local communities by actively engaging in initiatives that support individuals and organizations in need. Whether addressing environmental concerns, supporting local causes, or simply helping those who need it most, we hold ourselves to high standards in our efforts to contribute to the greater good.

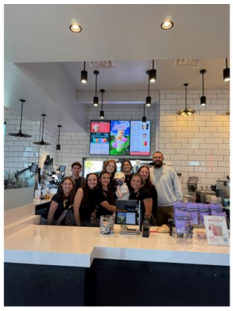
We raise money for local organizations and causes through our “Give Back Days,” underscoring the deep impact of our community engagement efforts. In one notable 2024 campaign, we contributed $2 per drink on the day of the event (with some guests electing to contribute more), to support JoyRx, a music therapy program for pediatric cancer patients.

It is important to us to maintain a strong connection with our local communities. Therefore, we prioritize giving back to organizations through initiatives such as dedicated give-back days, donations to local schools and churches, and sponsoring local youth sports programs.

In addition to these efforts, in 2025, we have provided support to over 200 local businesses and high schools through donations, including gift cards and drinks, continuing our commitment to strengthening the communities we serve. We also plan to continue our annual holiday collaboration with Toys for Tots, and Stepstone in the Phoenix metro area, where we invite guests to donate unwrapped toys in exchange for a free drink, helping bring holiday cheer to families and children in need.



JoyRx Fundraiser



Houston Family Fundraiser



Clackamas Firefighter Stair Climb Event

Our Operations

We are committed to delivering a consistent, high-quality guest experience across all locations. Our rigorous approach to beverage and food quality, combined with a focus on operational excellence through training, career development, and our operation's scorecard, strives to ensure that each guest interaction reflects our brand's standards. We achieve this through a strong focus on employee development, thoughtful store designs, and technology to drive accuracy, speed and efficiency.

Efficient Service and Empowered Teams

Our store operations are designed to provide rapid service without compromising quality. We target a 90 second window from order placement to fulfillment, enabling us to serve high volumes of guests efficiently.

Our staffing model emphasizes employee empowerment and growth. We provide opportunities for junior team members to take on leadership roles during shifts, fostering a sense of ownership and enhancing the overall work environment. This approach not only improves employee satisfaction but also contributes to a more dynamic and responsive guest experience.

Enhancing Operations Through Strategic Technology Integration

To support our operational goals and enhance the guest experience, we continue to invest in technology platforms.

As a primary example, we employ advanced intelligence scoring to segment guests based on their preferred days of the week for visitation. For instance, to drive increased traffic from Wednesday to Friday, we offer guests who typically visit during this period a moderate 2x Bolt incentive. In contrast, guests who generally visit from Saturday to Tuesday receive a more compelling 3x Bolt reward. This strategy is designed to encourage guests to deviate from their usual visitation patterns, driving engagement on days outside their typical preferences, or to generate an additional visit on their regularly scheduled days.

To enhance our order processing and Point-of Sale (POS) capabilities, in 2024, we implemented Revel Systems' cloud-based POS platform across more than 130 locations. Revel integrates with various systems, including loyalty programs, online ordering, third-party delivery, inventory management, and employee scheduling. Revel has allowed for unified menu management and data collection, resulting in a more consistent brand experience, no matter the channel (in-store, app/online, third-party delivery), with the added capability to collect structured data, which is foundational to our analytics capabilities.

With Revel in place, we were also able to deploy additional elements of our tech stack. Paytronix was implemented in July 2024 to re-launch the Black Rock Rewards program. This integration has modernized our digital engagement strategy, providing guests with a more user-friendly mobile app for ordering, earning rewards, and receiving personalized promotions. The Paytronix platform offers us valuable insights into guest preferences, enabling targeted marketing efforts and enhancing guest loyalty. R365 was deployed as our inventory management solution which helps us control our cost of goods. 7 shifts is our time and attendance solution and utilizes Revel integration to provide predictive labor scheduling and real-time monitoring of sales and labor cost.

Nonetheless, despite our investments, concerns related to our use of technology (including technologies provided by third-party vendors) may arise. For more information, see "Risk Factors—Risks Related to Information Technology Systems, Cybersecurity, Data Privacy, and Intellectual Property."

Quality and Food Safety

We prioritize a safe and healthy environment across all our stores through rigorous employee training, close supervision, and adherence to strict quality standards. Each location undergoes regular internal inspections to ensure compliance, and we monitor and report on both internal and external standards at every store.

Our commitment to beverage and food safety is reinforced by a close collaboration between our supply chain and distributor/supplier partners. We carefully review our supply partners' ingredient decisions and reserve the right to conduct independent audits. We also assess each supplier's safety and quality records and confirm insurance coverage.

Our coffee roasting facilities are specifically designed with the goal to mitigate the risk of contamination and foodborne illness and comply with relevant food safety regulations. These facilities are subject to routine safety inspections. As of the date of this prospectus, we have not identified any material food safety issues at either of our roasting facilities. Nonetheless, despite our robust quality controls, occasional concerns related to ingredients or food safety may arise. For more information, see "Risk Factors—Risks Related to Our Business and Industry—Food safety and quality concerns may negatively impact our brand, business and results of operations."

Properties

The table below shows our leased properties as of June 30, 2025.

State	Number of Leased Properties
Arizona	52
California	3
Colorado	7
Idaho	8
Oregon	34
Texas	42
Washington	12
Total	**158**

In addition to our stores, we lease an approximately 5,000 square foot corporate office located in Scottsdale, Arizona with lease options extending through 2030. Additionally, we lease an approximately 15,000 square foot roasting and packing facility in Vancouver, Washington and an approximately 10,000 square foot roasting and packing facility in Tempe, Arizona. We do not currently own any real estate, and we lease all of our store locations. We believe our facilities are adequate and suitable for our current needs, and that suitable additional or alternative space will be available to accommodate our operations when needed.

Intellectual Property

In an effort to establish and protect our brand and other intellectual property rights, we rely on a combination of trademark, and trade secret laws, as well as contractual arrangements.

Our primary trademark, BLACK ROCK COFFEE BAR, and our related logos have been registered in the United States. We believe these marks are of significant value and are very important to the success of our business. We also own other U.S. registered trademarks, including FUEL YOUR STORY. We may consider pursuing trademark registrations for additional marks if and to the extent we believe such registrations would be beneficial to our business and cost-effective. As of June 30, 2025, we have also registered various domain names that we use in the conduct of our business, including br.coffee.

We enter into, and rely on, confidentiality and proprietary rights agreements with certain of our employees, contractors and business partners to protect our trade secrets and other confidential information. For information regarding risks related to our intellectual property, please see “Risk Factors—Risks Related to Information Technology Systems, Cybersecurity, Data Privacy and Intellectual Property.”

Data Privacy/Security

Numerous state and federal laws, rules, regulations, industry standards and other obligations relating to privacy, data protection, and data security govern the collection, dissemination, use, access to, confidentiality, and security of personal information, and we are subject to several such obligations. Failure to comply with these obligations, where applicable, can result in the imposition of significant civil and/or criminal penalties and private litigation. Privacy and security laws, regulations, industry standards and other obligations are evolving, may conflict with each other to make compliance efforts more challenging, and can result in investigations, proceedings, or actions that lead to significant penalties and restrictions on data processing and we may become subject to additional requirements and obligations as we expand our operations into new geographic markets. See “Risk Factors—Risks Related to Information Technology Systems, Cybersecurity, Data Privacy and Intellectual Property.”

Competition

The beverage and food service industry is highly competitive and fragmented, and our stores compete on a variety of factors, including convenience, taste preferences, price, quality, service, location, brand reputation, digital engagement and the ambience and condition of each shop. We believe our primary competitors include beverage and coffee stores, including Starbucks and Dutch Bros, other specialty coffee shops and drive-thru quick service restaurants. Our competitors range from multi-unit international, national and regional chains to single-location local shops. Our competitors operate both company-operated, franchised and mixed business models. Many of our competitors have existed longer than we have and have a more established market presence with substantially greater financial, marketing, personnel, and other resources than we do, and as a result, these competitors may be better positioned to succeed in the highly competitive beverage and food service industry. Because of our proprietary Fuel energy beverages, we also compete with companies outside of the coffee shop industry, such as convenience food shops.

As we expand our geographic presence and develop our digital channels, we anticipate we will face increased competition for channel access. In addition, our competitors will likely grow in number as the beverage industry grows, and we may face the risk that new or existing competitors will mimic our

business model, menu offerings, marketing strategies, and overall concept. See “Risk Factors—Risks Related to Our Business and Industry—We may not be able to compete successfully with other coffee stores, quick service restaurants and convenience stores, including the growing number of coffee delivery options. Intense competition in the food service and restaurant industry could make it more difficult to expand our business and could also have a negative impact on our operating results if customers favor our competitors or we are forced to change our pricing and other marketing strategies.” and “Risk Factors—Risks Related to Our Business and Industry—Our growth strategy depends in part on opening new stores in existing and new markets. We may be unsuccessful in opening new stores or establishing new markets, which could adversely affect our growth.”

Legal Proceedings

We are involved in various claims and legal actions that arise in the ordinary course of business. We do not believe the ultimate resolution of these actions will have a material adverse effect on our financial position, results of operations, liquidity, and capital resources. A significant increase in the number of claims or an increase in amounts owing under successful claims could materially adversely affect our business, financial condition, results of operations and cash flows.

Regulatory

We are subject to extensive federal, state, and local government regulation, including those relating to, among others, public health and safety and zoning, and franchising. Failure to obtain or retain licenses and registrations or exemptions would adversely affect the operation of our stores. Although we have not experienced and do not anticipate experiencing any significant problems obtaining required licenses, permits or approvals, any difficulties, delays or failures in obtaining such licenses, permits, registrations, exemptions or approvals could delay or prevent the opening of, or adversely impact the viability of, a store in a particular area. The development and construction of additional stores will be subject to compliance with the applicable zoning, land use and environmental regulations.

We are also subject to the U.S. Occupational Safety and Health Act, which governs worker health and safety, the Fair Labor Standards Act, the Immigration Reform and Control Act of 1986 and various federal and state laws governing such matters such as minimum wage, overtime, employment tax rates, workers compensation rates, citizenship requirements, and other working conditions. A significant number of store-level personnel are paid at rates related to the federal minimum wage. We are also subject to the Americans with Disabilities Act, which prohibits discrimination on the basis of a disability and public accommodations in employment, which may require us to design or modify our shops to make reasonable accommodations for disabled persons.

For a discussion of the various risks, we face from regulation and compliance matters, see “Risk Factors—Risks Related to Regulation and Litigation.”

Environmental

We believe federal and state environmental regulations have not had a material effect on operations, but more stringent and varied requirements of local government bodies with respect to zoning land use and environmental factors could delay construction and increase development costs for new stores.

MANAGEMENT

The following table sets forth the name, age as of the date of this prospectus, and position of the individuals who currently serve as our directors and executive officers as of the date of this prospectus.

Name	Age	Position(s)
Executive Officers		
Mark Davis	56	Chief Executive Officer and Director
Rodd Booth	40	Chief Financial Officer
Clay Geyer	37	Chief Operating Officer
Robert Kaufmann	45	Chief Development Officer
Jessica Wegener-Beyer	43	Chief Marketing Officer
Samuel Seiberling	41	Chief Legal Officer
Will MacIntosh	51	Chief Investor Relations Officer
Derek Tonn	43	Senior Vice President, IT & Analytics
Non-Employee Directors		
Jeff Hernandez	45	Director
Daniel Brand	44	Director
Jake Spellmeyer	41	Director
Bryan Pereboom	41	Director
Richard Federico	71	Director
Sarah Goldsmith-Grover	60	Director
Andrew Braithwaite	40	Director
Kristina Cashman	59	Director Nominee

Executive Officers and Employee Directors

Mark Davis has served as our Chief Executive Officer and a member of our Board since 2023. Prior to joining Black Rock Coffee, Mr. Davis served as Chief Operating Officer of Coffee & Bagel Brands from July 2019 to April 2023, where he oversaw operations for Einstein Bros., Bruegger's, Noah's, and Manhattan Bagels. Before his tenure at Coffee & Bagel Brands, Mr. Davis served as Chief Executive Officer of Tokyo Joe's from January 2015 to June 2019, where he was a member of the board of directors. Mr. Davis also previously served as Chief Operations Officer at Breckenridge-Wynkoop LLC, or Breckenridge Brewery. Prior to that, Mr. Davis served as Vice President of Operations at Panera Bread Co. Mr. Davis holds a Master of Business Administration from Regis University and a Bachelor of Arts degree from Colorado State University. We believe that Mr. Davis is qualified to serve as a member of our Board because of his proven track record in executive leadership in the food and beverage industry and thorough knowledge of our strategy as our Chief Executive Officer.

Rodd Booth has served as our Chief Financial Officer since October 2020. Prior to joining Black Rock Coffee, Mr. Booth worked as an Assurance Senior Manager and Audit Practice Leader at Aldrich CPA+ Advisors LLP from November 2014 to October 2020. Prior to that, Mr. Booth worked as an Audit Manager at Grant Thornton LLP, an international accounting firm from 2011 to 2014. Mr. Booth holds a Bachelor of Science, Accounting from Linfield University and is a Certified Public Accountant (Inactive).

Clay Geyer has served as our Chief Operating Officer since January 2025. Mr. Geyer previously served as our Vice President of Operations from January 2022 to December 2024. Prior to joining Black Rock Coffee, Mr. Geyer was a franchisee of Black Rock Coffee from 2016 to 2021.

Robert Kaufmann has served as our Chief Development Officer since January 2025. Mr. Kaufmann previously serviced as our Vice President of Development from January 2015 to January 2025. Mr. Kaufmann holds an Associate of Arts and Sciences from Umpqua Community College and a Bachelor of Applied Science from University of Phoenix.

Jessica Wegener-Beyer has served as our Chief Marketing Officer since April 2024. Prior to joining Black Rock Coffee, Ms. Wegener-Beyer served as Chief Marketing Officer at eegee's, an Arizona-based sandwich restaurant chain from November 2020 to January 2023. Prior to that, Ms. Wegener-Beyer served as Senior Director of Marketing at True Food Kitchen. Ms. Wegener-Beyer holds a Master of Business Administration and a Bachelor of Arts from Arizona State University.

Samuel Seiberling has served as our Chief Legal Officer since January 2025. Mr. Seiberling previously practiced law at Davis Graham & Stubbs LLP, where his practice focused on acquisition transactions, public and private placements of securities, securities law disclosure and compliance and corporate governance, including his time as a partner with the firm from January 2021 through January 2025. Mr. Seiberling holds a Juris Doctor from the University of Denver, Sturm College of Law and a Bachelor of Arts degree in Biophysical Chemistry from Dartmouth College.

Will MacIntosh has served as our Chief Investor Relations Office since April 2025. Prior to joining Black Rock Coffee, Mr. MacIntosh served as Vice President of Operations Services at Bagel Brands, the parent company of several well-known breakfast brands, from July 2016 to April 2025. Mr. MacIntosh also previously served as Director of Learning and Technology at MOOYAH Burgers, Fries and Shakes from 2011 to 2015. Prior to that, Mr. MacIntosh served as Director of Field Training at Applebee's from 2001 to 2011.

Derek Tonn has served as our Senior Vice President, Information Technology & Analytics since January 2021. Prior to joining Black Rock Coffee, Mr. Tonn served as President and Chief Executive officer at Roaster Coffee LLC from June 2020 to January 2021. Mr. Tonn also previously served as a Senior Financial Specialist for Battelle Memorial Institute. Mr. Tonn holds a Master of Business Administration and a Bachelor of Arts in Business Administration and Management from Washington State University.

Non-Employee Directors

Jeff Hernandez is a Co-Founder of Black Rock Coffee and has served on our Board since our formation. Following this offering, Mr. Hernandez will serve as the chairman of our Board. Mr. Hernandez previously served as our Chief Executive Officer from 2010 to 2020. We believe that Mr. Hernandez, as our Co-Founder and former Chief Executive Officer, is qualified to serve on our Board because of his extensive familiarity with Black Rock Coffee and its strategic objectives.

Daniel Brand is a Co-Founder of Black Rock Coffee and has served on our Board since our formation. Mr. Brand previously served as our Chief Operating Officer from January 2017 to January 2025. We believe that Mr. Brand, as our Co-Founder and former Chief Operating Officer, is qualified to serve on our Board because of his extensive familiarity with Black Rock Coffee and its strategic objectives.

Jake Spellmeyer is a Co-Founder of Black Rock Coffee and has served on our Board since March 2018. Mr. Spellmeyer previously served as our Chief Financial Officer from March 2018 to March 2022 and as a franchise owner and operator of multiple Black Rock Coffee stores from 2013 to 2018. Prior to joining Black Rock Coffee, Mr. Spellmeyer was a Senior Audit Manager at Grant Thornton LLP, an international accounting firm, from 2006 to 2015. Mr. Spellmeyer holds a Bachelor of Arts in Finance and a Bachelor of Arts in Accounting from Linfield University and is a Certified Public Accountant (Inactive). We believe that Mr. Spellmeyer is qualified to serve on our Board because of his extensive familiarity with Black Rock Coffee and its strategic objectives, as well as his experience in finance and accounting roles.

Bryan Pereboom is a Co-Founder of Black Rock Coffee and has served on our Board since August 2018. Mr. Pereboom also serves on the board of EPT 16 LLC since March 2025. Mr. Pereboom previously served as our Chief Legal Officer from August 2018 to December 2024. Mr. Pereboom has also worked as the Founder of Aureatis IVS where he has served as external general counsel for small

private equity firms since February 2013. Mr. Pereboom holds a Bachelor of Arts in Accounting and a Bachelor of Arts in Philosophy from Linfield University and a Juris Doctor from Pepperdine University School of Law. We believe that Mr. Pereboom is qualified to serve on our Board because of his extensive familiarity with Black Rock Coffee and its strategic objectives, as well as his experience in legal roles.

Richard Federico has served on our Board since March 2023. Following this offering, Mr. Federico will serve as our lead independent director of our Board. Mr. Federico served as Non-Executive Chairman of P.F. Chang's China Bistro, Inc.("P.F. Chang's") from February 2016 until its acquisition by TriArtisan Capital Advisors and Paulson & Co. Inc. in March 2019. Mr. Federico previously served as Executive Chairman of P.F. Chang's from March 2015 to February 2016 and as Chairman of the board of directors, Chief Executive Officer or Co-Chief Executive Officer from September 1997 to March 2015. Mr. Federico joined P.F. Chang's as President in 1996, when he also began his service on its board of directors. Mr. Federico currently serves on the board of directors of Domino's Pizza, Inc. (NASDAQ: DPZ), as well as the board of directors of Fish Six Restaurant Corp. (d/b/a The Melt) and Boqueria SOHO LLC, a privately held restaurant concept. Mr. Federico also previously served as Chairman of the board of directors of Jamba, Inc. and on the board of trustees of RPT Realty and Tastemaker Acquisition Corp. Mr. Federico is a Founding Director of Chances for Children. Mr. Federico holds a Bachelor of Arts in Sociology from the University of Tennessee. We believe that Mr. Federico is qualified to serve as a member of our Board because of his extensive experience in the restaurant industry, both as an executive and a director.

Sarah Goldsmith-Grover has served on our Board since September 2024. Ms. Goldsmith-Grover is Principal of Sarah Grover, Inc., a strategic advisory firm focused on growth and transformation within the global hospitality industry. Ms. Goldsmith-Grover brings more than 35 years of executive experience leading brand, marketing, and operational strategy for high-growth consumer and global restaurant companies. Ms. Goldsmith-Grover spent the majority of her career at California Pizza Kitchen, where she held a series of senior leadership roles, including Executive Vice President and Chief Brand & Concept Officer. During her tenure, Ms. Goldsmith-Grover played a key role in scaling the business from a regional 10-unit concept to a $600 million global brand, successfully navigating multiple private equity and public company transactions. Recognized as a thought leader in brand strategy and customer engagement, Ms. Goldsmith-Grover was named to Advertising Age's Marketing 50 and was recognized in 2020 as one of the Top 25 Executives in Fast Casual Dining. Ms. Goldsmith-Grover is on the board of directors of Shift4 Payments Inc. (NYSE: FOUR), ChowNow Inc. and the non-profit Support and Feed. Ms. Goldsmith-Grover holds a Bachelor of Arts in Communications from DePauw University. We believe that Ms. Goldsmith-Grover is qualified to serve as a member of our Board because of her experience and insight acquired from leading companies in the restaurant and consumer industries.

Andrew Braithwaite has served on our Board since December 2020. Mr. Braithwaite has served as a Managing Director, Principal or Vice President at The Cynosure Group, LLC since July 2017. Prior to his role at The Cynosure Group, LLC, Mr. Braithwaite worked as a senior associate or associate at The Carlyle Group from July 2012 to July 2017. Earlier in his career, Mr. Braithwaite served as an Investment Banker at Barclays Capital, Inc. in its Financial Institutions Group from June 2010 to June 2012. Mr. Braithwaite holds a Bachelor of Arts in Business and Economics from Merrimack College. We believe that Mr. Braithwaite is qualified to serve as a member of our Board because of his extensive experience in finance and investment, as well as his deep understanding of Black Rock Coffee and its strategic objectives.

Kristina Cashman will join our Board upon the effectiveness of the registration statement of which this prospectus is a part. Since July 2024, Ms. Cashman has served as Chief Executive Officer of Guy and Larry Restaurants. Ms. Cashman also serves as President and Chief Executive Officer of Cashman Restaurant & Retail Consulting, a position she has held since 2019. Ms. Cashman's prior experience includes serving as Chief Financial Officer of several restaurant companies including Hopdoddy Burger Bar, Inc., Eddie V's Restaurants, Inc., and P.F. Chang's China Bistro. Ms. Cashman currently serves as a director of Vera Bradley, Inc. (Nasdaq: VRA) and of Bassett Furniture Industries, Inc. (Nasdaq: BSET). She also serves as a director for privately held Munchkin, Inc., an infant and toddler lifestyle brand. Ms. Cashman holds a Bachelor of Business Administration degree from the University of Texas at Austin. We

believe that Ms. Cashman is qualified to serve on our Board because of her extensive experience in corporate finance and the restaurant and retail industry, as well as her experience as an officer and director of public companies.

Family Relationships

Jeff Hernandez and Daniel Brand, each members of our Board, are brothers-in-law. There are no other family relationships among any of our executive officers or directors.

Board Structure and Composition

Our business and affairs are managed under the direction of our Board which currently consists of eight directors and will consist of nine directors upon consummation of the Transactions. Effective at the time of effectiveness of the registration statement of which this prospectus forms a part, Jeff Hernandez will become our Chairman. As Jeff Hernandez is not an "independent director," our Board has appointed Richard Federico to serve as our lead independent director, effective at the time of effectiveness of the registration statement of which this prospectus forms a part. Our amended and restated certificate of formation will provide that, subject to the rights of the holders of preferred stock, the number of directors on our Board shall be fixed exclusively by resolution adopted by our Board, provided however, that the number of directors will never be less than the number of directors our Sponsor is entitled to nominate and that the size of our Board will not be increased to greater than nine directors without the approval of the Cynosure Nominee. Our amended and restated certificate of formation will also grant our Sponsor, among other things, certain board and committee designation rights. Our amended and restated certificate of formation will provide that each director's term will continue until the annual meeting of shareholders next held after his or her election and the election and qualification of his or her successor, or his or her earlier death, disqualification, resignation, or removal.

So long as our Sponsor is entitled to designate one individual for nomination to our Board, our Sponsor will also be entitled to certain board observer rights, as described in our amended and restated certificate of formation.

Prior to the consummation of this offering, our Co-Founders and Sponsor are expected to enter into voting agreements with us that will provide, among other things, that (i) our Co-Founders will vote their shares of common stock in favor of the Cynosure Nominee and, for each of the two annual shareholder meetings following this offering, each incumbent director of the Board, provided that each of the Co-Founders remains on the Board at the time of the relevant shareholder meeting, and in the event that either of Kristina Cashman or Richard Federico shall fail to be nominated for election to the Board prior to the end of their respective term, refrain from voting in favor of the election of a nominee to the Board nominated in the place of either of Kristina Cashman or Richard Federico without the written consent of the Cynosure Nominee and (ii) our Sponsor will vote its shares of common stock in favor of the election of our Co-Founders that are nominated for election to the Board. See "Certain Relationships and Related Party Transactions—Voting Agreements in effect upon the consummation of the Transactions."

When considering whether directors have the experience, qualifications, attributes, or skills, taken as a whole, to enable our Board to satisfy its oversight responsibilities effectively in light of our business and structure, the Board focuses primarily on each person's background and experience as reflected in the information discussed in each of the directors' individual biographies set forth above. We believe that our directors provide an appropriate mix of experience and skills relevant to the size and nature of our business.

Director Independence

Prior to the consummation of the Transactions, our Board undertook a review of the independence of our directors and considered whether any director has a relationship with us that could compromise that director's ability to exercise independent judgment in carrying out that director's responsibilities. Our Board has affirmatively determined that Andrew Braithwaite, Kristina Cashman, Richard Federico and

Sarah Goldsmith-Grover are each an “independent director,” as defined under Nasdaq rules. In making these determinations, our Board considered the current and prior relationships that each director has with us and all other facts and circumstances our Board deemed relevant in determining his or her independence, including the beneficial ownership of our capital stock by each director, and the transactions involving them described in “Certain Relationships and Related Party Transactions.”

Controlled Company Exemption

After the consummation of the Transactions, our Co-Founders and certain of their affiliates will have more than 50% of the combined voting power of our common stock. As a result, we will be a “controlled company” within the meaning of the corporate governance standards of Nasdaq rules and intend to elect not to comply with certain corporate governance standards, including that: (i) a majority of our Board consists of “independent directors,” as defined under Nasdaq rules; (ii) we have a nominating and corporate governance committee that is composed entirely of independent directors with a written charter addressing the committee’s purpose and responsibilities; and (iii) we have a compensation committee that is composed entirely of independent directors with a written charter addressing the committee’s purpose and responsibilities. We intend to rely on the foregoing exemptions provided to controlled companies under Nasdaq rules. Accordingly, you may not have the same protections afforded to shareholders of companies that are subject to all these corporate governance requirements. In the event we cease to be a “controlled company” and our shares continue to be listed on the Nasdaq Global Market, we will be required to comply with these provisions within the applicable transition periods. See “Risk Factors—Risks Related to this Offering and Ownership of Our Class A Common Stock—Upon the listing of our Class A common stock on the Nasdaq Global Market, we will be a “controlled company” within the meaning of Nasdaq rules and, as a result, will qualify for, and intend to rely on, exemptions and relief from certain corporate governance requirements. You will not have the same protections afforded to shareholders of companies that are subject to such requirements.”

Classified Board of Directors

In accordance with our amended and restated certificate of formation, which will be effective immediately prior to the completion of this offering, our Board will be divided into three classes with staggered three-year terms. At each annual meeting of shareholders, the successors to directors whose terms then expire will be elected to serve from the time of election and qualification until the third annual meeting following election. Our directors will be divided among the three classes as follows:

- The Class I directors will be Jeff Hernandez, Bryan Pereboom and Kristina Cashman, and their terms will expire at the annual meeting of shareholders to be held in 2026;
- The Class II directors will be Andrew Braithwaite, Mark Davis and Richard Federico, and their terms will expire at the annual meeting of shareholders to be held in 2027; and
- The Class III directors will be Daniel Brand, Sarah Goldsmith-Grover and Jake Spellmeyer, and their terms will expire at the annual meeting of shareholders to be held in 2028.

We expect that any additional directorships resulting from an increase in the number of directors will be distributed among the three classes so that, as nearly as possible, each class will consist of one-third of the directors.

Our amended and restated certificate of formation will provide that for so long as our Board is classified, no director may be removed without cause.

The division of our Board into three classes with staggered three-year terms may delay or prevent a change of our management or a change in control. See "Risk Factors—Provisions in our corporate charter documents and under Texas law may prevent or frustrate attempts by our shareholders to change our management or hinder efforts to acquire a controlling interest in us, and the market price of our Class A common stock may be lower as a result."

Committees of our Board of Directors

Our Board directs the management of our business and affairs, as provided by Texas law, and conducts its business through meetings of the Board and its standing committees. We will have a standing audit committee and culture and compensation committee. In addition, from time to time, special committees may be established under the direction of the Board when necessary to address specific issues.

Audit Committee

Our audit committee will be responsible for, among other things:

- appointing, approving the fees of, retaining, and overseeing our independent registered public accounting firm;
- discussing with our independent registered public accounting firm their independence from management;
- discussing with our independent registered public accounting firm any audit problems or difficulties and management's response;
- approving all audit and permissible non-audit services to be performed by our independent registered public accounting firm;
- overseeing the financial reporting process and discussing with management and our independent registered public accounting firm the financial statements that we will file with the SEC;
- reviewing policies and practices related to risk assessment and management;
- reviewing our related person transactions; and
- establishing procedures for the confidential anonymous submission of complaints regarding questionable accounting, internal controls or auditing matters.

Upon the consummation of the Transactions, our audit committee will consist of Kristina Cashman, Richard Federico and Sarah Goldsmith-Grover, with Kristina Cashman serving as chair. Rule 10A-3 of the Exchange Act and Nasdaq rules require that our audit committee have at least one independent member upon the listing of our Class A common stock, have a majority of independent members within 90 days of the date of this prospectus and be composed entirely of independent members within one year of the date of this prospectus. Our Board has affirmatively determined that Kristina Cashman, Richard Federico and Sarah Goldsmith-Grover each meet the definition of "independent director" for purposes of serving on the audit committee under Nasdaq rules and the independence standards under Rule 10A-3 of the Exchange Act and Nasdaq rules. Each member of our audit committee meets the financial literacy requirements of Nasdaq rules. In addition, our Board has determined that each of Kristina Cashman, Richard Federico and Sarah Goldsmith-Grover will qualify as an "audit committee financial expert," as such term is defined in Item 407(d)(5) of Regulation S-K. Our Board will adopt a written charter for the audit committee, which will be available on our principal corporate website at www.br.coffee substantially concurrently with the consummation of the Transactions. The information on any of our websites is deemed not to be incorporated in this prospectus or to be part of this prospectus.

Culture and Compensation Committee

Our culture and compensation committee will be responsible for, among other things:

- reviewing and approving, or recommending that the Board approve, the compensation of our Chief Executive Officer and other executive officers;
- making recommendations to the Board regarding non-employee director compensation;

- reviewing and approving or making recommendations to the Board regarding our incentive compensation and equity-based plans; and
- appointing and overseeing any compensation consultants.

Upon the consummation of the Transactions, our culture and compensation committee will consist of Andrew Braithwaite, Daniel Brand, Richard Federico and Sarah Goldsmith-Grover with Daniel Brand serving as chair. Our Board will adopt a written charter for the culture and compensation committee, which will be available on our principal corporate website at www.br.coffee substantially concurrently with the consummation of the Transactions. The information on any of our websites is deemed not to be incorporated in this prospectus or to be part of this prospectus.

Code of Business Conduct and Ethics

Prior to the completion of the Transactions, we will adopt a written code of business conduct and ethics that applies to our directors, officers, and employees, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. A copy of the code will be posted on our website, www.br.coffee. In addition, we intend to post on our website all disclosures that are required by law or Nasdaq rules concerning any amendments to, or waivers from, any provision of the code. The information on any of our websites is deemed not to be incorporated in this prospectus or to be part of this prospectus.

Risk Oversight

Our Board is responsible for overseeing our risk management process. Our Board focuses on our general risk management policies and strategy, the most significant risks facing us, and oversees the implementation of risk mitigation strategies by management. Our audit committee reviews and evaluates our policies and practices with respect to risk assessment and risk management. Further, our audit committee is charged with understanding, communicating and monitoring our risk philosophy, risk appetite and risk profile, and reviewing certain risk exposures. Each board committee supports our risk assessment and risk management by overseeing those risks which may be delegated to it from time to time.

Indemnification and Insurance

We maintain directors' and officers' liability insurance. Our amended and restated certificate of formation and amended and restated bylaws will provide indemnification and advancement of expenses for our directors and executive officers to the fullest extent permitted by the Texas law, subject to limited exceptions. We also have entered into separate indemnification agreements with each of our directors and executive officers, which require us to indemnify them in certain circumstances, and have purchased directors' and officers' liability insurance for each of our directors and executive officers. See "Description of Capital Stock—Limitations on Liability and Indemnification of Officers and Directors."

Compensation Committee Interlocks and Insider Participation

None of our executive officers has served as a member of a compensation committee (or if no committee performs that function, the Board) of any other entity that has an executive officer serving as a member of our Board.

EXECUTIVE AND DIRECTOR COMPENSATION

Executive Compensation

This section discusses the material components of the executive compensation program for our executive officers who are named in the "2024 Summary Compensation Table" below. Our named executive officers for 2024, which consist of our principal executive officer during 2024 and our two next most highly compensated officers during 2024, and their positions for 2024 were as follows:

- Mark Davis, Chief Executive Officer;
- Rodd Booth, Chief Financial Officer; and
- Clay Geyer, Vice President of Operations.

Effective March 3, 2025, Clay Geyer was appointed as our Chief Operating Officer.

This discussion may contain forward-looking statements that are based on our current plans, considerations, expectations, and determinations regarding future compensation programs. Actual compensation programs that we adopt may differ materially from currently planned programs as summarized in this discussion.

2024 Summary Compensation Table

The following table sets forth information about the compensation for each of our named executive officers for the fiscal year ended December 31, 2024:

Name and Principal Position	Year	Salary ($)	Bonus ($)[1]	Stock Awards ($)[2]	Non-Equity Incentive Plan Compensation ($)[3]	All Other Compensation ($)[4]	Total ($)
Mark Davis *Chief Executive Officer*	2024	600,000	25,000	118,328	700,000	13,568	1,456,896
Rodd Booth *Chief Financial Officer*	2024	238,368	18,500	152,518	187,500	6,434	603,320
Clay Geyer *Vice President of Operations*	2024	179,231	35,000	32,278	150,000	10,769	407,278

(1) Amounts reflect discretionary annual bonuses earned by our named executive officers with respect to 2024, which were paid in early 2025.

(2) Amounts reflect the aggregate grant date fair value of profits interests in Black Rock OpCo granted to the named executive officers during 2024, computed in accordance with FASB ASC Topic 718, Compensation—Stock Compensation, assuming the achievement of any liquidity-based vesting conditions. Note that while the grant-date fair value assuming achievement of the liquidity-based vesting condition is included in the table above, the achievement of the liquidity-based vesting condition was not deemed probable on the date of grant and as of December 31, 2024, which resulted in no stock-based compensation costs being recognized in our audited consolidated financial statements for the year ended December 31, 2024. The grant-date fair value of the time-vesting units was determined based on the fair value of the units on the applicable grant date.

(3) Amounts reflect annual cash incentive bonuses earned by the named executive officers under our 2024 annual bonus program, which were paid in early 2025. We provide additional information regarding such bonuses in "—Narrative to Summary Compensation Table—2024 Cash Incentive Compensation—Annual Incentives" below.

(4) Amounts reported for each of the named executive officers include (i) safe harbor matching contributions made by us under our 401(k) plan ($12,923 for Mr. Davis, $6,434 for Mr. Booth and $10,769 for Mr. Geyer) and (ii) Company-paid reimbursement of cell phone expenses ($645 for Mr. Davis).

Narrative to Summary Compensation Table

2024 Salaries

Each of our named executive officers receives an annual base salary to compensate the executive for services rendered to us. The annual base salary payable to each named executive officer is intended to provide a fixed component of compensation reflecting the executive's skill set, experience, role, and responsibilities.

For fiscal year 2024, Mr. Davis had an annual base salary of $600,000. As of January 1, 2024, (i) Mr. Booth had an annual base salary of $223,720, which was increased to $250,000 effective March 4, 2024; and (ii) Mr. Geyer had an annual base salary of $160,000, which was increased to $185,000 effective March 4, 2024.

The "Salary" column of the 2024 Summary Compensation Table above shows the actual base salaries earned by each named executive officer in 2024.

Cash Incentive Compensation

Annual Incentives

In 2024, we maintained an annual bonus program pursuant to which Messrs. Davis, Booth and Geyer were eligible to earn annual cash incentive bonuses that were calculated on a sliding scale based on our achievement of pre-established adjusted EBITDA goals. The table set forth below shows the threshold, target and maximum annual bonus opportunities for each named executive officer based on achieving threshold, target and maximum adjusted EBITDA maximum goals. The table also sets forth the actual 2024 annual bonus earned by each named executive officer, based on our achievement of the maximum adjusted EBITDA goal.

Named Executive Officer	2024 Threshold Annual Bonus ($)	2024 Target Annual Bonus ($)	2024 Maximum Annual Bonus ($)	2024 Actual Annual Bonus ($)
Mark Davis	510,000	600,000	700,000	700,000
Rodd Booth	106,250	125,000	187,500	187,500
Clay Geyer	85,000	100,000	150,000	150,000

The annual bonuses earned by Messrs. Davis, Booth and Geyer under our 2024 annual bonus program are reflected above in the "Non-Equity Incentive Plan Compensation" column of the 2024 Summary Compensation Table.

In addition, the compensation committee of our Board determined to award each named executive officer with an additional discretionary cash bonus based on their extraordinary efforts for our company in 2024. These discretionary bonuses are set forth in the table below, and also are reflected above in the "Bonus" column of the 2024 Summary Compensation Table.

Named Executive Officer	Discretionary Bonus ($)
Mark Davis	25,000
Rodd Booth	18,500
Clay Geyer	35,000

Long-Term Cash Incentives

RCC Awards. Messrs. Davis and Geyer have entered into services agreements with us that provide they are eligible to earn a restricted cash compensation award ("RCC Award"), which is a special bonus

opportunity that will be earned based on our achievement of certain company performance or valuation goals upon the consummation of this offering.

- *Davis RCC Award*. Mr. Davis's RCC Award will equal an amount up to $8,000,000 and will be earned based on our achievement of pre-established adjusted EBITDA goals and his continued service through the consummation of this offering, delivery of an effective release of claims to the Company and continued compliance with restrictive covenants.
- *Geyer RCC Award*. Mr. Geyer's RCC Award will equal $58,473 and will be earned based on our achievement of pre-established enterprise value goals and Mr. Geyer's continued service through such event, delivery of an effective release of claims to the Company and continued compliance with restrictive covenants.

Davis Retention Bonus. Mr. Davis's services agreement also provides that he is eligible to earn a $4,000,000 retention bonus, which is a special bonus opportunity that will be earned upon the consummation of this offering, subject to his continued service through such event, delivery of an effective release of claims to the Company and continued compliance with restrictive covenants.

Equity Compensation

Our named executive officers currently hold profits interests in Black Rock OpCo. We refer to these profits interests as "Incentive Units." The Incentive Units are intended to qualify as profits interests within the meaning of Internal Revenue Service Revenue Procedures 93-27 and 2001-43.

In 2024, we granted the following Incentive Unit awards to our named executive officers:

- 43,569 Incentive Units to Mr. Davis and 19,666 Incentive Units to Mr. Booth, which will become vested in full upon the consummation of this offering, subject to the executive's continued service.
- 9,833 Incentive Units to Mr. Davis, (i) 36% of which are subject to time-based vesting, with 6% of such time-based units vesting on January 1, 2024, and the remaining time-based units vesting in equal installments on each of the subsequent three anniversaries, and (ii) 64% of which will vest upon our attainment of the performance unit strike price equal to the benchmark strike price ($182,000,000) multiplied by 2.5. In addition, the Incentive Units will vest in full upon the consummation of this offering, subject to his continued service.
- 49,166 performance-vesting Incentive Units to Mr. Booth, which will vest upon the Company's attainment of pre-established EBITDA goals, and which will vest in full upon the consummation of this offering, in either case, subject to his continued service.
- 14,567 performance-vesting Incentive Units to Mr. Geyer, which will vest in full upon the Company's attainment of pre-established annual consolidated EBITDA goals, and which will vest in full upon the consummation of this offering, in either case, subject to his continued service.

All of the incentive equity awards held by our named executive officers as of December 31, 2024 are further described below in "—Outstanding Equity Awards at 2024 Fiscal Year End" below. Further, in connection with this offering, we expect that each Incentive Unit will be recapitalized into common units of Black Rock OpCo, which we refer to as "LLC Units," on a "value-for-value" basis based on the fair market value of the Incentive Units at the time of the offering and the common stock price in the offering, and taking into account applicable distribution thresholds. Following this conversion, the LLC Units will vest in full upon the consummation of this offering, and will be subject to all other terms and conditions applicable to the Incentive Units.

In connection with this initial public offering, we intend to adopt the 2025 Incentive Award Plan, or the 2025 Plan, in order to facilitate the grant of cash and equity incentives to directors, employees (including our named executive officers) and consultants of the Company and certain of our affiliates and to enable us to obtain and retain services of these individuals, which is essential to our long-term success. For additional information about the 2025 Plan, please see "—2025 Incentive Award Plan" below.

IPO Equity Awards

Our Board intends to approve the grant of restricted stock unit awards and stock options pursuant to the 2025 Plan to certain of our employees, including Messrs. Davis, Booth and Geyer, and non-employee directors, which grants will become effective in connection with the consummation of this offering ("IPO Equity Awards"), subject to continued service through the grant date.

The IPO Equity Awards that will be granted to each of Messrs. Davis, Booth and Geyer will be comprised of 50% restricted stock units and 50% stock options and are expected to have a cumulative value of $7,500,000, $1,500,000, and $500,000, respectively, as of the closing of this offering. The IPO Equity Awards that will be granted to our non-employee directors will be comprised of restricted stock unit awards, which are further described under the section titled "Executive and Director Compensation—Director Compensation—Non-Employee Director Compensation Program" below. The aggregate value of restricted stock unit awards to be granted to our employees and non-employee directors in connection with the offering will equal approximately $6.8 million. The aggregate value of stock option awards to be granted to our employees in connection with the offering will equal approximately $6.4 million.

Each restricted stock unit award granted to our executives will vest in substantially equal annual installments on each of the first, second, third and fourth anniversaries of the closing of this offering, subject to the executive's continued service with us through the applicable vesting date. Each stock option granted to our executives will vest and become exercisable in full on the third anniversary of the closing of this offering, subject to the executive's continued service with us through the vesting date. In addition, Mr. Davis's awards will be eligible to vest and become exercisable, if applicable, in full if his employment with us terminates or he resigns as our Chief Executive Officer, in either case, due to his retirement, which generally will require Mr. Davis to provide 12 months' notice of his retirement and satisfy certain requirements related to the transition (including, if requested by us, entering into an agreement to serve as our Executive Chair for at least 12 months), and requires the sum of Mr. Davis' age and years of service to be 62, with at least five years of service.

Other Elements of Compensation and Compensation Policies

Retirement Plans

We currently maintain a 401(k) retirement savings plan, or the 401(k) plan, for our employees, including our named executive officers, who satisfy certain eligibility requirements. Our named executive officers are eligible to participate in the 401(k) plan on the same terms as other full-time employees. The Code allows eligible employees to defer a portion of their compensation, within prescribed limits, through contributions to the 401(k) plan. Currently, we provide safe-harbor matching contributions equal to 100% of a participant's salary deferrals up to 3% of the participant's compensation and equal to 50% of the next 2% of the employee's contributions, subject to limits provided in the Code. These matching contributions are fully vested as of the date on which the contribution is made. We believe that providing a vehicle for retirement savings through our 401(k) plan adds to the overall desirability of our compensation package and further incentivizes our employees, including our named executive officers, in accordance with our compensation policies.

Health and Welfare Benefits and Perquisites

All of our full-time employees, including our named executive officers, are eligible to participate in our health and welfare plans, including medical, dental and vision benefits (including a qualified high deductible health plan with a health savings account); short-term and long-term disability insurance; life and AD&D insurance; employee assistance plan; and travel assistance program.

We believe that the perquisites described in the 2024 Summary Compensation Table above are necessary and appropriate to fairly compensate and incentivize our named executive officers. In addition, all of our full-time employees, including our named executive officers, are eligible to receive a certain number of our beverages per year at no cost to the employee.

Clawback Policy

In connection with this offering, our Board intends to adopt a compensation recovery policy that is compliant with the listing rules of Nasdaq, as required by the Dodd-Frank Act.

Outstanding Equity Awards at 2024 Fiscal Year End

The following table summarizes the number of Incentive Units underlying outstanding equity incentive plan awards for each named executive officer as of December 31, 2024.

Name	Grant Date	Number of Units That Have Not Vested (#)	Market Value of Units That Have Not Vested ($)[1]	Equity Incentive Plan Awards: Number of Unearned Units That Have Not Vested (#)	Equity Incentive Plan Awards: Market Value of Unearned Units That Have Not Vested ($)[1]
Mark Davis	September 8, 2023	49,913 [2]	—	94,398 [3]	—
	September 18, 2024	—	—	39,332 [4]	—
	September 18, 2024	—	—	4,237 [5]	—
	September 18, 2024	3,327 [2]	—	6,293 [3]	—
Rodd Booth	April 18, 2024	—	—	47,037 [6]	—
	September 18, 2024	—	—	2,129 [6]	—
	September 18, 2024	—	—	19,666 [4]	—
Clay Geyer	April 18, 2024	—	—	14,000 [7]	—
	September 18, 2024	—	—	567 [7]	—

(1) The Incentive Units are not publicly traded and, therefore, there was no ascertainable public market value for the Incentive Units as of December 31, 2024. The value of the Incentive Units is calculated as of December 31, 2024 and was determined to be zero, based on the number of outstanding unvested Incentive Units as of such date and taking into account applicable distribution thresholds. If the distribution thresholds were not taken into account, then the per unit value of the unvested Incentive Units would have been approximately $2.22.

(2) Represents unvested Incentive Units that vested or will vest in equal installments on each of January 1, 2025, January 1, 2026 and January 1, 2027, subject to continued service through the date of certification that such vesting condition has been attained. In the event of a Public Offering or a Sale Event (each term as defined in the LLC Agreement of Black Rock OpCo) or the executive's death, all then-unvested Incentive Units would become vested. The distribution threshold is $182,000,000.

(3) Represents unvested Incentive Units that will vest upon the Company's attainment of the performance unit strike price equal to the benchmark strike price ($182,000,000) multiplied by 2.5, subject to continued service through the date of certification that the applicable vesting condition has been attained. In the event of a Public Offering or a Sale Event or the executive's death, all then-unvested Incentive Units would become vested. The distribution threshold is $455,000,000 (which is equal to the benchmark strike price ($182,000,000) multiplied by 2.5).

(4) Represents unvested Incentive Units that will vest in full upon a Public Offering or a Sale Event, subject to the executive's continued service. The distribution threshold is $265,000,000.

(5) Represents unvested Incentive Units that will vest in full upon a Public Offering or a Sale Event or receipt by the Company of an actionable all cash offer otherwise resulting in a Public Offering or a Sale Event, in any case, subject to the executive's continued service. The distribution threshold is $265,000,000.

(6) Represents unvested Incentive Units that will vest upon the Company's attainment of the applicable EBITDA goals, subject to the executive's continued service. In the event of a Public Offering or a Sale Event, all then-unvested Incentive Units would become vested. The distribution threshold is $182,000,000.

(7) Represents unvested Incentive Units that will vest in full upon the Company's attainment of annual consolidated EBITDA goals, subject to the executive's continued service. In the event of a Public Offering or a Sale Event, the vesting schedule is accelerated, such that all then-unvested Incentive Units would become vested. The distribution threshold is $182,000,000.

Executive Compensation Arrangements

The following is a summary of the services agreements we have entered into with our named executive officers and the Executive Severance Plan we intend to adopt in connection with this offering. The services agreements with each of Messrs. Davis, Booth and Geyer will terminate in connection with this offering.

Davis Services Agreement

We are party to a services agreement with Mr. Davis, our Chief Executive Officer, which was originally entered into effective March 23, 2023 and amended on September 8, 2023 and September 18, 2024. Pursuant to the amended services agreement, Mr. Davis is entitled to receive a base salary, an annual cash incentive bonus targeted at $600,000, a RCC Award, a retention bonus and an Incentive Unit award and reimbursement of reasonable relocation expenses in the event Mr. Davis relocates to Phoenix, Arizona during the employment term. In addition, Mr. Davis is eligible to participate in our standard employee benefit programs. Mr. Davis's service pursuant to the amended services agreement will continue until May 1, 2033, unless earlier terminated in accordance with its terms.

Mr. Davis's RCC Award is a special bonus opportunity that will be earned upon the consummation of this offering, subject to our achievement of pre-established adjusted EBITDA goals and Mr. Davis's continued service, delivery of an effective release of claims and continued compliance with restrictive covenants. The amount of the RCC Award (if any) will equal up to $8 million. Mr. Davis's retention bonus is a special $4,000,000 bonus opportunity that will be earned upon the consummation of this offering, subject to Mr. Davis's continued service, delivery an effective release of claims and continued compliance with restrictive covenants.

The amended services agreement also provides for a grant to Mr. Davis of Incentive Units (equal to 4.0% of the common equity securities of the Company as of the date of grant). 36% of the Incentive Units (the "Time-Based Units") are subject to time-based vesting, with 6% of the Time-Based Units vesting on January 1, 2024, and the remaining Time-Based Units vesting in equal installments on each of the subsequent three anniversaries. 64% of such Incentive Units will vest upon the Company's attainment of the performance unit strike price equal to the benchmark strike price ($182,000,000) multiplied by 2.5. In the event of a Public Offering or a Sale Event (each term as defined in the LLC Agreement of Black Rock OpCo) or the executive's death, provided such event occurs during the employment term, all then-unvested Incentive Units would become vested.

If Mr. Davis is terminated without cause or resigns for good reason (each, as defined in the amended services agreement), due to his death or disability or as a result of a non-renewal of the employment term by our company, he is eligible to receive continued payments of base salary for 12 months following the date of termination. These severance payments and benefits are subject to Mr. Davis's timely execution and non-revocation of a release of claims and continued compliance with the restrictive covenants described below.

Booth Services Agreement

We are party to a services agreement with Mr. Booth, our Chief Financial Officer, which was entered into effective December 11, 2023 and amended on May 27, 2025. Pursuant to the amended services agreement, Mr. Booth is entitled to receive a base salary, an annual cash incentive bonus, an Incentive Unit award and is eligible to participate in our standard employee benefit programs. Mr. Booth is also entitled to repurchase by us of a certain number of units held by him in Black Rock OpCo in connection with this offering. Mr. Booth's service pursuant to the amended services agreement will continue until December 10, 2028, subject to automatic one-year successive renewals, unless earlier terminated in accordance with its terms.

The amended services agreement provides for a grant to Mr. Booth of Incentive Units in Black Rock OpCo. The Incentive Units that will vest upon our attainment of pre-established EBITDA goals. In the event of a Public Offering or a Sale Event (each term as defined in the LLC Agreement of Black Rock OpCo), provided such event occurs during the employment term, all then-unvested Incentive Units would become vested.

If Mr. Booth is terminated without cause or resigns for good reason (each, as defined in the amended services agreement), Mr. Booth is eligible to receive continued payments of base salary for three months following the date of termination. These severance payments and benefits are subject to Mr. Booth's

timely execution and non-revocation of a release of claims and continued compliance with the restrictive covenants described below.

Geyer Services Agreement

We are party to a services agreement with Mr. Geyer, our Chief Operating Officer (Vice President of Operations in 2024), which was entered into effective November 9, 2023 and amended on May 27, 2025. Pursuant to the amended services agreement, Mr. Geyer is entitled to receive a base salary, an annual cash incentive bonus, a RCC Award and an Incentive Unit award and is eligible to participate in our standard employee benefit programs. The initial employment term pursuant to Mr. Geyer's amended services agreement ended on November 9, 2024 and has been subject to automatic one-year successive renewals since then, unless earlier terminated in accordance with its terms.

Mr. Geyer's RCC Award will be earned upon the consummation of this offering, subject to our achievement of pre-established enterprise value goals and Mr. Geyer's continued service, delivery of an effective release of claims and continued compliance with restrictive covenants.

The amended services agreement provides for a grant to Mr. Geyer of Incentive Units in Black Rock OpCo. The Incentive Units that will vest upon our attainment of pre-established annual consolidated EBITDA goals. In the event of a Public Offering or a Sale Event (each term as defined in the LLC Agreement of Black Rock OpCo), provided such event occurs during the employment term, all then-unvested Incentive Units would become vested.

If Mr. Geyer is terminated without cause or resigns for good reason (each, as defined in the amended services agreement), Mr. Geyer is eligible to receive continued payments of base salary for three months following the date of termination. These severance payments and benefits are subject to Mr. Geyer's timely execution and non-revocation of a release of claims and continued compliance with the restrictive covenants described below.

Messrs. Davis, Booth and Geyer are party to separate agreements that include restrictive covenants, including non-disclosure of confidential information provision that applies during employment and thereafter, as well as a non-competition provision (other than for Mr. Booth) and service provider and customer non-solicitation provisions that are applicable during employment and for 12 months thereafter.

Executive Severance Plan

In connection with this offering, we adopted the Executive Severance Plan. The Executive Severance Plan will become effective upon the completion of this offering and will provide for the payment of certain cash severance and other benefits to participants, including each of our named executive officers, in the event of a qualifying termination of employment with us.

Under the Executive Severance Plan, in the event of a termination of the executive's employment by us without cause or by the executive for good reason (or, for Mr. Davis, due to death or disability), in any case, outside of the 24-month period commencing on a change in control, the executive will be eligible to receive the following payments and benefits:

- cash payments equal to 100% (or 200% for Mr. Davis) of the executive's then-current annual base salary, paid in substantially equal installments over the 12-month (or 24-month for Mr. Davis) period following the termination date;
- eligibility for a pro-rata annual bonus for the calendar year in which the termination date occurs and based on actual performance of applicable performance goals and, with respect to Mr. Davis only, any earned but unpaid prior-year bonus; and
- company-paid COBRA premium payments for the executive and the executive's eligible dependents for up to 12 months (or 24 months for Mr. Davis).

In the event of a termination of the executive's employment by us without cause or by the executive for good reason (or, for Mr. Davis, due to death or disability), in any case, within the 24-month period commencing on a change in control, the executive will be eligible to receive the following payments and benefits:

- cash payments equal to 100% (or 200% for Mr. Davis) of the sum of the executive's then-current annual base salary and target annual bonus, paid in substantially equal installments over the 12-month (or 24-month for Mr. Davis) following the termination date;
- pro-rata annual target bonus for the calendar year in which the termination date occurs and, with respect to Mr. Davis only, any earned but unpaid prior-year bonus;
- company-paid COBRA premium payments for the executive and the executive's eligible dependents for up to 12 months (or 24 months for Mr. Davis); and
- full vesting of then-unvested equity awards (with respect to performance-vesting equity awards, assuming the greater of target and actual level of performance).

An executive's right to receive the severance payments and benefits described above is subject to the executive's execution and, as applicable, non-revocation of a general release of claims in our favor.

In addition, in the event that any payment under the Executive Severance Plan, together with any other amounts paid to the executive, would subject such executive to an excise tax under Section 4999 of the Internal Revenue Code, such payments will be reduced to the extent that such reduction would produce a better net after-tax result for the executive.

2025 Incentive Award Plan

In connection with this offering, we adopted and our shareholders approved the 2025 Plan, under which we may grant equity and cash incentive awards to eligible service providers in order to attract, motivate and retain the talent for which we compete. The material terms of the 2025 Plan are summarized below.

Eligibility and Administration. Our employees, consultants and directors and employees and consultants of our affiliates will be eligible to receive awards under the 2025 Plan. Following the completion of this offering, the 2025 Plan will be administered by our Board with respect to awards to non-employee directors and by our culture and compensation committee with respect to other participants, each of which may delegate its duties and responsibilities to committees of our directors and/or officers (referred to collectively as the plan administrator), subject to the limitations imposed under the 2025 Plan, Section 16 of the Exchange Act, stock exchange rules and other applicable laws. The plan administrator will have the authority to take all actions and make all determinations under the 2025 Plan, to interpret the 2025 Plan and award agreements and to adopt, amend and repeal rules for the administration of the 2025 Plan as it deems advisable. The plan administrator will also have the authority to determine which eligible service providers receive awards, grant awards and set the terms and conditions of all awards under the 2025 Plan, including any vesting and vesting acceleration provisions, subject to the conditions and limitations in the 2025 Plan.

Limitation on Awards and Shares Available. The initial aggregate number of shares of our common stock that will be available for issuance under the 2025 Plan will be equal to 9% of the number of shares of our Class A common stock, Class B common stock and Class C common stock outstanding as of immediately following the completion of this offering (which is expected to be 4,303,405 shares, assuming an initial public offering price of $17.00 per share, which is the midpoint of the estimated price range set forth on the cover page of this prospectus). In addition, the number of shares of our common stock available for issuance under the 2025 Plan will be subject to an annual increase on the first day of each calendar year beginning on and including January 1, 2026 and ending on and including January 1, 2035, equal to the lesser of (A) 3% of the aggregate number of shares of our Class A common stock, Class B common stock and Class C common stock outstanding on the final day of the immediately preceding calendar year and (B) such smaller number of shares as is determined by our Board. The maximum number of shares that

may be issued pursuant to the exercise of incentive stock options, or ISOs, granted under the 2025 Plan, will be 10,000,000. Any shares issued pursuant to the 2025 Plan may consist, in whole or in part, of authorized and unissued common stock, treasury common stock or common stock purchased on the open market.

If an award under the 2025 Plan expires, lapses or is terminated, exchanged for or settled in cash, any shares subject to such award (or portion thereof) may, to the extent of such expiration, lapse, termination or cash settlement, be used again for new grants under the 2025 Plan. Shares tendered or withheld to satisfy the exercise price or tax withholding obligation for any award will not reduce the shares available for grant under the 2025 Plan. Further, the payment of dividend equivalents in cash in conjunction with any awards under the 2025 Plan will not reduce the shares available for grant under the 2025 Plan. However, the following shares may not be used again for grant under the 2025 Plan: (i) shares subject to stock appreciation rights, or SARs, that are not issued in connection with the stock settlement of the SAR on exercise, and (ii) shares purchased on the open market with the cash proceeds from the exercise of options.

Awards granted under the 2025 Plan upon the assumption of, or in substitution for, awards authorized or outstanding under a qualifying equity plan maintained by an entity with which we enter into a merger or similar corporate transaction will not reduce the shares available for grant under the 2025 Plan but will count against the maximum number of shares that may be issued upon the exercise of ISOs.

The 2025 Plan provides that the sum of any cash compensation and the aggregate grant date fair value (determined as of the date of the grant under Financial Accounting Standards Board Accounting Standards Codification Topic 718, or any successor thereto) of all awards granted to a non-employee director as compensation for services as a non-employee director during any fiscal year, or director limit, may not exceed an amount equal to $750,000 (increased to $1,000,000 in the calendar year of a non-employee director's initial service as a non-employee director or any calendar year during which a non- employee director serves as chairman of our Board or lead independent director), which limits shall not apply to the compensation for any non-employee director who serves in any capacity in addition to that of a non-employee director for which he or she receives additional compensation or any compensation paid prior to the calendar year following the calendar year in which the 2025 Plan becomes effective.

Awards. The 2025 Plan provides for the grant of stock options, including ISOs and nonqualified stock options, or NSOs, SARs, restricted stock, dividend equivalents, restricted stock units, or RSUs, and other stock or cash-based awards. Certain awards under the 2025 Plan may constitute or provide for payment of "nonqualified deferred compensation" under Section 409A of the Code, which may impose additional requirements on the terms and conditions of such awards. All awards under the 2025 Plan will be evidenced by award agreements, which will detail the terms and conditions of the awards, including any applicable vesting and payment terms and post-termination exercise limitations. Awards other than cash awards generally will be settled in shares of our common stock, but the applicable award agreement may provide for cash settlement of any award. A brief description of each award type follows.

- *Stock Options and SARs*. Stock options provide for the purchase of shares of our common stock in the future at an exercise price set on the grant date. ISOs, in contrast to NSOs, may provide tax deferral beyond exercise and favorable capital gains tax treatment to their holders if certain holding period and other requirements of the Code are satisfied. SARs entitle their holder, upon exercise, to receive from us an amount equal to the appreciation of the shares subject to the award between the grant date and the exercise date. Unless otherwise determined by our Board, the exercise price of a stock option or SAR may not be less than 100% of the fair market value of the underlying share on the grant date (or 110% in the case of ISOs granted to certain significant shareholders), except with respect to certain substitute awards granted in connection with a corporate transaction. The term of a stock option or SAR may not be longer than ten years (or five years in the case of ISOs granted to certain significant shareholders). Conditions applicable to stock options and/or SARs may be based on continuing service, the attainment of performance goals and/or such other conditions as the plan administrator may determine.

- *Restricted Stock and RSUs*. Restricted stock is an award of nontransferable shares of our common stock that are subject to certain vesting conditions and other restrictions. RSUs are contractual promises to deliver shares of our common stock in the future, which may also remain forfeitable unless and until specified conditions are met and may be accompanied by the right to receive the equivalent value of dividends paid on shares of our common stock prior to the delivery of the underlying shares (i.e., dividend equivalent rights). The plan administrator may provide that the delivery of the shares underlying RSUs will be deferred on a mandatory basis or at the election of the participant. The terms and conditions applicable to RSUs will be determined by the plan administrator, subject to the conditions and limitations contained in the 2025 Plan. Conditions applicable to restricted stock and RSUs may be based on continuing service, the attainment of performance goals and/or such other conditions as the plan administrator may determine.
- *Other Stock or Cash-Based Awards*. Other stock or cash-based awards are awards of cash, fully vested shares of our common stock and other awards valued wholly or partially by referring to, or otherwise based on, shares of our common stock. Other stock or cash-based awards may be granted to participants and may also be available as a payment form in the settlement of other awards, as standalone payments and as payment in lieu of compensation to which a participant is otherwise entitled.
- *Dividend Equivalents*. Dividend equivalents represent the right to receive the equivalent value of dividends paid on shares of our common stock and may be granted alone or in tandem with awards other than stock options or SARs. Dividend equivalents are credited as of the dividend record dates during the period between the date an award is granted and the date such award vests, is exercised, is distributed or expires, as determined by the plan administrator. Dividend equivalents payable with respect to an award prior to the vesting of such award instead will be paid out to the participant only to the extent that the vesting conditions are subsequently satisfied and the award vests.

*Certain Transactions***.** The plan administrator has broad discretion to take action under the 2025 Plan, as well as make adjustments to the terms and conditions of existing and future awards, to prevent the dilution or enlargement of intended benefits and facilitate necessary or desirable changes in the event of certain transactions and events affecting our common stock, such as stock dividends, stock splits, mergers, acquisitions, consolidations and other corporate transactions. In addition, in the event of certain non-reciprocal transactions with our shareholders known as “equity restructurings,” the plan administrator will make equitable adjustments to the 2025 Plan and outstanding awards. In the event of a change in control (as defined in the 2025 Plan), to the extent that the surviving entity declines to continue, convert, assume or replace outstanding awards, then all such awards will become fully vested and exercisable in connection with the transaction. Upon or in anticipation of a change in control, the plan administrator may cause any outstanding awards to terminate at a specified time in the future and give the participant the right to exercise such awards during a period of time determined by the plan administrator in its sole discretion. Individual award agreements may provide for additional accelerated vesting and payment provisions.

Repricing. Our board of directors may, without approval of the shareholders, reduce the exercise price of any stock option or SAR, or cancel any stock option or SAR in exchange for cash, other awards or stock options or SARs with an exercise price per share that is less than the exercise price per share of the original stock options or SARs.

Plan Amendment and Termination. Our board of directors may amend or terminate the 2025 Plan at any time; however, no amendment, other than an amendment that increases the number of shares available under the 2025 Plan, may materially and adversely affect an award outstanding under the 2025 Plan without the consent of the affected participant, and shareholder approval will be obtained for any amendment to the extent necessary to comply with applicable laws. The 2025 Plan will remain in effect

until the tenth anniversary of the effective date of the 2025 Plan, unless earlier terminated. No awards may be granted under the 2025 Plan after its termination.

Foreign Participants, Claw-back Provisions, Transferability and Participant Payments. The plan administrator may modify award terms, establish subplans and/or adjust other terms and conditions of awards, subject to the share limits described above, in order to facilitate grants of awards subject to the laws and/or stock exchange rules of countries outside of the United States. All awards will be subject to any Company clawback policy as set forth in such clawback policy or the applicable award agreement. Awards under the 2025 Plan are generally non-transferrable, except by will or the laws of descent and distribution, or, subject to the plan administrator's consent, pursuant to a domestic relations order, and are generally exercisable only by the participant. With regard to tax withholding, exercise price and purchase price obligations arising in connection with awards under the 2025 Plan, the plan administrator may, in its discretion, accept cash or check, shares of our common stock that meet specified conditions, a "market sell order" or such other consideration as it deems suitable.

Director Compensation

During the fiscal year ended December 31, 2024, our non-employee directors were Ms. Goldsmith-Grover and Messrs. Brand, Braithwaite, Federico, Hernandez, Pereboom, and Spellmeyer.

In 2024, each of Messrs. Brand, Hernandez, Pereboom and Spellmeyer were entitled to receive an annual cash retainer fee equal to $40,000. As a non-employee director, Mr. Braithwaite also was entitled to receive in 2024 an annual cash retainer fee equal to $40,000, although pursuant to an arrangement with our Sponsor this cash retainer was paid directly to our Sponsor. In addition, in 2024, Mr. Federico was entitled to receive an annual cash retainer fee equal to $50,000 and Ms. Goldsmith-Grover was entitled to receive a $150,000 fee and a grant of Incentive Units in Black Rock OpCo (equal to 0.05% of the common equity securities of the Company as of the date of grant). In 2024, Mr. Federico also received Incentive Unit awards in Black Rock OpCo, covering, in the aggregate, the same number of units as Ms. Goldsmith-Grover's award.

2024 Director Compensation Table

The following table sets forth information for 2024 regarding the compensation awarded to, earned by or paid to the non-employee directors who served on our Board during fiscal year 2024.

Name	Fees Earned or Paid in Cash ($)[1]	Stock Awards ($)[2]	All Other Compensation ($)	Total ($)
Daniel Brand	40,000	—	—	40,000
Andrew Braithwaite	40,000 [3]	—	—	40,000
Rick Federico	50,000	6,537	—	56,537
Sarah Goldsmith-Grover	150,000	6,537	—	156,537
Jeffrey Hernandez	40,000	—	—	40,000
Bryan Pereboom	40,000	—	—	40,000
Jake Spellmeyer	40,000	—	3,749 [4]	43,749

(1) The annual cash retainer fees to Messrs. Brand, Hernandez, Pereboom and Spellmeyer were paid directly to Viking Cake Holdings II, LLC, which is the entity directly or indirectly owned by these directors.
(2) Amounts reflect the aggregate grant date fair value of Incentive Units in Black Rock OpCo, intended to constitute profits interests for federal income tax purposes, granted to Mr. Federico and Ms. Goldsmith-Grover during 2024, computed in accordance with FASB ASC Topic 718, Compensation—Stock Compensation. The grant-date fair value of the time-vesting units was determined based on the fair value of the units on the applicable grant date.
(3) Pursuant to the arrangement with our Sponsor, Mr. Braithwaite's annual cash retainer fee was paid directly to our Sponsor.
(4) Amount represents life insurance premiums paid to Mr. Spellmeyer during 2024.

The table below shows the aggregate numbers of unvested stock awards held as of December 31, 2024 by each non-employee director who was serving as of December 31, 2024.

Name	Incentive Units Outstanding at Fiscal Year End
Daniel Brand	—
Andrew Braithwaite	—
Rick Federico	2,065 (1)
Sarah Goldsmith-Grover	1,967 (2)
Jeffrey Hernandez	—
Bryan Pereboom	—
Jake Spellmeyer	—

(1) Represents unvested Incentive Units that will vest (i) with respect to 295 Incentive Units, in full upon the Company's attainment of annual consolidated EBITDA goals, subject to the director's continued service, and (ii) with respect to 1,770 Incentive Units, in substantially equal installments on each of March 21, 2025 and March 21, 2026, subject to continued service through the date of certification that such vesting condition has been attained. In the event of a Public Offering or a Sale Event, all then-unvested Incentive Units would become vested. The distribution threshold is $182,000,000.

(2) Represents unvested Incentive Units that will vest in substantially equal installments on each of October 1, 2026 and October 1, 2027, subject to continued service through the date of certification that such vesting condition has been attained. In the event of a Public Offering or a Sale Event, all then-unvested Incentive Units would become vested. The distribution threshold is $265,000,000.

Non-Employee Director Compensation Program

In connection with this offering, we adopted, and our shareholders approved, a compensation program (the "Director Compensation Program") for our non-employee directors (each, an "Eligible Director"). The Director Compensation Program will provide for annual cash retainer fees and long-term equity awards. The material terms of the Director Compensation Program are described below.

The Director Compensation Program consists of the following components:

Cash Compensation:

- Annual Retainer: $50,000

The annual cash retainers will be paid in quarterly installments in arrears to independent Eligible Directors who are not affiliated with our Sponsor. However, in light of the compensation she received in 2024, Ms. Goldsmith-Grover is not expected to receive an annual cash retainer until October 1, 2027. Annual cash retainers will be pro-rated for any partial calendar quarter of service.

Equity Compensation:

- 2025 Awards: Our Board intends to approve the grant of RSU awards pursuant to the 2025 Plan to our non-employee directors, which grants will become effective in connection with the completion of this offering (the "2025 Awards"). The dollar-denominated value of each award will be $56,250 and the aggregate dollar-denominated value of these awards will be $450,000. The aggregate number of shares of our Class A common stock that will be subject to the 2025 Awards will be determined based on the initial public offering price per share of our common stock in this offering.

  The 2025 Awards will vest in full on the date of the annual meeting of stockholders to be held in 2026, or, if earlier, the first anniversary of the closing of this offering, subject to continued service through the applicable vesting date.

- Annual Award: An Eligible Director who is serving on our Board as of the date of an annual meeting of stockholders (beginning with calendar year 2026) automatically shall be granted, on the date of such annual meeting, an RSU award with an aggregate value of $75,000. The number

of RSUs subject to the award will be determined by dividing the value of the award by the price per share of our Class A common stock on the applicable grant date.

Each Annual Award will vest in full on the earlier to occur of the first anniversary of the grant date and the date of the next annual meeting following the grant date, subject to continued service.

- Additional Annual Award: In addition, our Non-Executive Chair, Lead Independent Director and each Committee Chair who is serving on our Board as of the date of an annual meeting of stockholders (beginning with calendar year 2026) automatically shall be granted, on the date of such annual meeting, an RSU award with an aggregate value of $15,000. The number of RSUs subject to the award will be determined by dividing the value of the award by the price per share of our Class A common stock on the applicable grant date.

  Each Additional Annual Award will vest in full on the earlier to occur of the first anniversary of the grant date and the date of the next annual meeting following the grant date, subject to continued service.

In addition, each equity award granted to an Eligible Director under the Director Compensation Program will vest in full immediately prior to the occurrence of a "change in control" (as defined in the 2025 Plan). Compensation under the Director Compensation Program will be subject to the annual limits on non-employee director compensation set forth in the 2025 Plan.

Viking Cake Promissory Note

In August 2025, prior to the first public filing of the registration statement of which this prospectus forms a part, our Board approved the forgiveness of the full outstanding principal amount of, and accrued and unpaid interest on, the promissory note we previously entered into with Viking Cake, which aggregate amount was $5.3 million as of June 30, 2025. Each of Messrs. Hernandez, Brand, Spellmeyer and Pereboom directly or indirectly own Viking Cake. For additional information, please refer to "Certain Relationships and Related Party Transactions—Promissory Note Financing."

CERTAIN RELATIONSHIPS AND RELATED PARTY TRANSACTIONS

The following includes a summary of transactions since January 1, 2022 and any currently proposed transactions, to which we were or are to be a participant, in which (i) the amount involved exceeded or will exceed $120,000; and (ii) any of our directors, executive officers, or holders of more than 5% of our capital stock, or any affiliate or member of the immediate family of the foregoing persons or entities, had or will have a direct or indirect material interest, other than compensation and other arrangements that are described under "Executive and Director Compensation."

We believe the terms obtained or consideration that we paid or received, as applicable, in connection with the transactions described below were comparable to terms available or the amounts that we would pay or receive, as applicable, in arm's-length transactions.

Transactions

In connection with the Transactions, we will engage in certain transactions with certain of our directors, executive officers and other persons and entities which are or will become holders of 5% or more of our voting securities upon the consummation of the Transactions. These transactions are described in "Organizational Structure."

Co-Founder Contribution

In connection with the Transactions, an affiliate of Viking Cake that will be controlled by our Co-Founders will enter into a margin loan with a lender that is not the Company or one of its affiliates (the "Margin Loan"), the proceeds of which will be used to purchase 2,247,288 newly issued LLC Units from Black Rock OpCo. Such affiliate of Viking Cake will be issued a corresponding number of shares of Class C common stock (the "Co-Founder Contribution").

Use of Proceeds

We intend to use all of the net proceeds from this offering to purchase LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B common stock). In the event the underwriters exercise their option to purchase additional shares of Class A common stock, we intend to use any proceeds from such exercise (i) to purchase LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B or Class C common stock, as applicable) and, (ii) to the extent there are remaining proceeds, to purchase newly issued LLC Units from Black Rock OpCo.

Black Rock OpCo currently intends to use the net proceeds it receives from this offering, together with proceeds from the Refinancing and the Co-Founder Contribution, (i) to repay all $113.2 million of outstanding borrowings under the Credit Facility, (ii) to pay estimated offering expenses of $6.5 million and, (iii) to the extent there are remaining proceeds, for general corporate purposes.

The foregoing purchases of LLC Units will be at a price per unit equal to the initial public offering price per share of Class A common stock in this offering, less the underwriting discounts and commissions. See "Use of Proceeds" and "Principal Shareholders" for additional information regarding the proceeds from this offering that may be paid to certain of our Continuing Equity Owners.

Tax Receivable Agreement

As described in "Organizational Structure" and in "Transactions" above, we intend to use the net proceeds from this offering to purchase newly issued LLC Units directly from Black Rock OpCo. As a result of our post-offering organizational structure, Black Rock Coffee Bar, Inc. expects to obtain (i) Basis Adjustments and (ii) certain tax benefits (such as interest deductions) arising from payments made under the Tax Receivable Agreement. We intend to treat any redemption or exchange of LLC Units for our Class A

common stock or our cash as our direct purchase of LLC Units from the Continuing Equity Owners for U.S. federal income and other applicable tax purposes, regardless of whether such LLC Units are surrendered by the Continuing Equity Owners to Black Rock OpCo for redemption or sold to us upon the exercise of our election to acquire such LLC Units directly. Such Basis Adjustments may have the effect of reducing the amounts we would otherwise pay in the future to various tax authorities and may also decrease gains (or increase losses) on future dispositions of certain assets to the extent tax basis is allocated to those assets.

In connection with the transactions described above, we will enter into a Tax Receivable Agreement with Black Rock OpCo and the TRA Parties, which we refer to as the Tax Receivable Agreement, that will provide for the payment by Black Rock Coffee Bar, Inc. to the TRA Parties of 85% of the amount of certain tax benefits, if any, that Black Rock Coffee Bar, Inc. actually realizes, or in some circumstances is deemed to realize, as a result of Basis Adjustments and certain tax benefits (such as interest deductions) arising from payments made under the Tax Receivable Agreement. Black Rock OpCo will have in effect an election under Section 754 of the Code, effective for the taxable year that includes the Transactions and each taxable year thereafter. For more information on the equity ownership of the TRA Parties, which include our Co-Founders and certain of their affiliates, including Viking Cake, our Sponsor, all of our executive officers as well as Richard Federico and Sarah Goldsmith-Grover, each a director, please see “Principal Shareholders” and the corresponding footnotes in the ownership table. These Tax Receivable Agreement payments are not conditioned upon one or more of the TRA Parties maintaining a continued ownership interest in Black Rock OpCo. If a TRA Party transfers LLC Units but does not assign to the transferee of such units its rights under the Tax Receivable Agreement, such TRA Party generally will continue to be entitled to receive payments under the Tax Receivable Agreement arising in respect of a subsequent exchange of such LLC Units. In general, the TRA Parties' rights under the Tax Receivable Agreement may not be assigned, sold, pledged, or otherwise alienated to any person other than certain permitted transferees, without our prior written consent (not to be unreasonably withheld, conditioned, or delayed), and such person becoming a party to the Tax Receivable Agreement and agreeing to succeed to the applicable TRA Party’s interest therein. Any assignment, sale, pledge or other transfer of a TRA Party’s rights under the Tax Receivable Agreement would be subject to Black Rock Coffee Bar, Inc.’s right of first refusal and our prior written consent would be required for transfers to more than two transferees (excluding permitted transferees).

The actual Basis Adjustments, as well as any amounts paid to the TRA Parties under the Tax Receivable Agreement, will vary depending on a number of factors, including:

- the timing of any future redemptions or exchanges—for instance, the increase in any tax deductions will vary depending on the fair value, which may fluctuate over time, of the depreciable or amortizable assets of Black Rock OpCo at the time of each redemption, exchange, or distribution (or deemed distribution) as well as the amount of remaining existing tax basis at the time of such redemption, exchange, or distribution (or deemed distribution);
- the price of shares of our Class A common stock at the time of the purchases from the TRA Parties in connection with this offering and any applicable redemptions or exchanges—Basis Adjustments, as well as any related increase in any tax deductions, are directly related to the price of shares of our Class A common stock at the time of such purchases or future redemptions or exchanges;
- the extent to which redemptions or exchanges are taxable—if a redemption or exchange is not taxable for any reason, increased tax deductions will not be available;
- the extent to which such Basis Adjustments are immediately deductible—we may be permitted to immediately expense a portion of the Basis Adjustments (e.g., Basis Adjustments related to certain property and equipment that may be subject to accelerated depreciation methods) attributable to a redemption or exchange, which could significantly accelerate the timing of our realization of the associated tax benefits. Under the Black Rock OpCo LLC Agreement, the

determination of whether to immediately expense such Basis Adjustments will be made in our sole discretion; and

- the amount and timing of our income—the Tax Receivable Agreement generally will require us to pay 85% of the tax benefits as and when those benefits are treated as realized under the terms of the Tax Receivable Agreement. If we do not have sufficient taxable income to realize any of the applicable tax benefits, we generally will not be required (absent a material breach of a material obligation under the Tax Receivable Agreement, change of control, or other circumstances requiring an early termination payment) to make payments under the Tax Receivable Agreement for that taxable year because no tax benefits will have been actually realized. However, any tax benefits that do not result in realized tax benefits in a given taxable year may generate tax attributes that may be utilized to generate tax benefits in previous or future taxable years. The utilization of any such tax attributes will result in payments under the Tax Receivable Agreement.

For purposes of the Tax Receivable Agreement, cash savings in income tax will be computed by comparing our actual income tax liability to the amount of such taxes that we would have been required to pay had there been no Basis Adjustments or additional tax benefits to us as a result of any payments made under the Tax Receivable Agreement; provided that, for purposes of determining cash savings with respect to state income taxes, we will use an assumed tax rate. The Tax Receivable Agreement will generally apply to each of our taxable years, beginning with the first taxable year ending after the consummation of the Transactions. There is no maximum term for the Tax Receivable Agreement; however, the Tax Receivable Agreement may be terminated by us pursuant to an early termination procedure that requires us to pay the TRA Parties an agreed-upon amount equal to the estimated present value of the remaining payments to be made under the agreement (calculated with certain assumptions, including regarding tax rates and utilization of Basis Adjustments and additional tax benefits arising from payments made under the Tax Receivable Agreement).

The payment obligations under the Tax Receivable Agreement are obligations of Black Rock Coffee Bar, Inc. and not of Black Rock OpCo. Although the actual timing and amount of any payments that we may make under the Tax Receivable Agreement will vary, we expect the payments we may be required to make to the TRA Parties could be substantial. Assuming no material changes in the relevant tax laws and that we earn sufficient taxable income to realize all tax benefits that are subject to the Tax Receivable Agreement, we expect the tax savings associated with the purchase of LLC Units in connection with this offering, together with future redemptions or exchanges of all remaining LLC Units owned by the TRA Parties pursuant to the Black Rock OpCo LLC Agreement as described above, would aggregate to approximately $178.8 million over 15 years from the date of this offering based on the assumed initial public offering price of $17.00 per share of our Class A common stock (the midpoint of the estimated price range set forth on the cover page of this prospectus), and assuming all redemptions or exchanges would occur immediately after the initial public offering for the remaining ownership of Black Rock OpCo not acquired by Black Rock Coffee Bar, Inc. Under such scenario, assuming future payments are made on the date each relevant tax return is due, without extensions, we would be required to pay approximately 85% of such amount, or approximately $152.0 million over the 15-year period from the date of this offering, to the TRA Parties. The actual amounts we will be required to pay under the Tax Receivable Agreement may be significantly different from the amounts described in the preceding sentence as a result of, among other things, the factors described above. Any payments made by us to the TRA Parties under the Tax Receivable Agreement will generally reduce the amount of overall cash flow that might have otherwise been available to us or to Black Rock OpCo and, to the extent that we are unable to make payments under the Tax Receivable Agreement for any reason, the unpaid amounts generally will be deferred and will accrue interest until paid by us; provided, however, that nonpayment for a specified period may constitute a material breach of a material obligation under the Tax Receivable Agreement and, therefore, may accelerate payments due under the Tax Receivable Agreement. We anticipate funding any obligation under the Tax Receivable Agreement from cash flow from operations of Black Rock OpCo, available cash, or available borrowings under any future debt agreements. Decisions made by us in the course of running our business, such as with respect to mergers, asset sales, other forms of business combinations, or other changes in control, may influence the timing and amount of payments we pay to a

redeeming TRA Party under the Tax Receivable Agreement. For example, the disposition of assets following an exchange or acquisition transaction may accelerate payments under the Tax Receivable Agreement and increase the present value of such payments.

The Tax Receivable Agreement provides that if certain mergers, asset sales, other forms of business combination, or other changes of control were to occur, if we materially breach any of our material obligations under the Tax Receivable Agreement, or if, at any time, we elect an early termination of the Tax Receivable Agreement, then the Tax Receivable Agreement will terminate and our obligations, or our successor's obligations, under the Tax Receivable Agreement would accelerate and become due and payable, based on certain assumptions (including that we earn sufficient taxable income to realize all potential tax benefits that are subject to the Tax Receivable Agreement). In those circumstances, TRA Parties would be deemed to exchange any remaining outstanding LLC Units for Class A common stock and generally would be entitled to an immediate cash payment under the Tax Receivable Agreement as a result of such deemed exchanges.

We may also elect to completely terminate the Tax Receivable Agreement early only with the written approval of each of a majority of our "independent directors" (within the meaning of Rule 10A-3 promulgated under the Exchange Act and Nasdaq rules).

As a result of the foregoing, we could be required to make an immediate cash payment equal to the present value of the anticipated future tax benefits that are the subject of the Tax Receivable Agreement, which payment may be made significantly in advance of the actual realization, if any, of such future tax benefits. We also could be required to make cash payments to the TRA Parties that are greater than the specified percentage of the actual benefits we ultimately realize in respect of the tax benefits subject to the Tax Receivable Agreement. In these situations, our obligations under the Tax Receivable Agreement could have a substantial negative impact on our liquidity and could have the effect of delaying, deferring, or preventing certain mergers, asset sales, other forms of business combination, or other changes of control. For example, should we elect to terminate the Tax Receivable Agreement immediately following this offering, assuming no material changes in the relevant tax laws or tax rates, we estimate that the aggregate termination payments payable to the TRA Parties would be approximately $104.2 million, based on the assumed initial public offering price of $17.00 per share of our Class A common stock (the midpoint of the estimated price range set forth on the cover page of this prospectus) and assuming SOFR (as defined in the Tax Receivable Agreement) were to be 5.34%.

There can be no assurance that we will be able to finance our obligations under the Tax Receivable Agreement. See "Risk Factors—Risks Related to Our Organizational Structure—In certain cases, payments under the Tax Receivable Agreement to the TRA Parties may be accelerated or significantly exceed any actual benefits we realize in respect of the tax attributes subject to the Tax Receivable Agreement."

Payments under the Tax Receivable Agreement will generally be based on the tax reporting positions that we determine. We will not be reimbursed for any cash payments previously made to the TRA Parties pursuant to the Tax Receivable Agreement if any tax benefits initially claimed by us are subsequently challenged by a taxing authority and ultimately disallowed. Instead, any excess cash payments made by us to a TRA Party will be netted against future cash payments, if any, we might otherwise be required to make under the terms of the Tax Receivable Agreement to such TRA Party. However, a challenge to any tax benefits initially claimed by us may not arise for a number of years following the initial time of such payment or, even if challenged early, such excess cash payment may be greater than the amount of future cash payments, if any, we might otherwise be required to make under the terms of the Tax Receivable Agreement and, as a result, there might not be future cash payments from which to net against. The applicable U.S. federal income tax rules are complex and factual in nature, and there can be no assurance that the IRS or a court will not disagree with our tax reporting positions. As a result, it is possible we could make cash payments under the Tax Receivable Agreement that are substantially greater than our actual cash tax savings.

We will have full responsibility for, and sole discretion over, all our tax matters, including the filing and amendment of all tax returns and claims for refund and defense of all tax contests, subject to certain participation and approval rights held by the TRA Parties. If the outcome of any challenge to all or part of the Basis Adjustments or other tax benefits we claim would reasonably be expected to adversely affect the rights and obligations of the TRA Parties in any material respect under the Tax Receivable Agreement, then we will not be permitted to settle such challenge without the consent (not to be unreasonably withheld or delayed) of the TRA Parties, as applicable. The interests of the TRA Parties in any such challenge may differ from or conflict with our interests and your interests, and the TRA Parties may exercise their consent rights relating to any such challenge in a manner adverse to our interests and your interests.

The Tax Receivable Agreement requires us to provide the TRA Representatives with a schedule showing the calculation of payments due under the Tax Receivable Agreement. We are required to provide such schedule within 120 calendar days after filing our U.S. federal income tax return for each taxable year with respect to which a payment obligation arises. This calculation will be based upon the advice of our tax advisors. Payments under the Tax Receivable Agreement will generally be made to the TRA Parties within five business days after this schedule becomes final pursuant to the procedures set forth in the Tax Receivable Agreement, although interest on such payments will begin to accrue at a rate equal to the lesser of (i) 6.5% or (ii) SOFR plus 100 basis points from the due date (without extensions) of such tax return. Any late payments that may be made under the Tax Receivable Agreement will continue to accrue interest at a rate equal to SOFR plus 500 basis points, until such payments are made, generally including any late payments we may subsequently make because we did not have enough available cash to satisfy our payment obligations at the time they originally arose.

Black Rock OpCo LLC Agreement

Agreement in effect before consummation of the Transactions

Black Rock OpCo and the Continuing Equity Owners are currently parties to the Sixth Amended and Restated Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC, dated as of May 31, 2024, as amended from time to time, which governs the business operations of Black Rock OpCo and defines the relative rights and privileges associated with the existing units of Black Rock OpCo. Under the Black Rock OpCo LLC Agreement in effect prior to the consummation of the Transactions, the board of managers of Black Rock OpCo has full and complete discretion to manage and control the business and affairs of Black Rock OpCo, subject to the terms of the Black Rock OpCo LLC Agreement, and the day-to-day business operations of Black Rock OpCo are overseen and implemented by officers of Black Rock OpCo. Each members' rights under the Black Rock OpCo LLC Agreement continue until the effective time of the new Black Rock OpCo LLC Agreement to be adopted in connection with the Transactions, as described below, at which time the Continuing Equity Owners will continue as members that hold LLC Units with the respective rights thereunder.

Agreement in effect upon consummation of the Transactions

In connection with the consummation of the Transactions, we and the Continuing Equity Owners will enter into the Black Rock OpCo LLC Agreement.

Appointment as managing member. Under the Black Rock OpCo LLC Agreement, we will become a member and the sole manager of Black Rock OpCo. As the sole manager, we will be able to control all of the day-to-day business affairs and decision-making of Black Rock OpCo without the approval of any other member. As such, we, through our officers and directors, will be responsible for all operational and administrative decisions of Black Rock OpCo and daily management of Black Rock OpCo's business. Pursuant to the terms of the Black Rock OpCo LLC Agreement, we cannot be removed or replaced as the sole manager of Black Rock OpCo except by our resignation, which may be given at any time by written notice to the members.

Compensation, fees, and expenses. We will not be entitled to compensation for our services as the manager of Black Rock OpCo. We will be entitled to reimbursement by Black Rock OpCo for reasonable fees and expenses incurred on behalf of Black Rock OpCo, including all expenses associated with the Transactions, any subsequent offering of our Class A common stock, being a public company, and maintaining our corporate existence.

Distributions. The Black Rock OpCo LLC Agreement will require "tax distributions" (as that term is used in the agreement) to be made by Black Rock OpCo to its members. Tax distributions will be made on a quarterly basis to each member of Black Rock OpCo, including us, pro rata in accordance with economic interests and based on such member's allocable share of the taxable income of Black Rock OpCo and an assumed tax rate that will be determined by us, as described below. For this purpose, each member's allocable share of Black Rock OpCo's taxable income shall be net of its allocable share of taxable losses of Black Rock OpCo and our share of tax distributions shall be in amounts that permit us to satisfy our tax liabilities and our ordinary course payment obligations under the Tax Receivable Agreement. The assumed tax rate for purposes of determining tax distributions from Black Rock OpCo to its members generally will be the highest combined U.S. federal, state, and local tax rate that applies to any one of Black Rock OpCo's members, regardless of the actual, final tax liability status of any such member. The Black Rock OpCo LLC Agreement will also allow for cash distributions to be made by Black Rock OpCo (subject to our sole discretion as the sole manager of Black Rock OpCo) to its members on a pro rata basis out of "distributable cash," as that term is defined in the agreement, and as permitted by applicable law. We expect Black Rock OpCo may make distributions out of distributable cash periodically and as necessary to enable us to cover our operating expenses and other obligations, including our tax liability and obligations under the Tax Receivable Agreement, except to the extent such distributions would render Black Rock OpCo insolvent or are otherwise prohibited by law or any of our future debt agreements.

Transfer restrictions. The Black Rock OpCo LLC Agreement generally does not permit transfers of LLC Units by members, except for transfers to permitted transferees, transfers pursuant to the participation right described below and transfers approved in writing by the disinterested members of our Board, and other limited exceptions. The Black Rock OpCo LLC Agreement may impose additional restrictions on transfers (including redemptions described below with respect to each common unit) that are necessary or advisable so that Black Rock OpCo is not treated as a "publicly traded partnership" for U.S. federal income tax purposes. In the event of a permitted transfer under the Black Rock OpCo LLC Agreement, such member will be required to simultaneously transfer shares of Class B common stock or Class C common stock, as applicable, to such transferee equal to the number of LLC Units that were transferred to such transferee in such permitted transfer.

The Black Rock OpCo LLC Agreement provides that, in the event that a tender offer, share exchange offer, issuer bid, take-over bid, recapitalization or similar transaction with respect to our Class A common stock, each of which we refer to as a "Pubco Offer," is approved by our Board or otherwise effected or to be effected with the consent or approval of our Board, each holder of LLC Units (other than Black Rock Coffee Bar, Inc. and its subsidiaries) shall be permitted to participate in such Pubco Offer by delivering a written notice, which shall be effective immediately prior to, and contingent upon, the consummation of such Pubco Offer. If a Pubco Offer is proposed by Black Rock Coffee Bar, Inc., then Black Rock Coffee Bar, Inc. is required to use its reasonable best efforts to take all such actions and do all such things as are necessary or desirable to enable and permit the holders of such LLC Units to participate in such Pubco Offer to the same extent as or on an economically equivalent basis with the holders of shares of Class A common stock, provided that in no event shall any holder of LLC Units be entitled to receive aggregate consideration for each common unit that is greater than the consideration payable in respect of each share of Class A common stock pursuant to the Pubco Offer.

Except for certain exceptions, any transferee of LLC Units must assume, by operation of law or executing a joinder to the Black Rock OpCo LLC Agreement, all of the obligations of a transferring member with respect to the transferred units, and such transferee shall be bound by any limitations and obligations under the Black Rock OpCo LLC Agreement even if the transferee is not admitted as a member of Black

Rock OpCo. A member shall remain as a member with all rights and obligations until the transferee is accepted as substitute member in accordance with the Black Rock OpCo LLC Agreement.

Recapitalization. The Black Rock OpCo LLC Agreement will recapitalize the units currently held by the existing members of Black Rock OpCo into a new single class of LLC Units. The Black Rock OpCo LLC Agreement will also reflect a split of LLC Units such that one common unit can be acquired with the net proceeds received in the initial offering from the sale of one share of our Class A common stock, after the deduction of the underwriting discount. Each common unit generally will entitle the holder to a pro rata share of the net profits and net losses and distributions of Black Rock OpCo.

Maintenance of one-to-one ratio between shares of Class A common stock and LLC Units owned by us, one-to-one ratio between shares of Class B common stock and LLC Units owned by the Continuing Equity Owners and their permitted transferees (other, initially, than the Co-Founders and certain of their affiliates), one-to-one ratio between shares of Class C common stock and LLC Units owned by the Co-Founders, and certain of their affiliates and their permitted transferees. Except as otherwise determined, by us, the Black Rock OpCo LLC Agreement requires Black Rock OpCo to take all actions with respect to its LLC Units, including issuances, reclassifications, distributions, divisions or recapitalizations, such that (1) we at all times maintain a ratio of one common unit owned by us, directly or indirectly, for each share of Class A common stock issued and outstanding, (2) Black Rock OpCo at all times maintains (a) a one-to-one ratio between the number of shares of Class A common stock issued and outstanding and the number of LLC Units owned by us, (b) a one-to-one ratio between the number of shares of Class B common stock issued and owned by the Continuing Equity Owners (other than, initially, the Co-Founders, certain of their affiliates and their permitted transferees) and their permitted transferees and the number of LLC Units owned by the Continuing Equity Owners (other than, initially, the Co-Founders, certain of their affiliates and their permitted transferees) and their permitted transferees, collectively, and (c) a one-to-one ratio between the number of shares of Class C common stock issued and owned by the Co-Founders, certain of their affiliates and their permitted transferees and the number of LLC Units owned by the Co-Founders, certain of their affiliates and their permitted transferees, collectively. This ratio requirement disregards (1) shares of our Class A common stock under unvested options issued by us, (2) treasury stock and (3) preferred stock or other debt or equity securities (including warrants, options or rights) issued by us that are convertible into or exercisable or exchangeable for shares of Class A common stock, except to the extent we have contributed the net proceeds from such other securities, including any exercise or purchase price payable upon conversion, exercise or exchange thereof, to the equity capital of Black Rock OpCo. In addition, the Class A common stock ratio requirement disregards all LLC Units at any time held by any other person, including the Continuing Equity Owners. If we issue, transfer or deliver from treasury stock or repurchase shares of Class A common stock in a transaction not contemplated by the Black Rock OpCo LLC Agreement, we, as manager of Black Rock OpCo, have the authority to take all actions such that, after giving effect to all such issuances, transfers, deliveries or repurchases, the number of outstanding LLC Units we own equals, on a one-for-one basis, the number of outstanding shares of Class A common stock. If we issue, transfer or deliver from treasury stock or repurchase or redeem any of our preferred stock in a transaction not contemplated by the Black Rock OpCo LLC Agreement, we, as manager, have the authority to take all actions such that, after giving effect to all such issuances, transfers, deliveries repurchases or redemptions, we hold (in the case of any issuance, transfer or delivery) or cease to hold (in the case of any repurchase or redemption) equity interests in Black Rock OpCo which (in our good faith determination) are in the aggregate substantially economically equivalent to our preferred stock so issued, transferred, delivered, repurchased or redeemed. Black Rock OpCo is prohibited from undertaking any subdivision (by any split of units, distribution of units, reclassification, recapitalization or similar event) or combination (by reverse split of units, reclassification, recapitalization or similar event) of the LLC Units that is not accompanied by an identical subdivision or combination of (1) our Class A common stock to maintain at all times a one-to-one ratio between the number of LLC Units owned by us and the number of outstanding shares of our Class A common stock, (2) our Class B common stock to maintain at all times a one-to-one ratio between the number of LLC Units owned by the Continuing Equity Owners and their permitted transferees and the number of outstanding shares of our Class B common stock and (3) our Class C common stock to maintain at all

times a one-to-one ratio between the number of LLC Units owned by our Co-Founders, certain of their affiliates and their permitted transferees and the number of outstanding shares of our Class C common stock, as applicable, in each case, subject to exceptions.

Contributions to Black Rock OpCo. The Black Rock OpCo LLC Agreement will permit us, in our discretion, to make contributions of excess cash to Black Rock OpCo. Upon any such contribution, there will be an automatic recapitalization of units in Black Rock OpCo, resulting in a pro rata reduction in the LLC Units and corresponding shares of our Class B common stock and/or Class C common stock (as applicable) held by the members of Black Rock OpCo other than us, to the extent necessary to maintain the one-to-one ratio between shares of our Class A common stock and LLC Units owned by us and the one-to-one ratio between the number of shares of our Class B common stock and/or Class C common stock (as applicable) and the number of outstanding LLC Units held by each Member (other than us).

Issuance of LLC Units upon exercise of options or issuance of other equity compensation. Upon the exercise of options issued by us (as opposed to options issued by Black Rock OpCo), or the issuance of other types of equity compensation by us (such as the issuance of restricted or non-restricted stock, payment of bonuses in stock or settlement of stock appreciation rights in stock), we will have the right to acquire from Black Rock OpCo a number of LLC Units equal to the number of our shares of Class A common stock being issued in connection with the exercise of such options or issuance of other types of equity compensation. When we issue shares of Class A common stock in settlement of stock options granted to persons that are not officers or employees of Black Rock OpCo, we will make, or be deemed to make, a capital contribution in Black Rock OpCo equal to the aggregate value of such shares of Class A common stock and Black Rock OpCo will issue to us a number of LLC Units equal to the number of shares we issued. When we issue shares of Class A common stock in settlement of stock options granted to persons that are officers or employees of Black Rock OpCo, then we will be deemed to have sold directly to the person exercising such award a portion of the value of each share of Class A common stock equal to the exercise price per share, and we will be deemed to have sold directly to Black Rock OpCo the difference between the exercise price and market price per share for each such share of Class A common stock. In cases where we grant other types of equity compensation to employees of Black Rock OpCo, on each applicable vesting date we will be deemed to have sold to Black Rock OpCo the number of vested shares at a price equal to the market price per share, Black Rock OpCo will deliver the shares to the applicable person, and we will be deemed to have made a capital contribution in Black Rock OpCo equal to the purchase price for such shares in exchange for an equal number of LLC Units.

Dissolution. The Black Rock OpCo LLC Agreement will provide that the consent of Black Rock Coffee Bar, Inc. as the managing member of Black Rock OpCo and members holding a majority of the voting units will be required to voluntarily dissolve Black Rock OpCo. In addition to a voluntary dissolution, Black Rock OpCo will be dissolved upon the entry of a decree of judicial dissolution or other circumstances in accordance with Delaware law. Upon a dissolution event, the proceeds of a liquidation will be applied in the following order: (1) first, to pay, or otherwise make adequate provision for the payment thereof, all of the debts, liabilities and obligations of Black Rock OpCo owed to creditors other than the members, including all expenses incurred in connection with the liquidation and winding up of Black Rock OpCo; (2) second, to pay, or otherwise make adequate provision for the payment thereof, all of the debts, liabilities and obligations of Black Rock OpCo owed to the members (other than any payments or distributions owed to such members in their capacity as members pursuant to Black Rock OpCo LLC Agreement); and (3) third, to the members pro-rata in accordance with their respective percentage ownership interests in Black Rock OpCo (as determined based on the number of LLC Units held by a member relative to the aggregate number of all outstanding LLC Units).

Indemnification. The Black Rock OpCo LLC Agreement will provide for indemnification of the manager, members and officers of Black Rock OpCo or affiliates.

Common unit redemption right. The Black Rock OpCo LLC Agreement will provide a redemption right to the Continuing Equity Owners which will entitle them to have their LLC Units redeemed for, at our election (determined solely by our independent directors (within the meaning of Rule 10A-3 promulgated under the

Exchange Act and Nasdaq rules) who are disinterested), newly issued shares of our Class A common stock, on a one-for-one basis, or a cash payment equal to a volume weighted average market price of one share of Class A common stock for each LLC Unit so redeemed, in each case in accordance with the terms of the Black Rock OpCo LLC Agreement; provided that, at our election (determined solely by our independent directors (within the meaning of the rules of the Securities and Exchange Act) who are disinterested), we may effect a direct exchange by Black Rock Coffee Bar, Inc. of such Class A common stock, or such cash, as applicable, for such LLC Units. The Continuing Equity Owners may exercise such redemption right once per calendar quarter during a specified quarterly redemption notice period, and subject to certain exceptions, for as long as their LLC Units remain outstanding. In connection with the exercise of the redemption or exchange of LLC Units (1) the Continuing Equity Owners will be required to surrender a number of shares of our Class B common stock or Class C common stock, as applicable, registered in the name of such redeeming or exchanging Continuing Equity Owner, and therefore, will automatically be transferred to us and will be canceled for no consideration on a one-for-one basis with the number of LLC Units so redeemed or exchanged and (2) all redeeming members will surrender LLC Units to Black Rock OpCo for cancellation.

Each Continuing Equity Owner's redemption rights will be subject to certain customary limitations, including the expiration of any contractual lock-up period relating to the shares of our Class A common stock that may be applicable to such Continuing Equity Owner and the absence of any liens or encumbrances on such LLC Units redeemed. Further, we may not effectuate a cash settlement unless the disinterested directors of our Board have authorized and consummated a qualifying offering by no later than the redemption date for the purpose of satisfying such cash settlement. Additionally, in the case we elect a cash settlement, such Continuing Equity Owner may rescind its redemption request with respect to such redemption within a specified period of time or, on one occasion in a 12-month period, on a drop of the trading price of our Class A common stock of 10%. Moreover, in the case of a settlement in Class A common stock, such redemption may be conditioned on the closing of an underwritten distribution of the shares of Class A common stock, which may be issued in connection with such proposed redemption. In the case of a settlement in Class A common stock, such Continuing Equity Owner may also revoke its redemption request or delay the consummation of a redemption if any of the following conditions exist: (1) any registration statement pursuant to which the resale of the Class A common stock to be registered for such Continuing Equity Owner at or immediately following the consummation of the redemption shall have ceased to be effective pursuant to any action or inaction by the SEC or no such resale registration statement has yet become effective; (2) we failed to cause any related prospectus to be supplemented by any required prospectus supplement necessary to effect such redemption or resale of the Class A common stock; (3) we exercised our right to defer, delay or suspend the filing or effectiveness of a registration statement and such deferral, delay or suspension shall affect the ability of such Continuing Equity Owner to have its Class A common stock registered at or immediately following the consummation of the redemption or to have our Class A common stock resold; (4) such Continuing Equity Owner is in possession of any material non-public information concerning us, the receipt of which results in such Continuing Equity Owner being prohibited or restricted from selling Class A common stock at or immediately following the redemption or resale of its Class A common stock without disclosure of such information (and we do not permit disclosure); (5) any stop order relating to the registration statement pursuant to which the Class A common stock was to be registered by such Continuing Equity Owner at or immediately following the redemption shall have been issued by the SEC; (6) there shall have occurred a material disruption in the securities markets generally or in the market or markets in which the Class A common stock is then traded; (7) there shall be in effect an injunction, a restraining order or a decree of any nature of any governmental entity that restrains or prohibits the redemption; (8) we shall have failed to comply in all material respects with our obligations under the Registration Rights Agreement, and such failure shall have affected the ability of such Continuing Equity Owner to consummate the resale of the Class A common stock to be received upon such redemption pursuant to an effective registration statement; (9) the redemption date would occur during a black-out period; or (10) such Continuing Equity Owner so elects by written notice to Black Rock OpCo no later than three business days prior to the scheduled redemption date.

Exchange and redemption right. The Black Rock OpCo LLC Agreement will provide a redemption right to the Company which will entitle us to redeem all outstanding LLC Units held by the Continuing Equity Owners if the Continuing Equity Owners hold less than 2.5% of the then-outstanding LLC Units. We must provide the Continuing Equity Owners written notice of such mandatory redemption at least one (1) year prior to the proposed redemption date.

Amendments. In addition to certain other requirements, our consent, as manager, and the consent of members holding a majority of the LLC Units then outstanding and entitled to vote (excluding LLC Units held directly or indirectly by us) will generally be required to amend or modify the Black Rock OpCo LLC Agreement.

Registration Rights Agreement in effect upon the consummation of the Transactions

We intend to enter into a Registration Rights Agreement with our Co-Founders, certain of their affiliates, and our Sponsor in connection with this offering, which we refer to as the Registration Rights Agreement. The Registration Rights Agreement will provide our Co-Founders, certain of their affiliates, and our Sponsor with certain demand registration rights, including shelf registration rights, in respect of any shares of our common stock held by them, subject to certain conditions. In addition, in the event that we register additional shares of common stock for sale to the public following the completion of this offering, we will be required to give notice of such registration to our Co-Founders, certain of their affiliates, and our Sponsor, and, subject to certain limitations, include shares of common stock held by them in such registration. The agreement will include customary indemnification provisions in favor of our Co-Founders, certain of their affiliates, and our Sponsor, any person who is or might be deemed a control person (within the meaning of the Securities Act and the Exchange Act) and related parties against certain losses and liabilities (including reasonable costs of investigation and legal expenses) arising out of or based upon any filing or other disclosure made by us under the securities laws relating to any such registration.

Voting Agreements in effect upon the consummation of the Transactions

Co-Founder Voting Agreement

We intend to enter into a Voting Agreement with our Co-Founders in connection with this offering, which we refer to as the Co-Founder Voting Agreement. Pursuant to the Co-Founder Voting Agreement, and subject to the exceptions set forth therein, our Co-Founders and certain of their affiliates will agree to (i) vote their shares of common stock in favor of the election of the Cynosure Nominee; (ii) vote their shares of common stock in favor of each incumbent member of the Board that is nominated for election to the Board for the next two consecutive annual meetings of the Company's shareholders; provided that each of the Co-Founders remains on the Board on the date of the relevant annual meeting; and (iii) in the event that either of Kristina Cashman or Richard Federico shall fail to be nominated for election to the Board prior to the end of their respective term, refrain from voting in favor of the election of a nominee to the Board nominated in the place of either of Kristina Cashman or Richard Federico without the written consent of the Cynosure Nominee.

Sponsor Voting Agreement

We intend to enter into a Voting Agreement with our Sponsor in connection with this offering, which we refer to as the Sponsor Voting Agreement (together with the Co-Founder Voting Agreement, the "Voting Agreements"). Pursuant to the Sponsor Voting Agreement, and subject to the exceptions set forth therein, our Sponsor, for so long as it has the right to nominate the Cynosure Nominee, will agree to vote its shares of common stock in favor of the election of our Co-Founders that are nominated for election to the Board.

The Voting Agreements will terminate upon the earliest to occur of (i) the mutual written agreement of the Company, our Co-Founders and our Sponsor, (ii) the Sunset Date and (iii) the date on which our Sponsor

no longer has the right to nominate a director for election to the Board pursuant to our amended and restated certificate of formation.

Promissory Note Financing

On May 8, 2023, we entered into a promissory note receivable with Viking Cake, in the principal amount of $4.9 million. The promissory note bore interest at 3.57% per annum and had an original maturity date of May 8, 2028. On May 31, 2024, Black Rock OpCo and Viking Cake entered into an amendment to the promissory note pursuant to which the maturity date of the note was amended to the earlier of (a) May 8, 2030, (b) the initial public offering of Black Rock OpCo or a successor company, (c) a Sale Event as defined under the Black Rock OpCo LLC Agreement and (d) the date on which all amounts under the promissory note become due and payable pursuant to an event of default under the note. Jeff Hernandez, Daniel Brand, Jake Spellmeyer and Bryan Pereboom, each of whom are on our Board, directly or indirectly own Viking Cake.

As of December 31, 2024 and December 31, 2023, the principal balance and interest owed by Viking Cake to Black Rock OpCo was $5.2 million and $5.0 million, respectfully. As of June 30, 2025, the principal balance and interest owed by Viking Cake to Black Rock OpCo was $5.3 million. The full outstanding principal amount of, and accrued and unpaid interest on, the promissory note was forgiven prior to the first public filing of the registration statement of which this prospectus forms a part.

Convertible Promissory Note Financing

On January 31, 2023, we issued Viking Cake Holdings II, LLC a convertible promissory note in the principal amount of $7.5 million in exchange for prior advances made to Black Rock OpCo by Viking Cake Holdings II, LLC. The convertible promissory note bore interest at 3.57% per annum and was fully repaid in October 2023. During the year ended December 31, 2023, interest payments payable by us to Viking Cake Holdings II, LLC totaled $91,000. Jeff Hernandez, Daniel Brand, Jake Spellmeyer and Bryan Pereboom, each of whom are on our Board, directly or indirectly own Viking Cake Holdings II, LLC. Viking Cake Holdings II, LLC is an affiliate of Viking Cake, which is the beneficial owner of more than 5% of our capital stock.

Series A Preferred Unit Redemption

On May 31, 2024, we entered into a redemption agreement (the “Series A Redemption Agreement”) with Viking Cake to purchase all of the 19,974,660 outstanding Series A Preferred Units of Black Rock OpCo for an aggregate purchase price of $18.0 million. The Series A Redemption Agreement waived all accrued and unpaid preferred yield associated with the Series A Units in the amount of $5.4 million. As of December 31, 2024, 16,169,962 Series A Preferred Units were purchased for approximately $14.6 million. On April 18, 2025, the remaining 3,804,698 Series A Preferred Units were purchased for approximately $3.4 million. Jeff Hernandez, Daniel Brand, Jake Spellmeyer and Bryan Pereboom, each of whom are on our Board, directly or indirectly own Viking Cake, which is the beneficial owner of more than 5% of our capital stock.

Fee Letter

On May 31, 2024, we entered into a fee letter agreement with certain holders of Black Rock OpCo’s Series A-1 Preferred Units and Series A-2 Preferred Units, including certain entities affiliated with our Sponsor and its affiliates, pursuant to which we agreed to pay $1.5 million in fees in connection with certain amendments to our Credit Facility and the Black Rock OpCo LLC Agreement. Black Rock OpCo also agreed to pay up to an additional $2.5 million upon the occurrence of certain events, including additional redemptions of Series A Preferred Units pursuant to the Series A Redemption Agreement. For the year ended December 31, 2024, we paid our Sponsor approximately $2.9 million pursuant to the fee letter agreement. For the six months ended June 30, 2025, we paid our Sponsor approximately $1.1 million pursuant to the fee letter agreement.

Guarantee and Pledge Agreements

On May 31, 2024, Jeff Hernandez, Daniel Brand, Jake Spellmeyer and Bryan Pereboom, each of whom is a director on our Board, entered into certain amended and restated limited guarantee and pledge agreements with TCW Asset Management Company LLC, as collateral agent for the secured parties under our Credit Facility. Under the limited guarantee and pledge agreements, each of the aforementioned directors guaranteed the prompt payment and performance of the guaranteed obligations by pledging as collateral security certain of their LLC Units.

Payoff and Exchange Agreement

On April 29, 2022, we entered into a payoff and exchange agreement with certain lenders and holders of warrants to purchase Class B Units of Black Rock OpCo. Pursuant to the payoff and exchange agreement: (i) Black Rock OpCo repaid the lenders a portion of the loans and exchanged the remaining loans for Series A-1 Preferred Units and (ii) the warrant holders exercised their warrants to purchase Class B Units and cancelled such warrants in exchange for Series A-1 Preferred Units of Black Rock OpCo.

The following table sets forth details regarding the loan amounts repaid or exchanged for Series A-1 Preferred Units and the Class B warrants exercised and exchanged for Series A-2 Preferred Units by certain of our beneficial owners of more than 5% of our capital stock.

Name	Loan amount repaid	Principal and interest of loans exchanged for Series A-1 Preferred Units	Series A-1 Preferred Units	Exercise Price of Warrants to purchase Class B Units	Class B Units Issued upon Exercise of Warrants	Series A-2 Preferred Units issued in Exchange for Class B Units
Entities Affiliated with The Cynosure Group	$ 25,372,212	$ 106,365,869	$ 1,063,659	$ 5,468	546,916	546,916

Series A-1 and A-2 Preferred Unit Financing

On May 8, 2023, we entered into a securities purchase agreement (the “Purchase Agreement”), pursuant to which we issued and sold to certain entities affiliated with our Sponsor 250,000 Series A-1 Preferred Units and 320,368 Series A-2 Preferred Units in a private placement for an aggregate purchase price of $25.0 million.

On May 20, 2024, we entered into an amendment to the Purchase Agreement, pursuant to which the terms of the second tranche contemplated under the Purchase Agreement were amended and we issued and sold to certain entities affiliated with our Sponsor 100,000 Series A-1 Preferred Units in a private placement for an aggregate purchase price of $10.0 million.

Relationship with Too Sweet

Too Sweet Cakes, LLC (“Too Sweet”), an Oregon bakery, offers a selection of their baked goods exclusively at certain of our stores. Shelbi Geyer, the wife of Clay Geyer, our Chief Operating Officer, and Viking Cake and its affiliates, a beneficial owner of more than 5% of our capital stock, are owners of and investors in Too Sweet. For each of the years ended December 31, 2024 and 2023, we paid Too Sweet $5.3 million and $4.2 million, respectively. For the six months ended June 30, 2025, we paid Too Sweet $3.3 million.

Lease

In 2022, we entered into a lease agreement with KECBG LLC for one of our stores located at 950 SW Scotton Way, Battle Ground, Washington. Clay Geyer, our Chief Operating Officer, is an owner of KECBG

LLC. Pursuant to the lease, we paid KECBG LLC $121,000 in rent for the year ended December 31, 2022. KECBG LLC sold the Battle Ground property in August 2023.

Director and Officer Indemnification and Insurance

Prior to the consummation of this offering, we intend to enter into separate indemnification agreements with each of our directors and executive officers. We have also purchased directors' and officers' liability insurance. See "Description of Capital Stock—Limitations on Liability and Indemnification of Officers and Directors."

Purchases in Directed Share Program

Certain friends and family members of our Co-Founders will be able to purchase shares of our Class A common stock in the directed share program. See "Underwriting—Directed Share Program." All purchases of Class A common stock in the directed share program will be at the public offering price. Purchases by any related persons participating in the directed share program may individually exceed $120,000.

Amended and Restated Certificate of Formation and Amended and Restated Bylaws

Our amended and restated certificate of formation and our amended and restated bylaws will, for so long as our Sponsor beneficially owns, on a collective basis, at least seven and one-half percent (7.5%) of our outstanding common stock, among other things, provide for certain control, approval, and board and committee designation rights to our Sponsor, subject to the limitations contained therein.

Board of Directors

In the event that our Board determines to increase the size of the Board, our amended and restated certificate of formation will provide that any such increase that would cause our Board to consist of more than nine (9) members will be subject to the Cynosure Nominee's prior written approval.

Designation Rights

Our amended and restated certificate of formation will require us take all necessary action to cause the slate of nominees recommended by the Board for election as directors to include one director designated by our Sponsor at each applicable annual or special meeting of stockholders for so long as our Sponsor beneficially owns, on a collective basis, at least seven and one-half percent (7.5%) of our outstanding common stock. Subject to certain limitations, our Sponsor will have the exclusive right to replace the Cynosure Nominee and fill any vacancy created by reason of death, removal, or resignation of the Cynosure Nominee. Our Sponsor will have the right, but not the obligation to designate the Cynosure Nominee to each committee of our Board, provided the Cynosure Nominee remains eligible to serve on the applicable committee under applicable laws, stock exchange listing standards and the rules and regulations of the SEC, including any requisite independence requirements applicable at such time to any committee of the Board. For so long as our Sponsor has the right to nominate the Cynosure Nominee, our Sponsor will also have the right to appoint, remove and replace from time to time one person to act as a nonvoting observer to the Board and each committee thereof, subject to such observer entering into a confidentiality agreement with the Company.

Additional Approval Rights

Our amended and restated certificate of formation and bylaws will also require that, for so long as our Sponsor beneficially owns, on a collective basis, at least seven and one-half percent (7.5%) of our outstanding common stock, subject to certain limitations:

- the Cynosure Nominee is provided reasonable prior notice of material actions to be taken by the Board by written consent;

- any proposed transaction outside of the ordinary course of business that would be required to be disclosed by us pursuant to Item 404 of Regulation S-K of the Securities Act be approved by a majority of the members of our Audit Committee;
- the size of our Board may not be increased to be greater than nine (9) directors without the approval of the Cynosure Nominee; and
- approval of at least 66 2/3% of the Board is required for (i) the incurrence, assumption or guarantee of any indebtedness outside of the ordinary course of business resulting in a net debt leverage ratio exceeding 2.0; (ii) the termination of our Chief Executive Officer; or (iii) material changes to the compensation of any Director.

Related Person Transaction Policy

Our Board recognizes the fact that transactions with related persons present a heightened risk of conflicts of interests (or the perception thereof). Prior to the consummation of this offering, our Board intends to adopt a written policy on transactions with related persons that is in conformity with the requirements for issuers having publicly held common stock that is listed on the Nasdaq Global Market, setting forth the policies and procedures for the review and approval or ratification of related person transactions. This policy is intended to cover, with certain exceptions set forth in Item 404 of Regulation S-K, any transaction, arrangement or relationship, or any series of similar transactions, arrangements, or relationships, in which we (including any of our subsidiaries) are, were or will be a participant, where the amount involved exceeds $120,000 in any fiscal year and a related person has, had, or will have a direct or indirect material interest. Under the policy, our legal staff will be primarily responsible for developing and implementing processes and procedures to obtain information regarding related persons with respect to potential related person transactions and then determining, based on the facts and circumstances, whether such potential related person transactions do, in fact, constitute related person transactions requiring compliance with the policy. If our legal staff determines that a transaction or relationship is a related person transaction requiring compliance with the policy, the Chief Legal Officer will be required to present to the audit committee all relevant facts and circumstances relating to the related person transaction. The audit committee will be required to review the relevant facts and circumstances of each related person transaction, including if the transaction is on terms comparable to those that could be obtained in arm's length dealings with an unrelated third party, whether the transaction is inconsistent with the interest of our and its shareholders, and the extent of the related person's interest in the transaction, take into account the conflicts of interest and corporate opportunity provisions of our code of business conduct and ethics (which will be adopted prior to the completion of this offering), and either approve or disapprove the related person transaction. If advance audit committee approval of a related person transaction requiring the audit committee's approval is not feasible, then the transaction may be preliminarily entered into by management upon prior approval of the transaction by the Chair of the audit committee subject to ratification of the transaction by the audit committee at the audit committee's next regularly scheduled meeting; provided, that if ratification is not forthcoming, management will make all reasonable efforts to cancel or annul the transaction. If a transaction was not initially recognized as a related person transaction, upon such recognition the transaction will be presented to the audit committee for ratification at the audit committee's next regularly scheduled meeting; provided, that if ratification is not forthcoming, management will make all reasonable efforts to cancel or annul the transaction. Management will be required to update the audit committee as to any material changes to any approved or ratified related person transaction and to provide a status report at least annually of all then current related person transactions. No director may participate in approval of a related person transaction for which he or she is a related person.

PRINCIPAL SHAREHOLDERS

The following table sets forth information with respect to the beneficial ownership of our Class A common stock, Class B common stock and Class C common stock (i) immediately following the consummation of the Transactions (excluding this offering), as described in "Organizational Structure" and (ii) as adjusted to give effect to this offering and the Co-Founder Contribution, for:

- each of our directors;
- each of our named executive officers;
- all directors and executive officers as a group; and
- each person, or group of persons, known to us who beneficially owns more than 5% of our capital stock.

The numbers of shares of Class A common stock, Class B common stock and Class C common stock, beneficially owned, percentages of beneficial ownership, and percentages of combined voting power before and after this offering that are set forth below are based on (i) the number of shares and LLC Units to be issued and outstanding prior to and after this offering, after giving effect to the Transactions and (ii) an assumed initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus). See "Organizational Structure." The following table excludes any shares of our Class A common stock that may be purchased pursuant to our directed share program described under "Underwriting—Directed Share Program."

The amounts and percentages of Class A common stock, Class B common stock and Class C common stock beneficially owned are reported on the basis of the regulations of the SEC governing the determination of beneficial ownership of securities. Under these rules, a person is deemed to be a beneficial owner of a security if that person has or shares voting power, which includes the power to vote or to direct the voting of such security, or investment power, which includes the power to dispose of or to direct the disposition of such security. A person is also deemed to be a beneficial owner of any securities of which that person has a right to acquire beneficial ownership within 60 days, provided that any person who acquires any such right with the purpose or effect of changing or influencing the control of the issuer, or in connection with or as a participant in any transaction having such purpose or effect, immediately upon such acquisition shall be deemed to be the beneficial owner of the securities which may be acquired through the exercise of such right. Under these rules, more than one person may be deemed to be a beneficial owner of the same securities. Unless otherwise indicated, the address of all listed shareholders is 9170 E. Bahia Drive, Suite 101, Scottsdale, AZ 85260.

Each of the shareholders listed has sole voting and investment power with respect to the shares beneficially owned by the shareholder unless noted otherwise, subject to community property laws where applicable.

	Class A Common Stock						Class B Common Stock						Class C Common Stock						Combined Voting Power[1]		
	Shares Prior to the Offering		Shares After the Offering		Shares After Offering, Including Full Option Exercise		Shares Prior to the Offering		Shares After the Offering		Shares After Offering, Including Full Option Exercise		Shares Prior to the Offering		Shares After the Offering		Shares After Offering, Including Full Option Exercise		Prior to the Offering	After Offering	After Offering, Including Full Option Exercise
Name of Beneficial Owner	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	Number	%	%	%	%
5% Shareholders																					
Viking Cake BR, LLC[2]	—	—	—	—	—	—	—	—	—	—	—	—	6,741,864	42.8%	8,989,152	49.9%	8,989,152	51.7%	36.3%	42.8%	43.9%
Entities affiliated with The Cynosure Group[3]	466,360	*	466,330	*	466,330	*	22,930,955	81.4%	12,590,198	87.8%	11,439,731	87.1%	—	—	—	—	—	—	12.6%	6.2%	5.8%
Jeff Hernandez[4]	—	—	—	—	—	—	—	—	—	—	—	—	6,795,129	43.1%	9,042,417	50.2%	9,036,092	52.0%	36.6%	43.1%	44.2%
Entities affiliated with Daniel Brand[5]	—	—	—	—	—	—	—	—	—	—	—	—	1,956,464	12.4 %	1,956,464	10.9%	1,956,464	11.3%	10.5%	9.3%	9.6%
Daniel Brand[6]	—	—	—	—	—	—	—	—	—	—	—	—	13,742,703	87.1 %	15,989,991	88.7%	15,363,805	88.4%	73.9%	76.2%	75.1%
Jake Spellmeyer[7]	—	—	—	—	—	—	—	—	—	—	—	—	6,754,172	42.8%	9,001,460	50.0%	9,001,460	51.8%	36.3%	42.9%	44.0%
Bryan Pereboom[8]	—	—	—	—	—	—	—	—	—	—	—	—	6,746,839	42.8%	8,994,127	49.9%	8,994,127	51.7%	36.3%	42.8%	43.9%
Named Executive Officers and Directors:																			*	*	*
Mark Davis[9]	—	—	—	—	—	—	293,582	*	293,582	*	293,582	*	—	—	—	—	—	—	*	*	*
Rodd Booth[10]	—	—	—	—	—	—	206,226	*	131,094	*	131,094	*	—	—	—	—	—	—	*	*	*
Clay Geyer[11]	—	—	—	—	—	—	48,031	*	48,031	*	48,031	*	—	—	—	—	—	— %	*	*	*
Jeff Hernandez[4]	—	—	—	—	—	—	—	—	—	—	—	—	6,795,129	43.1%	9,042,417	50.2%	9,036,092	52.0%	36.6%	43.1%	44.2%
Daniel Brand[6]	—	—	—	—	—	—	—	—	—	—	—	—	13,742,703	87.1 %	15,989,991	88.7%	15,363,805	88.4%	73.9%	76.2%	75.1%
Jake Spellmeyer[7]	—	—	—	—	—	—	—	—	—	—	—	—	6,754,172	42.8%	9,001,460	50.0%	9,001,460	51.8%	36.3%	42.9%	44.0%
Bryan Pereboom[8]	—	—	—	—	—	—	—	—	—	—	—	—	6,746,839	42.8%	8,994,127	49.9%	8,994,127	51.7%	36.3%	42.8%	43.9%
Richard Federico[12]	—	—	—	—	—	—	9,726	*	9,726	*	9,726	*	—	—	—	—	—	—	*	*	*
Sarah Goldsmith-Grover[13]	—	—	—	—	—	—	5,828	*	5,828	*	5,828	*	—	—	—	—	—	—	*	*	*
Andrew Braithwaite[3]	466,360	*	466,330	*	466,330	*	22,930,955	81.4%	12,590,198	87.8%	11,439,731	87.1%	—	—	—	—	—	—	12.6 %	6.2 %	5.8 %
Kristina Cashman	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
All executive officers and directors as a group (15 persons)	466,360	100.0 %	466,360	*	466,360	*	26,935,515.00	95.6 %	13,806,007	96.3 %	12,655,540	96.3 %	15,769,715	100.0 %	18,017,003	100.0 %	17,384,493	100.0 %	99.3 %	92.6 %	91.4 %

* Represents beneficial ownership of less than one percent of the shares of our common stock.

(1) Represents the percentage of voting power of our Class A common stock, Class B common stock and Class C common stock, voting as a single class. Each share of Class A common stock and Class B common stock entitles the registered holder to one vote per share, on all matters presented to shareholders for a vote generally, including the election of directors, and each share of our Class C common stock entitles the registered holder thereof to ten votes per share on all matters presented to shareholders for a vote generally, including the election of directors. The Class A common stock, Class B common stock and Class C common stock, will vote as a single class on all matters except as required by law or our amended and restated certificate of formation. Our Class B common stock and Class C common stock does not have any of the economic rights (including rights to dividends and distributions upon dissolution or liquidation) associated with our Class A common stock. See “Description of Capital Stock.”

(2) Consists of 8,989,152 shares of Class C common stock held by Viking Cake and its wholly-owned subsidiary, Viking Cake Fuel, LLC. Viking Cake’s managers are Vahalda LLC, Aureata, LLC, Jeffrey Hernandez and Daniel Brand. Jake Spellmeyer is the manager of Vahalda LLC. Bryan Pereboom is the manager of Aureatis Limited Liability Company, which is the manager of Aureata, LLC. As a result,

Messrs. Spellmeyer, Pereboom, Hernandez and Brand may be deemed to hold voting and investment power with respect to the shares held by Viking Cake. Pursuant to the Margin Loan, 9,987,947 shares of Class C common stock held by an affiliate of Viking Cake are subject to a "negative pledge" under which the sale or transfer of such shares would result in such loan becoming due. In addition, the Brand Irrevocable Trusts, Pereboom Trusts, Hernandez Irrevocable Trusts, Spellmeyer Irrevocable Trusts (each as defined below), Jeffrey R. Hernandez Revocable Trust, Daniel and Tanya Brand Living Trust, and Juliet A. Spellmeyer Revocable Trust will pledge shares of Class C common stock to cover the shortfall in shares not owned by Viking Cake. Viking Cake plans to use the proceeds from the Margin Loan in connection with the Co-Founder Contribution to purchase 2,247,288 LLC Units from Black Rock OpCo (and will be issued a corresponding number of shares of Class C common stock).

(3) Consists of (a) 5,725,009 shares of Class B common stock held by Cynosure Partners 2020, LP, (b) 425,051 shares of Class B common stock held by Cynosure Partners 2020 PV, LP, (c) 3,207,397 shares of Class B common stock held by Cynosure Partners 2020 Co-Investment, LLC, and (d) 3,232,741 shares of Class B common stock held by Cynosure Partners III, LP. The Cynosure Group, LLC, is the manager for, and has sole voting and investment power with respect to, the shares of Class B common stock held by each of these entities. The address of The Cynosure Group, LLC and its affiliated entities is 111 Main Street, Suite 2350, Salt Lake City, Utah 84111.

(4) Consists of (a) 53,265 shares of Class C common stock held by the Jeffrey R. Hernandez Revocable Trust, for which Mr. Hernandez serves as trustee, and (b) 8,989,152 shares of Class C common stock held by Viking Cake. Mr. Hernandez disclaims beneficial ownership of the shares held by Viking Cake except to the extent of his pecuniary interest therein.

(5) Consists of (a) 978,232 shares of Class C common stock held by the Daniel J. Brand 2021 Trust and (b) 978,232 shares of Class C common stock held by the Tanya N. Brand 2021 Trust (together with the Daniel J. Brand 2021 Trust, the "Brand Irrevocable Trusts"). As investment advisor, Robert Kaufmann may be deemed to hold voting and investment power with respect to the shares held by the Brand Irrevocable Trusts. Mr. Kaufmann disclaims beneficial ownership of the shares held by the Brand Irrevocable Trusts except to the extent of his pecuniary interest therein.

(6) Consists of (a) 19,773 shares of Class C common stock held by the Daniel and Tanya Brand Living Trust, (b) 2,636,299 shares of Class C common stock held by the Jeffrey R. Hernandez 2021 Trust, (c) 2,636,299 shares of Class C common stock held by the Tiffany S. Hernandez 2021 Trust (together with the Jeffrey R. Hernandez 2021 Trust, the "Hernandez Irrevocable Trusts"), (d) 608,780 shares of Class C common stock held by the Jacob V. Spellmeyer 2021 Trust, (e) 608,780 shares of Class C common stock held by the Juliet A. Spellmeyer 2021 Trust (together with the Jacob V. Spellmeyer 2021 Trust, the "Spellmeyer Irrevocable Trusts"), (f) 245,454 shares of Class C common stock held by the Bryan D. Pereboom 2021 Trust, (g) 245,454 shares of Class C common stock held by the Nicole Pereboom 2021 Trust (together with the Bryan D. Pereboom 2021 Trust, the "Pereboom Trusts"), and (h) 8,989,152 shares of Class C common stock held by Viking Cake. Mr. Brand serves as the investment advisor for the Hernandez Irrevocable Trusts, the Spellmeyer Irrevocable Trusts and the Pereboom Trusts. As a trustee, Mr. Brand may be deemed to hold shared voting and investment power with respect to the shares held by the Daniel and Tanya Brand Living Trust. As investment advisor, Mr. Brand may be deemed to hold voting and investment power with respect to the shares held by the Hernandez Trusts, the Spellmeyer Irrevocable Trusts and the Pereboom Trusts. Mr. Brand disclaims beneficial ownership of the shares held by the Hernandez Irrevocable Trusts, the Spellmeyer Irrevocable Trusts, the Pereboom Trusts and Viking Cake except to the extent of his pecuniary interest therein.

(7) Consists of (a) 12,308 shares of Class C common stock held by the Juliet A. Spellmeyer Revocable Trust and (b) 8,989,152 shares of Class C common stock held by Viking Cake. Mr. Spellmeyer serves as a trustee for the Juliet A. Spellmeyer Revocable Trust. As a trustee, Mr. Spellmeyer may be deemed to hold shared voting and investment power with respect to the shares held by the Juliet A. Spellmeyer Revocable Trust. Mr. Spellmeyer disclaims beneficial ownership of the shares held by the Juliet A. Spellmeyer Revocable Trust and Viking Cake except to the extent of his pecuniary interest therein.

(8) Consists of (a) 8,989,152 shares of Class C common stock held by Viking Cake and (b) 4,975 shares held of record by Nicole Pereboom, Mr. Pereboom's spouse. Mr. Pereboom may be deemed to hold shared voting and investment power with respect to the shares held by Nicole Pereboom. Mr. Pereboom disclaims beneficial ownership of the shares held by Viking Cake and Nicole Pereboom except to the extent of his pecuniary interest therein.

(9) Consists of (a) 146,791 shares of Class B common stock held of record by the Mark Davis 2025 Gifting Trust and (b) 146,791 shares of Class B common stock held of record by the Jennifer Davis 2025 Gifting Trust based on 200,899 profits interest units ("PIUs") that will convert into LLC Units in connection with the Transactions. Ms. Davis serves as the trustee of the Mark Davis 2025 Gifting Trust, and Mr. Davis serves as the trustee of the Jennifer Davis 2025 Gifting Trust. Mr. Davis may be deemed to beneficially own the securities owned by the Mark Davis 2025 Gifting Trust and the Jennifer Davis 2025 Gifting Trust.

(10) Consists of 206,226 shares of Class B common stock held of record by Mr. Booth based on 68,832 PIUs that will convert into LLC Units in connection with the Transactions.

(11) Consists of 48,031 shares of Class B common stock held of record by Mr. Geyer based on 14,567 PIUs that will convert into LLC Units in connection with the Transactions.

(12) Consists of 9,726 shares of Class B common stock held of record by Mr. Federico based on 2,950 PIUs that will convert into LLC Units in connection with the Transactions.

(13) Consists of 5,828 shares of Class B common stock held of record by Ms. Goldsmith-Grover based on 2,950 PIUs that will convert into LLC Units in connection with the Transactions.

As disclosed in "Use of Proceeds," we intend to use a portion of the net proceeds (i) from this offering to purchase LLC Units from certain Continuing Equity Owners (and retire the corresponding shares of Class B common stock) and (ii) in the event the underwriters exercise their option to purchase additional shares of Class A common stock, to purchase or redeem outstanding LLC Units and retire corresponding shares of Class B common stock or Class C common stock, as applicable, from certain of our Continuing Equity Owners, in each case at a price per equity interest equal to the initial public offering price per share of our Class A common stock less the underwriting discounts and commissions, as described in "Organizational Structure" and "Use of Proceeds." Of this

amount, the following table sets forth the amounts that may be received by certain of our Continuing Equity Owners and their respective affiliates based upon an assumed initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus).

	Assuming Underwriters' Option is Not Exercised		Assuming Underwriters' Option is Exercised in Full	
	Number of LLC Units Sold	Proceeds	Number of LLC Units Sold	Proceeds
		(in millions, except unit amounts)		
Rodd Booth	75,132	$ 1.2	—	—
The Cynosure Group and its affiliates	10,753,739	$ 170.0	1,196,413	$ 18.9
Co-Founders and their respective affiliates	—	—	632,511	$ 10.0

DESCRIPTION OF CAPITAL STOCK

The following summary describes the material provisions of our capital stock and certain provisions of our amended and restated certificate of formation and our amended and restated bylaws, each of which will become effective immediately prior to the completion of this offering, and the Texas Business Organizations Code (the "TBOC"), and is qualified by reference to the amended and restated certificate of formation, the amended and restated bylaws, and the TBOC. We urge you to read our amended and restated certificate of formation and our amended and restated bylaws, which are included as exhibits to the registration statement of which this prospectus forms a part.

General

Prior to the consummation of this offering, we will file an amended and restated certificate of formation and we will adopt our amended and restated bylaws. Our amended and restated certificate of formation will authorize capital stock as follows:

- 500,000,000 shares of Class A common stock, $0.00001 par value per share;
- 200,000,000 shares of Class B common stock, $0.00001 par value per share;
- 50,000,000 shares of Class C common stock, $0.00001 par value per share; and
- 20,000,000 shares of undesignated preferred stock, with a par value per share that may be established by our Board in the applicable certificate of designations.

We are selling 14,705,882 shares of Class A common stock in this offering (16,911,764 shares if the underwriters exercise in full their option to purchase additional shares of our Class A common stock). All shares of our Class A common stock outstanding upon consummation of this offering will be fully paid and non-assessable. We are issuing 14,331,482 shares of Class B common stock to certain of the Continuing Equity Owners (excluding our Co-Founders and certain of their affiliates) and 18,017,003 shares of Class C common stock to the Co-Founders and certain of their affiliates in connection with the Transactions for nominal consideration.

The following summary describes the material provisions of our capital stock and certain provisions of our amended and restated certificate of formation and our amended and restated bylaws, each of which will become effective prior to the completion of this offering, and of the TBOC, and is qualified by reference to the amended and restated certificate of formation, the amended and restated bylaws and the TBOC. We urge you to read our amended and restated certificate of formation and our amended and restated bylaws, which are included as exhibits to the registration statement of which this prospectus forms a part.

Certain provisions of our amended and restated certificate of formation and our amended and restated bylaws summarized below may be deemed to have an anti-takeover effect and may delay or prevent a tender offer or takeover attempt that a shareholder might consider in its best interest, including those attempts that might result in a premium over the market price for the shares of our Class A common stock.

Common Stock

Class A common stock

Holders of shares of our Class A common stock are entitled to one vote for each share held of record on all matters submitted to a vote of shareholders and on which the holders of the Class A common stock are entitled to vote.

Holders of shares of our Class A common stock are entitled to receive dividends when and if declared by our Board out of funds legally available therefor, subject to any statutory or contractual restrictions on the payment of dividends and to any restrictions on the payment of dividends imposed by the terms of any outstanding preferred stock.

Upon our dissolution or liquidation, after payment in full of all amounts required to be paid to creditors and to the holders of preferred stock having liquidation preferences, if any, the holders of shares of our Class A common stock will be entitled to receive pro rata our remaining assets available for distribution.

Holders of shares of our Class A common stock do not have preemptive, subscription, redemption, or conversion rights. There will be no redemption or sinking fund provisions applicable to the Class A common stock.

Holders of shares of our Class A common stock will vote together with holders of our Class B common stock and Class C common stock as a single class on all matters presented to our shareholders for their vote or approval, except for certain amendments to the amended and restated certificate of formation or as otherwise required by applicable law or our amended and restated certificate of formation.

Class B common stock

Each share of our Class B common stock entitles its holders to one vote per share on all matters presented to our shareholders and on which the holders of the Class B common stock are entitled to vote.

Shares of Class B common stock will be issued in the future only (i) to the extent necessary to maintain a one-to-one ratio between the number of LLC Units held by the Continuing Equity Owners and the number of shares of Class B common stock issued to the Continuing Equity Owners, (ii) upon conversions of Class C common stock upon death or disability of a Co-Founder or (iii) upon conversions of Class C common stock pursuant to a transfer of such Class C common stock by operation of law or otherwise that is not a permitted transfer under our amended and restated certificate of formation. Shares of Class B common stock are transferable only together with an equal number of LLC Units. Only permitted transferees of LLC Units held by the Continuing Equity Owners will be permitted transferees of Class B common stock. See "Certain Relationships and Related Party Transactions—Black Rock OpCo LLC Agreement." The outstanding shares of Class B common stock will be convertible at the option of the holder into shares of Class A common stock on a one-for-one basis; provided that, at our election (determined solely by the Disinterested Majority (as defined in the Black Rock OpCo LLC Agreement) we may effect such exchange for a cash payment equal to a volume weighted average market price of one share of Class A common stock for each LLC Unit so redeemed. Once converted into Class A common stock, such shares of Class B common stock so converted will not be reissued. Shares of Class B common stock automatically transferred to Black Rock Coffee Bar, Inc. upon the redemption or exchange of their LLC Units pursuant to the terms of the Black Rock OpCo LLC Agreement and will be canceled and may not be reissued.

Holders of shares of our Class B common stock will vote together with holders of our Class A common stock, as a single class on all matters presented to our shareholders for their vote or approval, except for certain amendments to our amended and restated certificate of formation described below or as otherwise required by applicable law or our amended and restated certificate of formation.

Holders of our Class B common stock do not have any economic rights or any right to receive dividends (except for certain in-kind dividends) or to receive a distribution upon dissolution or liquidation. Additionally, holders of shares of our Class B common stock do not have preemptive, subscription or redemption rights. There will be no redemption or sinking fund provisions applicable to the Class B common stock. Upon the exchange of an LLC Unit (together with a share of Class B common stock) for Class A common stock, the shares of Class B common stock will be automatically transferred to Black Rock Coffee Bar, Inc. for no consideration and will be canceled and no longer outstanding. Such shares of Class B common stock may not be reissued.

Upon the consummation of the Transactions, the Continuing Equity Owners will own, in the aggregate, 14,331,482 shares of our Class B common stock.

Class C common stock

Each share of our Class C common stock entitles its holders to ten votes per share on all matters presented to our shareholders and on which the holders of the Class C common stock are entitled to vote. Shares of Class C common stock will convert automatically to Class B common stock (i) upon death or disability of a Co-Founder or (ii) upon a transfer of such Class C common stock by operation of law or otherwise that is not a permitted transfer under our amended and restated certificate of formation. Additionally, upon the earlier of (i) the ten-year anniversary of the later of the closing of this offering or the closing date of any exercise of the underwriters' option to purchase additional shares of Class A common stock, and (ii) with respect to each Co-Founder, the date on which the aggregate number of shares of Class C common stock held by such Co-Founder or certain of their affiliates is less than thirty-three percent (33%) of the shares of Class C common stock held by such Co-Founder and certain of their affiliates as of the later of the closing of this offering or the closing date of any exercise of the underwriters' option to purchase additional shares of Class A common stock, each such holder's Class C common stock will automatically convert to fully paid non-assessable shares of Class B common stock.

Shares of Class C common stock will be issued in the future only to the extent necessary to maintain a one-to-one ratio between the number of LLC Units held by the Co-Founders, certain of their affiliates and permitted transferees and the number of shares of Class C common stock issued to the Co-Founders, certain of their affiliates and permitted transferees. Shares of Class C common stock are transferable only together with an equal number of LLC Units. Only permitted transferees of LLC Units held by the Co-Founders and certain of their affiliates will be permitted transferees of Class C common stock. See "Certain Relationships and Related Party Transactions—Black Rock OpCo LLC Agreement." The outstanding shares of Class C common stock will be convertible at the option of the holder into shares of Class A common stock on a one-for-one basis; provided that, at our election (determined solely by the Disinterested Majority (as defined in the Black Rock OpCo LLC Agreement), who are disinterested) we may effect such exchange for a cash payment equal to a volume weighted average market price of one share of Class A common stock for each LLC Unit so redeemed. Once converted into Class A common stock, such shares of Class C common stock so converted will not be reissued. Shares of Class C common stock automatically transferred to Black Rock Coffee Bar, Inc. upon the redemption or exchange of their LLC Units pursuant to the terms of the Black Rock OpCo LLC Agreement and will be canceled and may not be reissued.

Holders of shares of our Class C common stock will vote together with holders of our Class A common stock, as a single class on all matters presented to our shareholders for their vote or approval, except for certain amendments to our amended and restated certificate of formation described below or as otherwise required by applicable law or our amended and restated certificate of formation.

Holders of our Class C common stock do not have any economic rights or any right to receive dividends (except for certain in-kind dividends) or to receive a distribution upon dissolution or liquidation. Additionally, holders of shares of our Class C common stock do not have preemptive, subscription or redemption rights. There will be no redemption or sinking fund provisions applicable to the Class C common stock. Upon the exchange of an LLC Unit (together with a share of Class C common stock) for Class A common stock, the shares of Class C common stock will be automatically transferred to Black Rock Coffee Bar, Inc. for no consideration and will be canceled and no longer outstanding. Such shares of Class C common stock may not be reissued.

Upon the consummation of the Transactions, the Co-Founders and certain of their affiliates will own, in the aggregate, 18,017,003 shares of our Class C common stock.

Preferred Stock

Upon the consummation of the Transactions and the effectiveness of our amended and restated certificate of formation that will become effective immediately prior to the consummation of the Transactions, the total of our authorized shares of preferred stock will be 20,000,000 shares. Upon the consummation of the Transactions, we will have no shares of preferred stock outstanding.

Under the terms of our amended and restated certificate of formation that will become effective immediately prior to the consummation of the Transactions, our Board is authorized to direct us to issue shares of preferred stock in one or more series without shareholder approval. Our Board has the discretion to determine the number and designation of such series and the powers, rights, preferences, privileges, including voting rights, dividend rights, conversion rights, redemption privileges and liquidation preferences, and the qualifications, limitations, or restrictions, of each series of preferred stock.

The purpose of authorizing our Board to issue preferred stock and determine its rights and preferences is to eliminate delays associated with a shareholder vote on specific preferred stock issuances. The issuance of preferred stock, while providing flexibility in connection with possible acquisitions, future financings, and other corporate purposes, could have the effect of making it more difficult for a third party to acquire, or could discourage a third party from seeking to acquire, a majority of the voting power of our outstanding voting stock. Additionally, the issuance of preferred stock may adversely affect the holders of our Class A common stock by restricting dividends on the Class A common stock, diluting the voting power of the Class A common stock, or subordinating the dissolution or liquidation rights of the Class A common stock. As a result of these or other factors, the issuance of preferred stock could have an adverse impact on the market price of our Class A common stock.

Approval and Designation Rights

For so long as our Sponsor beneficially owns, on a collective basis, at least seven and one-half percent (7.5%) of our outstanding common stock, our amended and restated certificate of formation and amended and restated bylaws will require, subject to certain limitations, that:

- the Cynosure Nominee is provided reasonable prior notice of material actions to be taken by the Board by written consent;
- any proposed transaction outside of the ordinary course of business that would be required to be disclosed by us pursuant to Item 404 of Regulation S-K of the Securities Act be approved by a majority of the members of our Audit Committee;
- the size of our Board may not be increased to be greater than nine (9) directors without the approval of the Cynosure Nominee; and
- approval of at least 66 2/3% of the Board is required for (i) the incurrence, assumption or guarantee of any indebtedness outside of the ordinary course of business resulting in a net debt leverage ratio exceeding 2.0; (ii) the termination of our Chief Executive Officer; or (iii) material changes to the compensation of any Director.

Our amended and restated certificate of formation will also require us, for so long as our Sponsor beneficially owns, on a collective basis, at least seven and one-half percent (7.5%) of our outstanding common stock, to include one director designated by our Sponsor in the slate of nominees for election as a Class II director, or such other class to which our Sponsor may consent. Subject to certain limitations, our Sponsor will have the exclusive right to replace its designee and to fill any vacancy created by reason of death, removal, or resignation of its designee.

Registration Rights

We intend to enter into a Registration Rights Agreement with our Co-Founders, certain of their affiliates, and our and Sponsor in connection with this offering pursuant to which such parties will have specified rights to require us to register all or a portion of their shares under the Securities Act. See “Certain Relationships and Related Party Transactions—Registration Rights Agreement in effect upon the consummation of the Transactions.”

Voting Agreements

We intend to enter into Voting Agreements with each of (i) our Co-Founders and certain of their affiliates, and (ii) our Sponsor in connection with this offering. See “Certain Relationships and Related Party Transactions—Voting Agreements in effect upon the consummation of the Transactions.”

Dividends

As a Texas corporation, we are subject to certain restrictions on dividends under the TBOC. Generally, a Texas corporation may pay dividends to its shareholders out of its surplus (the excess of its assets over its stated capital) unless the dividend would render the corporation insolvent.

Declaration and payment of any dividend will be subject to the discretion of our Board. The time and amount of dividends will be dependent upon our business prospects, results of operations, financial condition, cash requirements and availability, debt repayment obligations, capital expenditure needs, contractual restrictions, covenants in the agreements governing our future indebtedness, industry trends, the provisions of Texas law affecting the payment of dividends and distributions to shareholders and any other factors our Board may consider relevant. We currently intend to retain all available funds and any future earnings to fund the development and growth of our business, and therefore, do not anticipate declaring or paying any cash dividends on our Class A common stock in the foreseeable future. See “Dividend Policy” and “Risk Factors—General Risks— We do not intend to pay dividends for the foreseeable future.”

Anti-takeover Provisions

Our amended and restated certificate of formation and amended and restated bylaws will contain and the TBOC contains provisions, which are summarized in the following paragraphs, that are intended to enhance the likelihood of continuity and stability in the composition of our Board. These provisions are intended to avoid costly takeover battles, reduce our vulnerability to a hostile change of control, and enhance the ability of our Board to maximize shareholder value in connection with any unsolicited offer to acquire us. However, these provisions may have an anti-takeover effect and may delay, deter, or prevent a merger or acquisition of us by means of a tender offer, a proxy contest, or other takeover attempt that a shareholder might consider in its best interest, including those attempts that might result in a premium over the prevailing market price for the shares of common stock held by shareholders.

Authorized but Unissued Shares

Texas law does not require shareholder approval for any issuance of authorized shares. Accordingly, the authorized but unissued shares of our common stock and our preferred stock are available for future issuance without shareholder approval, subject to any limitations imposed by Nasdaq rules. The listing standards of Nasdaq, which would apply if and so long as our common stock remains listed on Nasdaq, require shareholder approval of certain issuances equal to or exceeding 20% of the then-outstanding voting power or then-outstanding number of shares of common stock. These additional shares may be issued in the future for a variety of corporate finance transactions, acquisitions, and employee benefit plans and, as described under “Certain Relationships and Related Party Transactions—Black Rock OpCo LLC Agreement—Agreement in effect upon consummation of the Transactions—Common unit redemption right,” funding of redemptions of LLC Units. The existence of authorized but unissued and unreserved common stock and preferred stock could make more difficult or discourage an attempt to obtain control of us by means of a proxy contest, tender offer, merger, or otherwise.

Business Combinations

We are subject to the affiliated business combinations provisions of Title 2, Chapter 21, Subchapter M of the TBOC (Sections 21.601 through 21.610), which provides that a Texas “issuing public corporation”, which applies to any Texas corporation that, among other things, has more than 100 shareholders, may not engage in specified types of business combinations, including mergers, consolidations, and asset

sales, with a person, or an affiliate or associate of that person, who is an "affiliated shareholder." For purposes of this law, an "affiliated shareholder" is generally defined as the holder of 20% or more of the corporation's voting shares, for a period of three years from the date that person became an affiliated shareholder. The law's prohibitions do not apply if:

- the business combination or the acquisition of shares by the affiliated shareholder was approved by the board of directors of the corporation before the affiliated shareholder became an affiliated shareholder; or
- the business combination was approved by the affirmative vote of the holders of at least two-thirds of the outstanding voting shares of the corporation not beneficially owned by the affiliated shareholder, at a meeting of shareholders called for that purpose, not less than six months after the affiliated shareholder became an affiliated shareholder.

Because we will have more than 100 shareholders, we will be considered to be an "issuing public corporation" for purposes of this law. The affiliated business combinations provisions of the TBOC do not apply to the following:

- the business combination of an issuing public corporation where: (a) the corporation's original certificate of formation or bylaws contain a provision expressly electing not to be governed by the affiliated business combinations provisions of the TBOC or (b) the corporation adopts an amendment to its certificate of formation or bylaws, by the affirmative vote of the holders, other than affiliated shareholders, of at least two-thirds of the outstanding voting shares of the corporation, expressly electing not to be governed by the affiliated business combinations provisions of the TBOC, so long as the amendment does not take effect for 18 months following the date of the vote and does not apply to a business combination with an affiliated shareholder who became affiliated on or before the effective date of the amendment;
- a business combination of an issuing public corporation with an affiliated shareholder that became an affiliated shareholder inadvertently, if the affiliated shareholder: (a) divests itself, as soon as practicable, of enough shares to no longer be a beneficial owner of 20% or more of the outstanding voting shares of the issuing public corporation and (b) would not at any time within the three-year period preceding the announcement of the business combination have been an affiliated shareholder but for the inadvertent acquisition;
- a business combination with an affiliated shareholder who became an affiliated shareholder through a transfer of shares by will or intestacy and continuously was an affiliated shareholder until the announcement date of the business combination; or
- a business combination of a corporation with its wholly owned Texas subsidiary if the subsidiary is not an affiliate or associate of the affiliated shareholder other than by reason of the affiliated shareholder's beneficial ownership of voting shares of the corporation.

Neither our amended and restated certificate of formation nor our amended and restated bylaws contain any provision expressly providing that we will not be subject to the affiliated business combinations provisions of the TBOC. The affiliated business combinations provisions of the TBOC may have the effect of inhibiting a non-negotiated merger or other business combination involving us, even if that event would be beneficial to our shareholders.

Vacancies

Our amended and restated certificate of formation will provide that, subject to the rights granted to one or more series of preferred stock then outstanding, and except as otherwise provided in the TBOC, any vacancies on our Board may only be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director, or by the affirmative vote of a majority of the voting power of our then-outstanding capital stock entitled to vote generally in the election of directors. Notwithstanding the foregoing, for so long as our Sponsor has the right to nominate a director for election to the Board, any

vacancy caused by the death, disability, removal or resignation of the Cynosure Nominee shall, at the option of our Sponsor, be filled (i) solely by our Sponsor by delivering a written instrument to the Company identifying an individual to serve as the Cynosure Nominee or (ii) by a majority of the remaining Directors, even if less than a quorum, provided that, after giving effect to the filling of such vacancy, there is only one Cynosure Nominee in office.

No Cumulative Voting

Under Texas law, the right to vote cumulatively does not exist unless the certificate of formation specifically authorizes cumulative voting. Our amended and restated certificate of formation will not authorize cumulative voting. Therefore, shareholders holding a majority in voting power of the shares of our capital stock entitled to vote generally in the election of directors will be able to elect all of our directors.

Multi-Class Stock

As described above in "—Common Stock" our amended and restated certificate of formation will include a multi-class common stock structure, which will provide holders of our Class C common stock with significant influence over matters requiring stockholder approval, including the election of directors and significant corporate transactions, such as a merger or other sale of our company or all or substantially all of its assets. Each share of Class C common stock will be entitled to ten votes for each share of Class C common stock held on all matters submitted to a vote of stockholders.

Shareholder Action; Special Meetings of Shareholders

Our amended and restated certificate of formation will provide that, prior to the Sunset Date, our shareholders may take action by consent without a meeting, and at any time from and after the Sunset Date, our shareholders may not take action by consent without a meeting, but may only take action at a meeting of shareholders. Our amended and restated certificate of formation will further provide that prior to the occurrence of the Sunset Date, holders of a majority of the voting power of all of the then-outstanding shares of Class C common stock may call a special meeting of shareholders, provided that such holders represent at least 10% of all of the then-outstanding shares of our capital stock entitled to vote at such meeting, and at any time from and after the Sunset Date, special meetings of our shareholders may be called only by a majority of our Board, our Chairman, our Chief Executive Officer or president, as applicable, thus prohibiting a shareholder from calling a special meeting. These provisions might delay the ability of our shareholders to force consideration of a proposal or for shareholders controlling a majority of our capital stock to take any action, including the removal of directors.

Requirements for Advance Notification of Director Nominations and Shareholder Proposals

Our amended and restated bylaws will establish advance notice procedures with respect to shareholder proposals and the nomination of candidates for election as directors, other than nominations made by or at the direction of the Board or a committee of the Board. In order for any matter to be "properly brought" before a meeting, a shareholder will have to comply with advance notice requirements and provide us with certain information. Generally, to be timely, a shareholder's notice must be received at our principal executive offices not less than 90 days nor more than 120 days prior to the first anniversary date of the immediately preceding annual meeting of shareholders. Our amended and restated bylaws will also specify requirements as to the form and content of a shareholder's notice. Our amended and restated bylaws will allow the chair of the meeting at a meeting of the shareholders to adopt rules and regulations for the conduct of meetings which may have the effect of precluding the conduct of certain business at a meeting if the rules and regulations are not followed. These provisions may also defer, delay, or discourage a potential acquiror from conducting a solicitation of proxies to elect the acquiror's own slate of directors or otherwise attempting to influence or obtain control of us.

Amendment of Bylaws and Certificate of Formation Provisions

Our amended and restated certificate of formation will provide that, prior to the Sunset Date, the affirmative vote of holders of a majority of the voting power of all of the then-outstanding shares of capital stock and, from and after the Sunset Date, at least 66 2/3% of the voting power of all of the then-outstanding shares of capital stock, in each case voting as a single class, will be required to amend certain provisions of our amended and restated certificate of formation, including provisions relating to amending our amended and restated bylaws, our share capital, the classified board, the size of our Board, removal of directors, our Sponsor's director nomination and observer rights, director and officer liability, vacancies on our Board, special meetings, shareholder notices, actions by written consent and exclusive forum. In addition, our amended and restated certificate of formation will provide that, (i) for so long as any shares of Class B common stock or Class C common stock are outstanding, the affirmative vote of holders of at least 66 2/3% of the voting power of the then-outstanding shares of Class B common stock and Class C common stock, each voting as a separate class, will be required to amend certain provisions relating to our share capital and (ii) any amendment to our amended and restated certificate of formation that gives holders of Class B common stock or Class C common stock certain rights to receive dividends, convert or be exchanged for shares of Class A common stock or other economic rights, will also require the affirmative vote of holders of a majority of the outstanding shares of Class A common stock, voting separately as a separate class.

Our amended and restated certificate of formation will provide that the Board may adopt, amend, alter, or repeal our bylaws. In addition, our amended and restated certificate of formation will provide that our shareholders may not adopt, amend, alter or repeal our bylaws, provided however, that prior to the date on which the holders of LLC Units (other than the Company) hold less than a majority of the voting power of the outstanding shares of capital stock of the Company, the shareholders may adopt, amend, alter, or repeal our bylaws by the affirmative vote of the holders of at least 66 2/3% of the voting power of the then-outstanding shares of capital stock entitled to vote thereon. Additionally, our amended and restated bylaws will provide that the Cynosure Nominee's consent will be required for any amendment to our bylaws by our Board that would have a disproportionately adverse impact on the rights or interests of our Sponsor relative to all holders of common stock or Class B common stock.

Exclusive Forum

Our amended and restated organizational documents will provide that the Business Court in the First Business Court Division of the State of Texas shall be the sole and exclusive forum for certain shareholder litigation matters, unless we consent in writing to the selection of an alternative forum or if the Business Court in the First Business Court Division of the State of Texas is not accepting filings or determines that it lacks jurisdiction, the exclusive forum will be the federal district courts in the Northern District of Texas or, if such federal district courts do not have jurisdiction, the State District Court in Dallas County, Texas; provided, however, that the federal district courts of the United States shall be the exclusive forum for the resolution of any complaint asserting a cause of action arising under the Securities Act and provided, further, that the foregoing choice of forum provision shall not apply to claims seeking to enforce any liability or duty created by the Securities Act, the Exchange Act, or any other claim for which the U.S. federal courts have exclusive jurisdiction. Although we believe this provision benefits us by providing increased consistency in the application of Texas law in the types of lawsuits to which it applies and in limiting our litigation costs, the provision may have the effect of discouraging lawsuits against our directors and officers, may result in increased costs for our shareholders to bring claims, and may limit our shareholders' ability to obtain a favorable judicial forum for disputes with us. However, it is possible that a court could rule that this provision is unenforceable or inapplicable to a particular dispute.

Conflicts of Interest

Texas law permits corporations to adopt provisions renouncing any interest or expectancy in certain opportunities that are presented to the corporation or its officers, directors, or shareholders. Our amended and restated certificate of formation will, to the maximum extent permitted from time to time by Texas law, renounce any interest or expectancy that we have in, or right to be offered an opportunity to participate in,

specified business opportunities that are from time to time presented to any of our directors or shareholders who are not employed by us or our subsidiaries (each such person, an "exempt person"). Our amended and restated certificate of formation will provide that, to the fullest extent permitted by law, no exempt person will have any duty to refrain from (1) engaging in a corporate opportunity in the same or similar lines of business in which we or our subsidiaries now engage or propose to engage or (2) otherwise competing with us or our subsidiaries. In addition, to the fullest extent permitted by applicable law, if any exempt person acquires knowledge of a potential transaction or other business opportunity which may be a corporate opportunity for itself or himself or its or his affiliates or for us or our affiliates, such exempt person will have no duty to communicate or offer such transaction or business opportunity to us or any of our subsidiaries and they may take any such opportunity for themselves or offer it to another person or entity, unless such opportunity was expressly offered to them solely in their capacity as a director, executive officer or employee of us or our subsidiaries. To the fullest extent permitted by Texas law, no potential transaction or business opportunity may be deemed to be a corporate opportunity of the corporation or our subsidiaries unless (1) we or our subsidiaries would be permitted to undertake such transaction or opportunity in accordance with our amended and restated certificate of formation, (2) we or our subsidiaries, at such time have sufficient financial resources to undertake such transaction or opportunity, (3) we or our subsidiaries have an interest or expectancy in such transaction or opportunity and (4) such transaction or opportunity would be in the same or similar line of our business in which we or our subsidiaries are engaged or a line of business that is reasonably related to, or a reasonable extension of, such line of business. Our amended and restated certificate of formation will not renounce our interest in any business opportunity that is expressly offered to an employee director or employee in his or her capacity as a director or employee of Black Rock Coffee Bar, Inc.

Limitations on Liability and Indemnification of Officers and Directors

The TBOC authorizes corporations to limit or eliminate the personal liability of directors and officers to corporations and their shareholders for monetary damages for breaches of directors' and officers' fiduciary duties (other than breaches of such person's duty of loyalty to corporations or their shareholders), except for liability for:

- any breach of the director's duty of loyalty to us or our shareholders;
- any act or omission not in good faith that constitutes a breach of duty of the person to us or which involved intentional misconduct or a knowing violation of law;
- any transaction from which the director derived an improper personal benefit; and
- any act or omission for which the liability of a director is expressly provided by an applicable statute.

Our amended and restated certificate of formation will include a provision that eliminates the personal liability of directors and officers for monetary damages for any breach of fiduciary duty as a director or officer, except to the extent such exemption from liability or limitation thereof is not permitted under the TBOC. The effect of these provisions will be to eliminate, other than limited exceptions, the rights of us and our shareholders, through shareholders' derivative suits on our behalf, to recover monetary damages from a director for breach of fiduciary duty as a director or officer, including breaches resulting from grossly negligent behavior. However, exculpation will not apply to any director or officer if such person has acted in bad faith, engaged in intentional misconduct, knowingly violated the law, authorized illegal dividends or redemptions, derived an improper benefit from his or her actions as a director or officer, or engaged in an act or omission for which the liability of the director or officer is expressly provided by an applicable statute.

Our amended and restated bylaws will provide generally that we must indemnify and advance expenses to our directors and officers to the fullest extent authorized by the TBOC. We also have entered into separate indemnification agreements with each of our directors and executive officers and will be expressly authorized to carry directors' and officers' liability insurance providing indemnification for our

directors, officers, and certain employees for some liabilities. We believe that these indemnification and advancement provisions and insurance will be useful to attract and retain qualified directors and officers.

These limitation of liability, indemnification, and advancement provisions may discourage shareholders from bringing a lawsuit against directors for breach of their fiduciary duty. These provisions also may have the effect of reducing the likelihood of derivative litigation against directors and officers, even though such an action, if successful, might otherwise benefit us and our shareholders. In addition, your investment may be adversely affected to the extent we pay the costs of settlement and damage awards against directors and officers pursuant to these indemnification provisions.

There is currently no pending material litigation or proceeding involving any of our directors, officers, or employees for which indemnification is sought.

Dissenters' Rights of Appraisal and Payment

Under the TBOC, with certain exceptions, our shareholders will have appraisal rights in connection with a merger, a sale of all or substantially all of our assets, an interest exchange, or a conversion. Pursuant to the TBOC, shareholders who properly request and perfect appraisal rights in connection with such merger, sale of all or substantially all of our assets, interest exchange, or conversion will have the right to receive payment of the fair value of their shares as agreed to between the shareholder and us or, if unable to reach agreement, as determined by the State District Court in Dallas County, Texas.

Shareholders' Derivative Actions

Under the TBOC, any of our shareholders may bring a civil action in our name to procure a judgment in our favor, also known as a derivative proceeding, provided that the shareholder bringing the action (i) is a holder of our shares at the time of the transaction to which the action relates or such shareholder became a shareholder by operation of law from a person that was a shareholder at the time of the transaction to which the action relates and (ii) fairly and adequately represents the interests of the Company in enforcing the right of the Company.

Listing

We have applied to list our Class A common stock on the Nasdaq Global Market under the symbol "BRCB."

Transfer Agent and Registrar

The transfer agent and registrar for our Class A common stock, Class B common stock and Class C common stock will be Equiniti Trust Company, LLC. The transfer agent and registrar's address is 48 Wall Street 23rd Floor, New York, New York 10005.

SHARES ELIGIBLE FOR FUTURE SALE

Immediately prior to this offering, there was no public market for our Class A common stock. Future sales of substantial amounts of Class A common stock in the public market (including shares of Class A common stock issuable upon redemption or exchange of LLC Units of our Continuing Equity Owners), or the perception that such sales may occur, could adversely affect the market price of our Class A common stock. Although we intend to apply to have our Class A common stock listed on the Nasdaq Global Market, we cannot assure you that there will be an active public market for our Class A common stock.

Upon the closing of this offering, we will have an aggregate of 15,467,125 shares of Class A common stock outstanding, assuming the issuance of 14,705,882 shares of Class A common stock offered by us in this offering. Of these shares, all shares sold in this offering will be freely tradable without restriction or further registration under the Securities Act, except for any shares purchased by our "affiliates," as that term is defined in Rule 144 under the Securities Act, whose sales would be subject to the Rule 144 resale restrictions described below. In addition, following this offering, 4,303,405 shares of our Class A common stock issuable pursuant to awards granted under our 2025 Plan that are covered by a registration statement on Form S-8 will be freely tradable in the public market, subject to certain contractual and legal restrictions described below.

None of the shares of Class A common stock will be "restricted securities," as that term is defined in Rule 144 under the Securities Act. Restricted securities are eligible for public sale only if they are registered under the Securities Act or if they qualify for an exemption from registration under the Securities Act, including Rules 144 or 701 under the Securities Act, which are summarized below.

In addition, each LLC Unit held by our Continuing Equity Owners will be redeemable, at the election of each Continuing Equity Owner, for, at our election (determined solely by our independent directors (within the meaning of Nasdaq rules) who are disinterested), newly issued shares of our Class A common stock on a one-for-one basis or a cash payment equal to a volume weighted average market price of one share of Class A common stock for each LLC Unit so redeemed, in each case, in accordance with the terms of the Black Rock OpCo LLC Agreement; provided that, at our election (determined solely by our independent directors (within the meaning of Nasdaq rules) who are disinterested), we may effect a direct exchange by Black Rock Coffee Bar, Inc. of such Class A common stock or such cash, as applicable, for such LLC Units. The Continuing Equity Owners may, subject to certain exceptions, exercise such redemption right for as long as their LLC Units remain outstanding. See "Certain Relationships and Related Party Transactions—Black Rock OpCo LLC Agreement." Upon consummation of the Transactions, our Continuing Equity Owners will hold 32,348,485 LLC Units, all of which will be exchangeable for shares of our Class A common stock. The shares of Class A common stock we issue upon such exchanges would be "restricted securities" as defined in Rule 144 unless we register such issuances. However, we will enter into a Registration Rights Agreement with our Co-Founders, certain of their affiliates, and our Sponsor that will require us, subject to customary conditions, to register under the Securities Act these shares of Class A common stock. See "Certain Relationships and Related Party Transactions—Registration Rights Agreement."

Lock-Up Agreements

We, our officers, and directors, and holders of substantially all of our shares of capital stock or other securities convertible into or exchangeable for shares of our capital stock outstanding upon consummation of this offering have agreed or will agree that, without the prior written consent of J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC, we and they will not, subject to certain exceptions, during the period ending 180 days after the date of this prospectus:

- offer, sell, contract to sell, pledge, grant any option to purchase, lend or otherwise dispose of any shares of our Class A common stock, or any options or warrants to purchase any shares of our Class A common stock, or any securities convertible into, or exchangeable for, or that represent the right to receive, shares of our Class A common stock; or

- engage in any hedging or other transaction or arrangement (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) which is designed to, or which reasonably could be expected to lead to, or result in, a sale, loan, pledge or other disposition of shares of our Class A common stock or any securities convertible into or exercisable or exchangeable for shares of our Class A common stock, whether any transaction described above is to be settled by delivery of our Class A common stock or such other securities, in cash or otherwise.

Upon the expiration of the applicable lock-up periods, substantially all of the shares subject to such lock-up restrictions will become eligible for sale, subject to the limitations discussed above. See "Underwriting" for additional information.

In addition to the restrictions contained in the lock-up agreements described above, we have entered into agreements with certain security holders that contain market standoff provisions imposing restrictions on the ability of such security holders to offer, sell, or transfer our equity securities for a period of 180 days following the date of this prospectus.

Rule 144

In general, under Rule 144 under the Securities Act as currently in effect, a person (or persons whose shares are aggregated) who is not deemed to have been an affiliate of ours at any time during the three months preceding a sale, and who has beneficially owned restricted securities within the meaning of Rule 144 for at least six months (including any period of consecutive ownership of preceding non-affiliated holders) would be entitled to sell those shares, subject only to the availability of current public information about us. A non-affiliated person who has beneficially owned restricted securities within the meaning of Rule 144 for at least one year would be entitled to sell those shares without complying with any of the requirements of Rule 144.

Beginning 90 days after we become subject to the public company reporting requirements of the Exchange Act and subject to applicable lock-up restrictions described above, a person (or persons whose shares are aggregated) who is deemed to be an affiliate of ours and who has beneficially owned restricted securities within the meaning of Rule 144 for at least six months would be entitled to sell within any three-month period a number of shares that does not exceed the greater of 1% of the then-outstanding shares of our Class A common stock or the average weekly trading volume of our Class A common stock during the four calendar weeks preceding the filing of notice of the sale. Such sales are also subject to certain manner of sale provisions, notice requirements, and the availability of current public information about us.

Rule 701

In general, under Rule 701, any of our employees, directors, officers, consultants, or advisors who purchases shares from us in connection with a compensatory stock or option plan or other written agreement before the effective date of the registration statement of which this prospectus forms a part is entitled to sell such shares 90 days after such effective date in reliance on Rule 144. Our affiliates can resell shares in reliance on Rule 144 without having to comply with the holding period requirement (but subject to all other requirements of Rule 144), and non-affiliates of the issuer can resell shares in reliance on Rule 144 without having to comply with the current public information and holding period requirements (but subject to the manner-of-sale restrictions).

Registration Rights

See "Certain Relationships and Related Party Transactions—Registration Rights Agreement in effect upon the consummation of the Transactions" for a description of these registration rights. If the offer and sale of these shares is registered, the shares will be freely tradable without restriction under the Securities Act, and a large number of shares may be sold into the public market.

Equity Incentive Plans

We intend to file with the SEC a registration statement on Form S-8 under the Securities Act to register the offer and sale of all shares of Class A common stock reserved for issuance under our 2025 Plan.

Such registration statement is expected to be filed and become effective as soon as practicable after the completion of this offering. Accordingly, shares registered under such registration statement will be available for sale in the open market following its effective date, subject to certain Rule 144 limitations applicable to affiliates, vesting restrictions, and the lock-up agreements and market standoff restrictions described above, if applicable.

MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES TO NON-U.S. HOLDERS

The following discussion is a summary of the material U.S. federal income tax consequences to Non-U.S. Holders (as defined below) of the purchase, ownership and disposition of our Class A common stock issued pursuant to this offering but does not purport to be a complete analysis of all potential tax effects. The effects of other U.S. federal tax laws, such as estate and gift tax laws, and any applicable state, local, or non-U.S. tax laws are not discussed. This discussion is based on the Code, Treasury Regulations promulgated thereunder, judicial decisions, and published rulings and administrative pronouncements of the IRS, in each case in effect as of the date hereof. These authorities may change or be subject to differing interpretations. Any such change or differing interpretation may be applied retroactively in a manner that could adversely affect a Non-U.S. Holder. We have not sought and will not seek any rulings from the IRS regarding the matters discussed below. There can be no assurance the IRS or a court will not take a contrary position to that discussed below regarding the tax consequences of the purchase, ownership and disposition of our Class A common stock.

This discussion is limited to Non-U.S. Holders that hold our Class A common stock as a "capital asset" within the meaning of Section 1221 of the Code (generally, property held for investment). This discussion does not address all U.S. federal income tax consequences relevant to a Non-U.S. Holder's particular circumstances, including the impact of the Medicare contribution tax on net investment income and the alternative minimum tax. In addition, it does not address consequences relevant to Non-U.S. Holders subject to special rules, including, without limitation:

- U.S. expatriates and former citizens or long-term residents of the United States;
- persons holding our Class A common stock as part of a straddle or other risk reduction strategy or as part of a conversion transaction or other integrated investment;
- banks, insurance companies, and other financial institutions;
- brokers, dealers, or certain electing traders in securities that are subject to a mark-to-market method of tax accounting for their securities;
- "controlled foreign corporations," "passive foreign investment companies," and corporations that accumulate earnings to avoid U.S. federal income tax;
- partnerships or other entities or arrangements treated as partnerships for U.S. federal income tax purposes (and investors therein);
- tax-exempt organizations or governmental organizations;
- persons deemed to sell our Class A common stock under the constructive sale provisions of the Code;
- persons required for U.S. federal income tax purposes to conform the timing of income accruals with respect to our Class A common stock to their financial statements under Section 451(b) of the Code;
- persons who hold or receive our Class A common stock pursuant to the exercise of any employee stock option or otherwise as compensation;
- tax-qualified retirement plans; and
- "qualified foreign pension funds" as defined in Section 897(l)(2) of the Code and entities all of the interests of which are held by qualified foreign pension funds.

If an entity treated as a partnership for U.S. federal income tax purposes holds our Class A common stock, the tax treatment of an owner of such an entity will depend on the status of the owner, the activities of such entity and certain determinations made at the owner level. Accordingly, entities treated as partnerships for U.S. federal income tax purposes holding our Class A common stock and the owners of such entities should consult their tax advisors regarding the U.S. federal income tax consequences to them.

THIS DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. PROSPECTIVE INVESTORS SHOULD CONSULT THEIR TAX ADVISORS WITH RESPECT TO THE APPLICATION OF THE U.S. FEDERAL INCOME TAX LAWS TO THEIR PARTICULAR SITUATIONS AS WELL AS ANY TAX CONSEQUENCES OF THE PURCHASE, OWNERSHIP AND DISPOSITION OF OUR CLASS A COMMON STOCK ARISING UNDER THE U.S. FEDERAL ESTATE OR GIFT TAX LAWS OR UNDER THE LAWS OF ANY STATE, LOCAL, OR NON-U.S. TAXING JURISDICTION OR UNDER ANY APPLICABLE INCOME TAX TREATY.

Definition of a Non-U.S. Holder

For purposes of this discussion, a "Non-U.S. Holder" is any beneficial owner of our Class A common stock that is an individual, corporation, estate or trust that is not a "U.S. person." A U.S. person is any person that, for U.S. federal income tax purposes, is or is treated as any of the following:

- an individual who is a citizen or resident of the United States;
- a corporation (or other entity treated as a corporation for U.S. federal income tax purposes) created or organized under the laws of the United States, any state thereof, or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust that (1) is subject to the primary supervision of a U.S. court and the control of one or more "United States persons" (within the meaning of Section 7701(a)(30) of the Code), or (2) has a valid election in effect to be treated as a United States person for U.S. federal income tax purposes.

Distributions

As described in the "Dividend Policy" section of this prospectus we do not anticipate declaring or paying any dividends on our Class A common stock in the foreseeable future. However, if we do make distributions of cash or property on our Class A common stock, such distributions will constitute dividends for U.S. federal income tax purposes to the extent paid from our current or accumulated earnings and profits, as determined under U.S. federal income tax principles. Amounts not treated as dividends for U.S. federal income tax purposes will constitute returns of capital and first be applied against and reduce a Non-U.S. Holder's adjusted tax basis in its Class A common stock, but not below zero. Any excess will be treated as capital gain and will be treated as described below under "—Sale or other taxable disposition."

Subject to the discussion below on effectively connected income, dividends paid to a Non-U.S. Holder will be subject to U.S. federal withholding tax at a rate of 30% of the gross amount of the dividends (or such lower rate specified by an applicable income tax treaty, provided the Non-U.S. Holder furnishes a valid IRS Form W-8BEN or W-8BEN-E (or other applicable documentation) certifying qualification for the lower treaty rate). A Non-U.S. Holder that does not timely furnish the required documentation, but that qualifies for a reduced treaty rate, may obtain a refund of any excess amounts withheld by timely filing an appropriate claim for refund with the IRS. Non-U.S. Holders should consult their tax advisors regarding their entitlement to benefits under any applicable income tax treaty.

If dividends paid to a Non-U.S. Holder are effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such dividends are

attributable), the Non-U.S. Holder will be exempt from the U.S. federal withholding tax described above. To claim the exemption, the Non-U.S. Holder must furnish to the applicable withholding agent a valid IRS Form W-8ECI, certifying that the dividends are effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States.

Any such effectively connected dividends will be subject to U.S. federal income tax on a net income basis at the rates and in the manner generally applicable to United States persons (as defined by the Code) unless an applicable income tax treaty provides otherwise. A Non-U.S. Holder that is a corporation also may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on such effectively connected dividends, as adjusted for certain items. Non-U.S. Holders should consult their tax advisors regarding any applicable tax treaties that may provide for different rules.

Sale or other taxable disposition

A Non-U.S. Holder will not be subject to U.S. federal income tax on any gain realized upon the sale or other taxable disposition of our Class A common stock unless:

- the gain is effectively connected with the Non-U.S. Holder's conduct of a trade or business within the United States (and, if required by an applicable income tax treaty, the Non-U.S. Holder maintains a permanent establishment in the United States to which such gain is attributable);
- the Non-U.S. Holder is a nonresident alien individual present in the United States for 183 days or more during the taxable year of the disposition and certain other requirements are met; or
- our Class A common stock constitutes a U.S. real property interest ("USRPI") by reason of our status as a U.S. real property holding corporation ("USRPHC") for U.S. federal income tax purposes.

Gain described in the first bullet point above generally will be subject to U.S. federal income tax on a net income basis at the rates and in the manner generally applicable to United States persons (as defined by the Code) unless an applicable income tax treaty provides otherwise. A Non-U.S. Holder that is a corporation also may be subject to a branch profits tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on such effectively connected gain, as adjusted for certain items.

A Non-U.S. Holder described in the second bullet point above will be subject to U.S. federal income tax at a rate of 30% (or such lower rate specified by an applicable income tax treaty) on gain realized upon the sale or other taxable disposition of our Class A common stock, which may be offset by certain U.S.-source capital losses of the Non-U.S. Holder (even though the individual is not considered a resident of the United States), provided the Non-U.S. Holder has timely filed U.S. federal income tax returns with respect to such losses.

With respect to the third bullet point above, we believe we currently are not, and do not anticipate becoming, a USRPHC. Because the determination of whether we are a USRPHC depends, however, on the fair market value of our USRPIs relative to the fair market value of our non-U.S. real property interests and our other business assets, there can be no assurance we currently are not a USRPHC or will not become one in the future. Even if we are or were to become a USRPHC, gain arising from the sale or other taxable disposition of our common stock by a Non-U.S. Holder will not be subject to U.S. federal income tax if our common stock is "regularly traded," as defined by applicable Treasury Regulations, on an established securities market and such Non-U.S. Holder owned, actually and constructively, 5% or less of our common stock throughout the shorter of the five-year period ending on the date of the sale or other taxable disposition or the Non-U.S. Holder's holding period.

Non-U.S. Holders should consult their tax advisors regarding potentially applicable income tax treaties that may provide for different rules.

Information reporting and backup withholding

Payments of dividends on our Class A common stock will not be subject to backup withholding, provided the applicable payor does not have actual knowledge or reason to know the Non-U.S. Holder is a United States person and the Non-U.S. Holder either certifies its non-U.S. status, such as by furnishing a valid IRS Form W-8BEN, W-8BEN-E or W-8ECI, or otherwise establishes an exemption.

However, information returns are required to be filed with the IRS in connection with any distributions on our Class A common stock paid to the Non-U.S. Holder, regardless of whether such distributions constitute dividends or whether any tax was actually withheld. In addition, proceeds of the sale or other taxable disposition of our Class A common stock within the United States or conducted through certain U.S.-related brokers generally will not be subject to backup withholding or information reporting if the applicable payor receives the certification described above and does not have actual knowledge or reason to know that such Non-U.S. Holder is a United States person or the Non-U.S. Holder otherwise establishes an exemption. Proceeds of a disposition of our Class A common stock conducted through a non-U.S. office of a non-U.S. broker that does not have certain enumerated relationships with the United States generally will not be subject to backup withholding or information reporting.

Copies of information returns that are filed with the IRS may also be made available under the provisions of an applicable treaty or agreement to the tax authorities of the country in which the Non-U.S. Holder resides or is established.

Backup withholding is not an additional tax. Any amounts withheld under the backup withholding rules may be allowed as a refund or a credit against a Non-U.S. Holder's U.S. federal income tax liability, provided the required information is timely furnished to the IRS.

Additional withholding tax on payments made to foreign accounts

Withholding taxes may be imposed under Sections 1471 to 1474 of the Code (such Sections commonly referred to as the Foreign Account Tax Compliance Act ("FATCA")) on certain types of payments made to non-U.S. financial institutions and certain other non-U.S. entities. Specifically, a 30% withholding tax may be imposed on dividends on, or (subject to the proposed Treasury Regulations discussed below) gross proceeds from the sale or other disposition of, our Class A common stock paid to a "foreign financial institution" or a "non-financial foreign entity" (each as defined in the Code), unless (1) the foreign financial institution undertakes certain diligence and reporting obligations, (2) the non-financial foreign entity either certifies it does not have any "substantial United States owners" (as defined in the Code) or furnishes identifying information regarding each substantial United States owner, or (3) the foreign financial institution or non-financial foreign entity otherwise qualifies for an exemption from these rules. If the payee is a foreign financial institution and is subject to the diligence and reporting requirements in (1) above, it must enter into an agreement with the U.S. Department of the Treasury requiring, among other things, that it undertake to identify accounts held by certain "specified United States persons" or "United States owned foreign entities" (each as defined in the Code), annually report certain information about such accounts, and withhold 30% on certain payments to non-compliant foreign financial institutions and certain other account holders. Foreign financial institutions located in jurisdictions that have an intergovernmental agreement with the United States governing FATCA may be subject to different rules.

Under the applicable Treasury Regulations and administrative guidance, withholding under FATCA generally applies to payments of dividends on our Class A common stock. While withholding under FATCA would have applied also to payments of gross proceeds from the sale or other disposition of stock, proposed Treasury Regulations eliminate FATCA withholding on payments of gross proceeds entirely. Taxpayers generally may rely on these proposed Treasury Regulations until final Treasury Regulations are issued.

If withholding under FATCA is imposed, a beneficial owner that is not a foreign financial institution generally may obtain a refund of any amounts withheld by filing a U.S. federal income tax return (which may entail significant administrative burden). Prospective investors should consult their tax advisors regarding the potential application of withholding under FATCA to their investment in our Class A common stock.

UNDERWRITING

We are offering the shares of Class A common stock described in this prospectus through a number of underwriters. J.P. Morgan Securities LLC, Jefferies LLC, Morgan Stanley & Co. LLC and Robert W. Baird & Co. Incorporated are acting as joint book-running managers of the offering and as representatives of the underwriters. We have entered into an underwriting agreement with the underwriters. Subject to the terms and conditions of the underwriting agreement, we have agreed to sell to the underwriters, and each underwriter has severally agreed to purchase, at the public offering price less the underwriting discounts and commissions set forth on the cover page of this prospectus, the number of shares of Class A common stock listed next to its name in the following table:

Name	Number of Shares
J.P. Morgan Securities LLC	
Jefferies LLC	
Morgan Stanley & Co. LLC	
Robert W. Baird & Co. Incorporated	
Stifel, Nicolaus & Company, Incorporated.	
William Blair & Company, L.L.C.	
Raymond James & Associates, Inc.	
Total	14,705,882

The underwriters are committed to purchase all the shares of Class A common stock offered by us if they purchase any shares. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters propose to offer the shares of Class A common stock directly to the public at the initial public offering price set forth on the cover page of this prospectus and to certain dealers at that price less a concession not in excess of $ per share. Any such dealers may resell shares to certain other brokers or dealers at a discount of up to $ per share from the initial public offering price. After the initial offering of the shares to the public, if all of the shares of Class A common stock are not sold at the initial public offering price, the underwriters may change the offering price and the other selling terms. Sales of any shares made outside of the United States may be made by affiliates of the underwriters.

The underwriters have an option to buy up to 2,205,882 additional shares of Class A common stock from us to cover sales of shares by the underwriters which exceed the number of shares specified in the table above. The underwriters have 30 days from the date of this prospectus to exercise this option to purchase additional shares. If any shares are purchased with this option to purchase additional shares, the underwriters will purchase shares in approximately the same proportion as shown in the table above. If any additional shares of Class A common stock are purchased, the underwriters will offer the additional shares on the same terms as those on which the shares are being offered.

The cornerstone investor has indicated an interest in purchasing up to $30.0 million in shares of Class A common stock in this offering at the initial public offering price. The shares of Class A common stock to be purchased by the cornerstone investor will not be subject to a lock-up agreement with the underwriters. Because this indication of interest is not a binding agreement or commitment to purchase, the cornerstone investor may determine to purchase more, less or no shares in this offering or the underwriters may determine to sell more, less or no shares to the cornerstone investor. The underwriters will receive the same underwriting discounts and commissions on any of our shares of Class A common stock purchased by the cornerstone investor as they will from any other shares of Class A common stock sold to the public in this offering.

The underwriting fee is equal to the public offering price per share of Class A common stock less the amount paid by the underwriters to us per share of Class A common stock. The underwriting fee is $ per share. The following table shows the per share and total underwriting discounts and commissions to be paid to the underwriters assuming both no exercise and full exercise of the underwriters' option to purchase additional shares.

	Without option to purchase additional shares exercise	With full option to purchase additional shares exercise
Per Share	$	$
Total	$	$

We estimate that the total expenses of this offering to be paid by Black Rock OpCo, including registration, filing and listing fees, printing fees and legal and accounting expenses, but excluding the underwriting discounts and commissions, will be approximately $6.5 million. We have also agreed to reimburse the underwriters for expenses relating to clearance of this offering with the Financial Industry Regulatory Authority and compliance with state securities or "blue sky" laws in an amount of up to $50,000.

A prospectus in electronic format may be made available on the web sites maintained by one or more underwriters, or selling group members, if any, participating in the offering. The underwriters may agree to allocate a number of shares to underwriters and selling group members for sale to their online brokerage account holders. Internet distributions will be allocated by the representatives to underwriters and selling group members that may make Internet distributions on the same basis as other allocations.

We have agreed that we will not (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, or submit to, or file with, the Securities and Exchange Commission a registration statement under the Securities Act relating to, any shares of our Class A common stock or securities convertible into or exercisable or exchangeable for any shares of our Class A common stock, or publicly disclose the intention to make any offer, sale, pledge, loan, disposition or filing, or (ii) enter into any swap or other arrangement that transfers all or a portion of the economic consequences associated with the ownership of any shares of Class A common stock or any such other securities (regardless of whether any of these transactions are to be settled by the delivery of shares of common stock or such other securities, in cash or otherwise), in each case without the prior written consent of J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC for a period of 180 days after the date of this prospectus, other than the shares of our common stock to be sold in this offering.

The restrictions on our actions, as described above, do not apply to certain transactions, including (i) the issuance of shares of Class A common stock or securities convertible into or exercisable for shares of our Class A common stock pursuant to the conversion or exchange of convertible or exchangeable securities or the exercise of warrants or options (including net exercise) or the settlement of RSUs (including net settlement), in each case outstanding on the date of the underwriting agreement and described in this prospectus; (ii) grants of stock options, stock awards, restricted stock, RSUs, or other equity awards and the issuance of shares of our Class A common stock or securities convertible into or exercisable or exchangeable for shares of our Class A common stock (whether upon the exercise of stock options or otherwise) to our employees, officers, directors, advisors, or consultants pursuant to the terms of an equity compensation plan in effect as of the closing of this offering and described in this prospectus, provided that such recipients enter into a lock-up agreement with the underwriters; or (iii) our filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to any plan in effect on the date of the underwriting agreement and described in this prospectus or any assumed benefit plan pursuant to an acquisition or similar strategic transaction.

Our directors and executive officers, and substantially all of the holders of the LLC Units immediately prior to this offering (such persons, the "lock-up parties") have entered into lock-up agreements with the underwriters prior to the commencement of this offering pursuant to which each lock-up party, with limited exceptions, for a period of 180 days after the date of this prospectus (such period, the "restricted period"), may not (and may not cause any of their direct or indirect affiliates to), without the prior written consent of J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, any shares of our Class A common stock or any securities convertible into or exercisable or exchangeable for our Class A common stock (including, without limitation, Class A common stock or such other securities which may be deemed to be beneficially owned by such lock-up parties in accordance with the rules and regulations of the SEC and securities which may be issued upon exercise of a stock option or warrant (collectively with the Class A common stock, the "lock-up securities")), (2) enter into any hedging, swap or other agreement or transaction that transfers, in whole or in part, any of the economic consequences of ownership of the lock-up securities, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of lock-up securities, in cash or otherwise, (3) make any demand for, or exercise any right with respect to, the registration of any lock-up securities, provided that, to the extent the lock-up party has demand and/or piggyback registration rights, the foregoing shall not prohibit the lock-up party from notifying us privately that it is or will be exercising its demand and/or piggyback registration rights following the expiration of the restricted period and undertaking any preparations related thereto, including a confidential submission of a registration statement so long as no public announcement is made regarding the submission or transaction during the restricted period, or (4) publicly disclose the intention to do any of the foregoing. Such persons or entities have further acknowledged that these undertakings preclude them from engaging in any hedging or other transactions or arrangements (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) designed or intended, or which could reasonably be expected to lead to or result in, a sale or disposition or transfer (by any person or entity, whether or not a signatory to such agreement) of any economic consequences of ownership, in whole or in part, directly or indirectly, of any lock-up securities, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of lock-up securities, in cash or otherwise.

The restrictions described in the immediately preceding paragraph and contained in the lock-up agreements between the underwriters and the lock-up parties do not apply, subject in certain cases to various conditions, to certain transactions, including (a) transfers, distributions, dispositions or surrenders of lock-up securities: (i) as bona fide gifts, or for bona fide estate planning purposes, including without limitation to charitable organizations or educational institutions, (ii) by will, testamentary document or intestacy, (iii) to any immediate family member or other dependent of the lock-up party, (iv) to any trust for the direct or indirect benefit of the lock-up party or any immediate family member, (v) to a partnership, limited liability company or other entity of which the lock-up party and its immediate family members are the legal and beneficial owner of all of the outstanding equity securities or similar interests, (vi) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (i) through (v), (vii) (A) to another corporation, partnership, limited liability company, trust or other business entity that is an affiliate of the lock-up party, or to any investment fund or other entity controlling, controlled by, managing or managed by or under common control with the lock-up party or its affiliates or (B) as part of a distribution, transfer or disposition without consideration to partners, beneficiaries, members or shareholders of the lock-up party or its affiliates, (viii) by operation of law, (ix) to us or Black Rock OpCo from an employee upon death, disability or termination of employment of such employee, (x) as part of a sale of lock-up securities acquired in open market transactions after the completion of this offering or acquired from the underwriters in connection with this offering (other than issuer-directed shares of Class A common stock purchased in this offering by our officers or directors), (xi) to us in connection with the vesting, conversion, settlement or exercise of restricted stock units, options, warrants or other rights to purchase shares of our Class A common stock (including "net" or "cashless" exercise), including for the payment of exercise price and tax and remittance payments, (xii) pursuant to a bona fide

third-party tender offer, merger, consolidation or other similar transaction approved by our Board and made to all shareholders involving a change in control, provided that if such transaction is not completed, all such lock-up securities would remain subject to the restrictions in the immediately preceding paragraph, (xiii) in any redemption, conversion or exchange of (A) LLC Units and a corresponding number of shares of Class B common stock or Class C common stock, as applicable, into or for shares of Class A common stock (or securities convertible into or exercisable or exchangeable for Class A Common stock) or (B) shares of Class B common stock or Class C common stock, as applicable, into shares of Class A common stock, in each case in a manner consistent with the provisions therefor set forth in this prospectus (an "Exchange"); provided that, any shares of Class A common stock or other securities received upon such Exchange shall remain subject to the restrictions similar to those in the immediately preceding paragraph for the remainder of the restricted period, and provided, further that an Exchange pursuant to this clause (xiii) shall only be permitted in connection with another transfer, disposition or sale of lock-up securities that is otherwise permitted by this paragraph, (xiv) transfers, conversion, reclassification, redemption or exchange of lock-up securities to us or any of our affiliates in connection with the reorganization as described in this prospectus, (xv) with respect to our Co-Founders and certain of their affiliates, in connection with any pledge, hypothecation or other grant of a security interest in any lock-up securities to one or more lending institutions (including their successors, assignees, participants, agents or representatives) as collateral or security for any loan, advance or extension of credit, including the transfer of such lock-up securities to such lending institution upon foreclosure of such lock-up securities; in addition, (A) any such lending institutions (including their successors, assignees, participants, agents or representatives) may (x) assign or transfer such lock-up securities to their successors, assignees, participants, agents or representatives or (y) transfer, sell, or otherwise dispose of such lock-up securities in connection with their exercise of rights and remedies, including any hedging, swap or other agreement or transaction that transfers, in whole or in part, any of the economic consequences of ownership of such lock-up securities, (B) the lock-up party or its lending institutions (including their successors, assignees, participants, agents or representatives) may sell, transfer or otherwise dispose of such lock-up securities in connection with a margin call, including without limitation any sale, transfer or other disposition intended to satisfy a margin call or potential margin call, and (C) the lock-up party or its lending institutions (including their successors, assignees, participants, agents or representatives) may publicly disclose any pledge, hypothecation, grant of security interest or transfer pursuant to this paragraph (xiv) if such disclosure is required by applicable law; or (xvi) in connection with the sale of any lock-up securities to be sold by the lock-up party in the manner described in this prospectus used to sell the shares of Class A common stock; (b) exercise of the options, settlement of RSUs or other equity awards, or the exercise of warrants granted pursuant to plans or other equity compensation arrangements described in this prospectus, provided that any lock-up securities received upon such exercise, vesting or settlement would be subject to restrictions similar to those in the immediately preceding paragraph; (c) the conversion of outstanding preferred stock, warrants to acquire preferred stock, or convertible securities into shares of our Class A common stock or warrants to acquire shares of our Class A common stock, provided that any Class A common stock or warrant received upon such conversion would be subject to restrictions similar to those in the immediately preceding paragraph; and (d) the establishment or modification of trading plans under Rule 10b5-1 under the Exchange Act, provided that such plan does not provide for the transfer of lock-up securities during the restricted period.

J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC, in their sole discretion, may release the securities subject to any of the lock-up agreements with the underwriters described above, in whole or in part at any time.

We have agreed to indemnify the underwriters against certain liabilities, including liabilities under the Securities Act of 1933.

We have applied to have our Class A common stock approved for listing/quotation on Nasdaq under the symbol "BRCB."

In connection with this offering, the underwriters may engage in stabilizing transactions, which involves making bids for, purchasing and selling shares of Class A common stock in the open market for the

purpose of preventing or retarding a decline in the market price of the Class A common stock while this offering is in progress. These stabilizing transactions may include making short sales of Class A common stock, which involves the sale by the underwriters of a greater number of shares of Class A common stock than they are required to purchase in this offering, and purchasing shares of Class A common stock on the open market to cover positions created by short sales. Short sales may be "covered" shorts, which are short positions in an amount not greater than the underwriters' option to purchase additional shares referred to above, or may be "naked" shorts, which are short positions in excess of that amount. The underwriters may close out any covered short position either by exercising their option to purchase additional shares, in whole or in part, or by purchasing shares in the open market. In making this determination, the underwriters will consider, among other things, the price of shares available for purchase in the open market compared to the price at which the underwriters may purchase shares through the option to purchase additional shares. A naked short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the Class A common stock in the open market that could adversely affect investors who purchase in this offering. To the extent that the underwriters create a naked short position, they will purchase shares in the open market to cover the position.

The underwriters have advised us that, pursuant to Regulation M of the Securities Act of 1933, they may also engage in other activities that stabilize, maintain or otherwise affect the price of the Class A common stock, including the imposition of penalty bids. This means that if the representatives of the underwriters purchase Class A common stock in the open market in stabilizing transactions or to cover short sales, the representatives can require the underwriters that sold those shares as part of this offering to repay the underwriting discount received by them.

These activities may have the effect of raising or maintaining the market price of the Class A common stock or preventing or retarding a decline in the market price of the Class A common stock, and, as a result, the price of the Class A common stock may be higher than the price that otherwise might exist in the open market. If the underwriters commence these activities, they may discontinue them at any time. The underwriters may carry out these transactions on Nasdaq, in the over-the-counter market or otherwise.

Prior to this offering, there has been no public market for our Class A common stock. The initial public offering price will be determined by negotiations between us and the representatives of the underwriters. In determining the initial public offering price, we and the representatives of the underwriters expect to consider a number of factors including:

- the information set forth in this prospectus and otherwise available to the representatives;
- our prospects and the history and prospects for the industry in which we compete;
- an assessment of our management;
- our prospects for future earnings;
- the general condition of the securities markets at the time of this offering;
- the recent market prices of, and demand for, publicly traded common stock of generally comparable companies; and
- other factors deemed relevant by the underwriters and us.

Neither we nor the underwriters can assure investors that an active trading market will develop for our Class A common stock, or that the shares will trade in the public market at or above the initial public offering price.

Other than in the United States, no action has been taken by us or the underwriters that would permit a public offering of the securities offered by this prospectus in any jurisdiction where action for that purpose is required. The securities offered by this prospectus may not be offered or sold, directly or indirectly, nor

may this prospectus or any other offering material or advertisements in connection with the offer and sale of any such securities be distributed or published in any jurisdiction, except under circumstances that will result in compliance with the applicable rules and regulations of that jurisdiction. Persons into whose possession this prospectus comes are advised to inform themselves about and to observe any restrictions relating to the offering and the distribution of this prospectus. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities offered by this prospectus in any jurisdiction in which such an offer or a solicitation is unlawful.

Certain of the underwriters and their affiliates have provided in the past to us and our affiliates and may provide from time to time in the future certain commercial banking, financial advisory, investment banking and other services for us and such affiliates in the ordinary course of their business, for which they have received and may continue to receive customary fees and commissions. In addition, from time to time, certain of the underwriters and their affiliates may effect transactions for their own account or the account of customers, and hold on behalf of themselves or their customers, long or short positions in our debt or equity securities or loans, and may do so in the future. We expect that affiliates of one or more of the underwriters will act as lenders and/or agents under, and as consideration therefor will receive customary fees and expenses in connection with, our New Credit Facilities.

An affiliate of Viking Cake that will be controlled by our Co-Founders will pledge, assuming an initial public offering price of $17.00 per share (the midpoint of the estimated price range set forth on the cover page of this prospectus), 9,987,947 LLC Units (and 9,987,947 underlying shares of Class C common stock) to a lender affiliated with J.P. Morgan Securities LLC, one of the underwriters of this offering, pursuant to certain loan and security agreements. We are not a party to these agreements. In the case of nonpayment at maturity or another event of default under certain of these loan and security agreements (including but not limited to the borrower's inability to satisfy certain payments required under such loan and security agreements), the lender may exercise its right under the loan agreement to foreclose on the pledged securities. In such case, the lender may sell the shares of Class A common stock issuable upon the automatic exchange of such shares of Class C common stock through privately negotiated transactions at any time, including during the applicable lock-up period.

Directed Share Program

At our request, the underwriters have reserved up to 5% of the shares of Class A common stock to be issued by us and offered by this prospectus for sale, at the initial public offering price, to certain friends and family members of our Co-Founders. Participants in the directed share program will not be subject to the terms of any lock-up agreement with respect to any shares purchased through the directed share program. The number of shares of Class A common stock available for sale to the general public will be reduced to the extent these individuals purchase such reserved shares. Any reserved shares that are not so purchased will be offered by the underwriters to the general public on the same basis as the other shares offered by this prospectus. J.P. Morgan Securities LLC will administer our directed share program. We agreed to indemnify J.P. Morgan Securities LLC in connection with the directed share program, including for the failure of any participant to pay for its shares. Other than the underwriting discount described on the front cover of this prospectus, the underwriters will not be entitled to any commission with respect to shares of stock sold pursuant to the directed share program.

Selling Restrictions

Notice to Prospective Investors in the European Economic Area

In relation to each Member State of the European Economic Area (each a "Relevant State"), no shares have been offered or will be offered pursuant to the offering to the public in that Relevant State prior to the publication of a prospectus in relation to the shares which has been approved by the competent authority in that Relevant State or, where appropriate, approved in another Relevant State and notified to the competent authority in that Relevant State, all in accordance with the Prospectus Regulation, except that

offers of shares may be made to the public in that Relevant State at any time under the following exemptions under the Prospectus Regulation:

a) to any legal entity which is a qualified investor as defined under Article 2 of the Prospectus Regulation;

b) to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the Prospectus Regulation), subject to obtaining the prior consent of the underwriters; or

c) in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of shares shall require us or any underwriter to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation. and each person who initially acquires any shares or to whom any offer is made will be deemed to have represented, acknowledged and agreed to and with each of the underwriters and the Company that it is a "qualified investor" within the meaning of Article 2(e) of the Prospectus Regulation. In the case of any shares being offered to a financial intermediary as that term is used in the Prospectus Regulation, each such financial intermediary will be deemed to have represented, acknowledged and agreed that the shares acquired by it in the offer have not been acquired on a non-discretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in circumstances which may give rise to an offer of any shares to the public other than their offer or resale in a Relevant State to qualified investors as so defined or in circumstances in which the prior consent of the underwriters have been obtained to each such proposed offer or resale.

For the purposes of this provision, the expression an "offer to the public" in relation to shares in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the offer and any shares to be offered so as to enable an investor to decide to purchase or subscribe for any shares, and the expression "Prospectus Regulation" means Regulation (EU) 2017/1129.

Notice to Prospective Investors in the United Kingdom

No shares have been offered or will be offered pursuant to the offering to the public in the United Kingdom prior to the publication of a prospectus in relation to the Shares which has been approved by the Financial Conduct Authority, except that the Shares may be offered to the public in the United Kingdom at any time:

a) to any legal entity which is a qualified investor as defined under Article 2 of the UK Prospectus Regulation;

b) to fewer than 150 natural or legal persons (other than qualified investors as defined under Article 2 of the UK Prospectus Regulation), subject to obtaining the prior consent of underwriters for any such offer; or

c) in any other circumstances falling within Section 86 of the FSMA.

provided that no such offer of the Shares shall require the Issuer or any Manager to publish a prospectus pursuant to Section 85 of the FSMA or supplement a prospectus pursuant to Article 23 of the UK Prospectus Regulation. For the purposes of this provision, the expression an "offer to the public" in relation to the Shares in the United Kingdom means the communication in any form and by any means of sufficient information on the terms of the offer and any Shares to be offered so as to enable an investor to decide to purchase or subscribe for any Shares and the expression "UK Prospectus Regulation" means Regulation (EU) 2017/1129 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018.

In addition, in the United Kingdom, this document is being distributed only to, and is directed only at, and any offer subsequently made may only be directed at persons who are "qualified investors" (as defined in the Prospectus Regulation) (i) who have professional experience in matters relating to investments falling within Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended (the "Order") and/or (ii) who are high net worth companies (or persons to whom it may

otherwise be lawfully communicated) falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as "relevant persons") or otherwise in circumstances which have not resulted and will not result in an offer to the public of the shares in the United Kingdom within the meaning of the Financial Services and Markets Act 2000.

Any person in the United Kingdom that is not a relevant person should not act or rely on the information included in this document or use it as basis for taking any action. In the United Kingdom, any investment or investment activity that this document relates to may be made or taken exclusively by relevant persons.

Notice to prospective investors in Canada

The shares may be sold only to purchasers purchasing, or deemed to be purchasing, as principal that are accredited investors, as defined in National Instrument 45-106 Prospectus Exemptions or subsection 73.3(1) of the Securities Act (Ontario), and are permitted clients, as defined in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. Any resale of the shares must be made in accordance with an exemption from, or in a transaction not subject to, the prospectus requirements of applicable securities laws.

Securities legislation in certain provinces or territories of Canada may provide a purchaser with remedies for rescission or damages if this prospectus (including any amendment thereto) contains a misrepresentation, provided that the remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province or territory for particulars of these rights or consult with a legal advisor.

Pursuant to section 3A.3 of National Instrument 33-105 Underwriting Conflicts (NI 33-105), the underwriters are not required to comply with the disclosure requirements of NI 33-105 regarding underwriter conflicts of interest in connection with this offering.

Notice to prospective investors in Switzerland

This prospectus does not constitute an offer to the public or a solicitation to purchase or invest in any shares. No shares have been offered or will be offered to the public in Switzerland, except that offers of shares may be made to the public in Switzerland at any time under the following exemptions under the Swiss Financial Services Act ("FinSA"):

a) to any person which is a professional client as defined under the FinSA;

b) to fewer than 500 persons (other than professional clients as defined under the FinSA), subject to obtaining the prior consent of J.P. Morgan Securities LLC for any such offer; or

c) in any other circumstances falling within Article 36 FinSA in connection with Article 44 of the Swiss Financial Services Ordinance,

provided that no such offer of shares shall require the Company or any investment bank to publish a prospectus pursuant to Article 35 FinSA.

The shares have not been and will not be listed or admitted to trading on a trading venue in Switzerland.

Neither this document nor any other offering or marketing material relating to the shares constitutes a prospectus as such term is understood pursuant to the FinSA and neither this document nor any other offering or marketing material relating to the shares may be publicly distributed or otherwise made publicly available in Switzerland.

Notice to prospective investors in Singapore

This document has not been registered as a prospectus with the Monetary Authority of Singapore. Accordingly, no shares of common stock have been or will be offered or sold and no shares of common stock have been or will be made the subject of an invitation for subscription or purchase and no

prospectus or any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the shares of common stock has been or will be circulated or distributed, whether directly or indirectly, to any person in Singapore other than:

a) to an institutional investor (as defined in Section 4A of the Securities and Futures Act (Chapter 289) of Singapore, as modified or amended from time to time (the "SFA")) pursuant to Section 274 of the SFA;

b) to a relevant person (as defined in Section 275(2) of the SFA) pursuant to Section 275(1) of the SFA, or any person pursuant to Section 275(1A) of the SFA, and in accordance with the conditions specified in Section 275 of the SFA; or

c) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA.

Where the shares are subscribed or purchased under Section 275 of the SFA by a relevant person which is:

a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or

b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor,

securities or securities-based derivatives contracts (each term as defined in Section 2(1) of the SFA) of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the shares pursuant to an offer made under Section 275 of the SFA except:

(i) to an institutional investor or to a relevant person, or to any person arising from an offer referred to in Section 275(1A) or Section 276(4)(c)(ii) of the SFA;

(ii) where no consideration is or will be given for the transfer;

(iii) where the transfer is by operation of law;

(iv) as specified in Section 276(7) of the SFA; or

(v) as specified in Regulation 37A of the Securities and Futures (Offers of Investments) (Securities and Securities-based Derivatives Contracts) Regulations 2018.

Singapore SFA Product Classification—In connection with Section 309B of the SFA and the CMP Regulations 2018, unless otherwise specified before an offer of shares, the Company has determined, and hereby notifies all relevant persons (as defined in Section 309A(1) of the SFA), that the shares are "prescribed capital markets products" (as defined in the CMP Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12: Notice on the Sale of Investment Products and MAS Notice FAA-N16: Notice on Recommendations on Investment Products).

Notice to prospective investors in Japan

The shares have not been and will not be registered pursuant to Article 4, Paragraph 1 of the Financial Instruments and Exchange Act. Accordingly, none of the shares nor any interest therein may be offered or sold, directly or indirectly, in Japan or to, or for the benefit of, any "resident" of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to or for the benefit of a resident of Japan, except pursuant to an exemption from the registration requirements of, and otherwise in compliance with, the Financial Instruments and Exchange Act and any other applicable laws, regulations and ministerial guidelines of Japan in effect at the relevant time.

Notice to prospective investors in Hong Kong

The shares have not been offered or sold and will not be offered or sold in Hong Kong, by means of any document, other than (a) to "professional investors" as defined in the Securities and Futures Ordinance (Cap. 571 of the Laws of Hong Kong) (the "SFO") of Hong Kong and any rules made thereunder; or (b) in other circumstances which do not result in the document being a "prospectus" as defined in the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong (the "CO") or which do not constitute an offer to the public within the meaning of the CO. No advertisement, invitation or document relating to the shares has been or may be issued or has been or may be in the possession of any person for the purposes of issue, whether in Hong Kong or elsewhere, which is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to shares which are or are intended to be disposed of only to persons outside Hong Kong or only to "professional investors" as defined in the SFO and any rules made thereunder.

Notice to prospective investors in the Dubai International Financial Centre ("DIFC")

This document relates to an Exempt Offer in accordance with the Markets Law, DIFC Law No. 1 of 2012, as amended. This document is intended for distribution only to persons of a type specified in the Markets Law, DIFC Law No. 1 of 2012, as amended. It must not be delivered to, or relied on by, any other person. The Dubai Financial Services Authority (DFSA) has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved this prospectus supplement nor taken steps to verify the information set forth herein and has no responsibility for this document. The securities to which this document relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the securities offered should conduct their own due diligence on the securities. If you do not understand the contents of this document, you should consult an authorized financial advisor.

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Notice to prospective investors in Australia

This prospectus:

- does not constitute a disclosure document or a prospectus under Chapter 6D.2 of the Corporations Act 2001 (Cth) (the "Corporations Act");
- has not been, and will not be, lodged with the Australian Securities and Investments Commission ("ASIC"), as a disclosure document for the purposes of the Corporations Act and does not purport to include the information required of a disclosure document for the purposes of the Corporations Act; and
- may only be provided in Australia to select investors who are able to demonstrate that they fall within one or more of the categories of investors, available under section 708 of the Corporations Act ("Exempt Investors").

The shares may not be directly or indirectly offered for subscription or purchased or sold, and no invitations to subscribe for or buy the shares may be issued, and no draft or definitive offering memorandum, advertisement or other offering material relating to any shares may be distributed in Australia, except where disclosure to investors is not required under Chapter 6D of the Corporations Act or is otherwise in compliance with all applicable Australian laws and regulations. By submitting an application for the shares, you represent and warrant to us that you are an Exempt Investor.

As any offer of shares under this document will be made without disclosure in Australia under Chapter 6D.2 of the Corporations Act, the offer of those securities for resale in Australia within 12 months may, under section 707 of the Corporations Act, require disclosure to investors under Chapter 6D.2 if none of the exemptions in section 708 applies to that resale. By applying for the shares, you undertake to us that you will not, for a period of 12 months from the date of issue of the shares, offer, transfer, assign or otherwise alienate those shares to investors in Australia except in circumstances where disclosure to investors is not required under Chapter 6D.2 of the Corporations Act or where a compliant disclosure document is prepared and lodged with ASIC.

LEGAL MATTERS

The validity of the shares of Class A common stock offered hereby will be passed upon for us by Latham & Watkins LLP, New York, New York. Kirkland & Ellis LLP has acted as counsel for the underwriters in connection with certain legal matters related to this offering.

EXPERTS

The financial statements of Black Rock Coffee Bar, Inc. as of May 2, 2025 and the consolidated financial statements of Black Rock Coffee Holdings, LLC as of December 31, 2024 and 2023, and for each of the years in the two year period ended December 31, 2024, have been included herein in reliance upon the reports of KPMG LLP, independent registered public accounting firm, appearing elsewhere herein, and upon the authority of said firm as experts in accounting and auditing.

WHERE YOU CAN FIND ADDITIONAL INFORMATION

We have filed with the SEC a registration statement on Form S-1, including exhibits and schedules, under the Securities Act, with respect to the shares of Class A common stock being offered by this prospectus. This prospectus, which constitutes part of the registration statement, does not contain all of the information in the registration statement and its exhibits. For further information with respect to us and our Class A common stock, we refer you to the registration statement and its exhibits. Statements contained in this prospectus as to the contents of any contract or any other document referred to are not necessarily complete, and in each instance, we refer you to the copy of the contract or other document filed as an exhibit to the registration statement. Each of these statements is qualified in all respects by this reference.

You may read our SEC filings, including this registration statement, over the internet at the SEC's website at www.sec.gov. Upon the completion of this offering, we will be subject to the information reporting requirements of the Exchange Act and we will file reports, proxy statements and other information with the SEC. These reports, proxy statements and other information will be available for review at the SEC's website referred to above. We also maintain a corporate website at www.br.coffee, at which, following the completion of this offering, you may access these materials free of charge as soon as reasonably practicable after they are electronically filed with, or furnished to, the SEC. Information contained on, or that can be accessed through, our website does not constitute part of this prospectus, and the inclusion of our website address in this prospectus is an inactive textual reference only.

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Report of Independent Registered Public Accounting Firm

To the Board of Directors
Black Rock Coffee Bar, Inc.:

Opinion on the Financial Statements

We have audited the accompanying balance sheet of Black Rock Coffee Bar, Inc. (the Company) as of May 2, 2025 and the related notes (collectively, the financial statements). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of May 2, 2025 in conformity with U.S. generally accepted accounting principles.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company 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 the financial statements are free of material misstatement, whether due to error or fraud. Our audit included performing procedures to assess the risks of material misstatement of the 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 financial statements. Our audit also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements. We believe that our audit provides a reasonable basis for our opinion.

/s/ KPMG LLP

We have served as the Company's auditor since 2025.

Portland, Oregon
May 19, 2025

BLACK ROCK COFFEE BAR, INC.

Balance Sheet

	May 2, 2025
ASSETS	
Total assets	$ 0.01
STOCKHOLDER'S EQUITY	
Common stock, par value $0.00001, 1,000 shares authorized, 1,000 shares issued and outstanding	0.01
Total stockholder's equity	$ 0.01

See accompanying notes to the balance sheet.

(1) Organization

Black Rock Coffee Bar, Inc. (the "Corporation") was organized as a Delaware corporation on May 2, 2025. The Corporation's fiscal year end is December 31. Pursuant to a reorganization into a holding corporation structure, the Corporation will become a holding corporation and its sole assets are expected to be an equity interest in Black Rock Coffee Holdings, LLC.

The Corporation will be the managing member of Black Rock Coffee Holdings, LLC and will operate and control all of the business affairs of Black Rock Coffee Holdings, LLC and through Black Rock Coffee Holdings, LLC and its subsidiaries, will continue to conduct the business now conducted by these entities.

(2) Summary of Significant Accounting Policies

Basis of Accounting

The Balance Sheet has been prepared in accordance with U.S. generally accepted accounting principles. Separate statements of income, changes in stockholder's equity, and cash flows have not been presented in the financial statements because there have been no activities in this entity.

(3) Stockholder's Equity

The Corporation is authorized to issue 1,000 shares of common stock, at par value of $0.00001 per share. Under the Corporation's certificate of incorporation in effect as of May 2, 2025, there is only one class of common stock. On May 2, 2025, the Corporation issued 1,000 shares of common stock for a total consideration of $0.01.

(4) Subsequent Events

Events and transactions occurring through the date of issuance of the financial statements have been evaluated by management and, when appropriate, recognized or disclosed in the financial statements or notes to the financial statements.

Report of Independent Registered Public Accounting Firm

To the Board of Directors
Black Rock Coffee Holdings, LLC:

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of Black Rock Coffee Holdings, LLC and subsidiaries (the Company) as of December 31, 2024 and 2023, the related consolidated statements of operations, changes in temporary equity and members' deficit, and cash flows for each of the years in the two-year period ended December 31, 2024, and the related notes (collectively, the consolidated financial statements). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2024 and 2023, and the results of its operations and its cash flows for each of the years in the two-year period ended December 31, 2024, in conformity with U.S. generally accepted accounting principles.

Basis for Opinion

These consolidated financial statements are the responsibility of the Company's 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 Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company 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 that our audits provide a reasonable basis for our opinion.

/s/ KPMG LLP

We have served as the Company's auditor since 2021.

Portland, Oregon
May 19, 2025, except for Note 2, under the heading *Revision to the 2024 and 2023 Consolidated Statements of Cash Flows*, as to which the date is July 25, 2025.

BLACK ROCK COFFEE HOLDINGS, LLC

Consolidated Balance Sheets
(*in thousands, except unit data*)

	December 31, 2024	December 31, 2023
ASSETS		
Current assets:		
Cash and cash equivalents	$ 10,227	$ 17,200
Receivables, net	4,304	777
Inventories	2,055	1,459
Prepaid expenses and deposits	2,860	1,936
Total current assets	19,446	21,372
Property and equipment, net	69,989	55,593
Operating lease right-of-use assets, net	101,591	76,662
Note receivable from related party	5,184	5,000
Other assets	—	624
Goodwill	9,360	9,360
Intangible assets, net	7,342	8,566
Total assets	$ 212,912	$ 177,177
LIABILITIES, TEMPORARY EQUITY AND MEMBERS' DEFICIT		
Current liabilities:		
Accounts payable	$ 6,621	$ 6,552
Accrued expenses	3,400	2,785
Accrued payroll and benefits	6,984	4,562
Deferred compensation	5,778	2,311
Gift card and loyalty program liability	1,186	778
Current portion of long-term debt	925	800
Current portion of operating lease liabilities	8,410	7,909
Total current liabilities	33,304	25,697
Long-term debt, net of current portion	89,269	78,279
Operating lease liabilities, net of current portion	107,000	75,913
Total liabilities	229,573	179,889
Commitments and Contingencies (Note 13)		
Temporary equity		
Preferred units:		
Series A ($1.00 par value per unit – 20,000,000 units authorized; 3,804,698 and 19,974,660 units issued and outstanding as of December 31, 2024 and 2023, respectively)	3,429	25,333
Series A-1 (2,000,000 units authorized; 1,468,058 and 1,368,058 units issued and outstanding as of December 31, 2024 and 2023, respectively)	206,973	167,258
Series A-2 (900,000 authorized; 893,835 units issued and outstanding as of December 31, 2024 and 2023; aggregate liquidation preference of $168,785,545)	30,773	30,773
Members' deficit and noncontrolling interest		
Members' deficit (Class A common units, 4,000,000 authorized, 2,646,087 and 2,796,239 units issued and outstanding as of December 31, 2024 and 2023, respectively)	(257,836)	(226,512)
Noncontrolling interest	—	436
Total members' deficit and noncontrolling interest	(257,836)	(226,076)
Total liabilities, temporary equity, members' deficit and noncontrolling interest	$ 212,912	$ 177,177

See accompanying notes to consolidated financial statements.

BLACK ROCK COFFEE HOLDINGS, LLC

Consolidated Statements of Operations
(in thousands)

	Year Ended December 31,	
	2024	2023
Store revenue	$ 160,682	$ 132,961
Other	235	201
Total revenue	160,917	133,162
Store operating costs and expenses (exclusive of depreciation and amortization presented separately below):		
Beverage, food and packaging costs	46,491	41,923
Labor and related expenses	35,132	30,236
Occupancy and related expenses	13,107	10,832
Other store operating expenses	21,172	17,286
Total store operating costs and expenses	115,902	100,277
Selling, general and administrative expenses	25,261	20,313
Depreciation and amortization	10,364	8,523
Pre-opening costs	3,357	2,007
Total operating expenses	154,884	131,120
Income from operations	6,033	2,042
Interest expense, net	(11,115)	(10,949)
Other income (expense), net	(1,835)	566
Loss before income taxes	(6,917)	(8,341)
Income tax expense	270	357
Net loss	(7,187)	(8,698)
Net income attributable to noncontrolling interest	20	119
Net loss attributable to Black Rock Coffee Holdings, LLC	$ (7,207)	$ (8,817)

See accompanying notes to consolidated financial statements.

BLACK ROCK COFFEE HOLDINGS, LLC

Consolidated Statements of Changes in Temporary Equity and Members' Deficit
(in thousands)

	Temporary Equity			Total Members' Deficit and Noncontrolling Interest		
	Series A	Series A-1	Series A-2	Members' Deficit	Noncontrolling Interest	Total
Balance at December 31, 2022	$ 23,735	$ 120,848	$ 30,773	$ (192,498)	$ 317	$ (192,181)
Net loss	—	—	—	(8,817)	—	(8,817)
Net income attributable to noncontrolling interest	—	—	—	—	119	119
Deemed distribution for Series A Preferred Units	1,598	21,410	—	(23,008)	—	(23,008)
Unitholder contributions	—	25,000	—	5,900	—	5,900
Unitholder distributions	—	—	—	(8,089)	—	(8,089)
Balance at December 31, 2023	$ 25,333	$ 167,258	$ 30,773	$ (226,512)	$ 436	$ (226,076)
Net loss	—	—	—	(7,207)	—	(7,207)
Net income attributable to noncontrolling interest	—	—	—	—	20	20
Purchase of noncontrolled ownership interest	—	—	—	(1,111)	(456)	(1,567)
Deemed distribution for Series A-1 Preferred Units	—	29,865	—	(29,865)	—	(29,865)
Unitholder distributions	—	(150)	—	(474)	—	(474)
Unitholder contributions	—	10,000	—	—	—	—
Waiver of unpaid Series A Preferred yield	(5,358)	—	—	5,358	—	5,358
Redemption discount on Series A Preferred Units	(1,975)	—	—	1,975	—	1,975
Unitholder redemptions	(14,571)	—	—	—	—	—
Balance at December 31, 2024	$ 3,429	$ 206,973	$ 30,773	$ (257,836)	$ —	$ (257,836)

See accompanying notes to consolidated financial statements.

BLACK ROCK COFFEE HOLDINGS, LLC

Consolidated Statements of Cash Flows
(in thousands)

	Year Ended December 31,	
	2024	2023
Cash flows from operating activities:		
Net loss	$ (7,187)	$ (8,698)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	10,364	8,523
Loss on disposal of property and equipment	259	—
Amortization of debt issuance costs and loan fees	1,322	1,147
Accrued paid-in-kind interest	388	824
Interest income from related party	(184)	(92)
Non-cash operating lease costs	7,957	6,900
Other loss (gain)	259	(400)
Changes in operating assets and liabilities:		
Receivables, net	(3,526)	290
Inventories	(596)	331
Prepaid expenses and deposits	(924)	(26)
Other assets	—	634
Accounts payable	27	(1,756)
Accrued payroll and benefits	2,422	1,927
Deferred compensation	3,467	2,311
Accrued expenses	146	(391)
Gift card and loyalty program liability	408	(1,106)
Operating lease liabilities	(1,297)	(5,251)
Net cash provided by operating activities	13,305	5,167
Cash flows from investing activities:		
Purchases of property and equipment	(22,176)	(16,159)
Purchase of intangible assets	(745)	(248)
Note receivable from a related party	—	(4,908)
Proceeds from Roasters settlement	—	5,869
Net cash used in investing activities	(22,921)	(15,446)
Cash flows from financing activities:		
Proceeds from long-term debt	12,500	—
Payments on long-term debt	(894)	(800)
Payments of debt issuance costs and loan fees	(2,201)	(448)
Purchase of noncontrolling interest position	(1,567)	—
Payments for redemption of outstanding Series A units	(14,571)	—
Unitholder contributions	10,000	30,900
Unitholder distributions	(624)	(8,090)
Net cash provided by financing activities	2,643	21,562
Net increase (decrease) in cash and cash equivalents	(6,973)	11,283
Cash and cash equivalents, beginning of period	17,200	5,917
Cash and cash equivalents, end of period	10,227	17,200
Supplemental disclosure of cash flow information:		
Cash paid during the year for interest, net of capitalized interest	$ 10,141	$ 9,414
Income taxes paid, net of refunds	277	195
Supplemental disclosure of noncash investing and financing activities:		
Additions of property and equipment accrued in accounts payable	1,722	845

See accompanying notes to consolidated financial statements.

Note 1 - Organization and Nature of Operations

Nature of Operations

Black Rock Coffee Holdings, LLC ("Black Rock") was formed on August 1, 2018. Black Rock, together with its wholly owned subsidiaries (collectively, the "Company") owns and operates a vertically integrated retail coffee business with locations in Oregon, Washington, Idaho, California, Colorado, Arizona, and Texas.

Note 2 - Basis of Presentation and Summary of Significant Accounting Policies

Basis of Presentation

These consolidated financial statements have been prepared in accordance with U.S. generally accepted accounting principles (GAAP). These statements contain all necessary adjustments and disclosures resulting from that evaluation. Certain prior year amounts have been reclassified to conform with current year presentation. These reclassifications had no material effect on the operations, financial condition or cash flows of the Company.

Principles of Consolidation

The accompanying consolidated financial statements include accounts of Black Rock and its wholly owned subsidiaries. All intercompany transactions and balances have been eliminated upon consolidation.

Revision to 2024 and 2023 Consolidated Statements of Cash Flows

The Company has revised amounts within the Consolidated Statements of Cash Flows for the years ended December 31, 2024 and 2023 to correctly present operating cash flow activity between the captions "Non-cash operating lease costs" and changes in "Operating lease liabilities". As a result, the line item "Non-cash operating lease costs" was revised from ($7,957) to $7,957, and ($6,900) to $6,900 for the years ended December 31, 2024 and 2023, respectively, and the line item "Operating lease liabilities" was revised from $14,617 to ($1,297), and $8,549 to ($5,251) for the years ended December 31, 2024 and 2023, respectively. This change did not result in a change to total cash provided by operating activities for either of the years ended December 31, 2024 and 2023, and had no other impacts to the consolidated financial statements for the years ended December 31, 2024 or 2023. The Company has evaluated the effects of these corrections on the previously issued consolidated financial statements, individually and in the aggregate, in accordance with the guidance in ASC Topic 250, Accounting Changes and Error Corrections, concluding such corrections to be immaterial to its previously issued consolidated financial statements.

Revenue Recognition

Revenues from stores are presented net of discounts and recognized when beverage and food products are sold to the customer. Other revenue includes online retail coffee sales, recognized at the date of sale, as well as sales of products through the Company's website, recognized at the point in time of shipment to customers. The Company reports revenues net of discounts and sales taxes collected from customers and remitted to government taxing authorities.

The Company has a loyalty program that allows customers to earn point rewards that may be redeemed for a free product. The Company defers revenue as rewards are earned under the loyalty program. The Company also operates a gift card program and maintains a gift card liability for gift cards sold, recognizing revenue from gift cards when the gift card is redeemed. Gift cards do not have an expiration date or a service fee that would cause a decrement to the customer balance. Based on historical redemption rates, a portion of loyalty program points and gift cards are not expected to be redeemed and will be recognized as breakage over time in proportion to loyalty program and gift card redemptions. Breakage is recognized in store revenue in the consolidated statements of operations. For the years

ended December 31, 2024 and 2023, the Company recognized breakage revenue of $341 thousand and $846 thousand, respectively.

Noncontrolling Interest

Black Rock locations can be owned and operated by certain members of the Company and at least one other individual who is not a member ("Hybrid"). As of December 31, 2023 there were two hybrid locations. The noncontrolling interests in the hybrid locations are presented as noncontrolling interest in the consolidated financial statements. On January 31, 2024, the Company acquired the remaining noncontrolling interest of its two hybrid stores for approximately $1.5 million. The Company recognized the consideration paid in connection with the acquisitions as a reduction to noncontrolling interest. Excess amounts were considered a distribution to the sellers and recognized as an increase to members' deficit.

Fair Value Measurements

Fair value is the price the Company would receive to sell an asset or pay to transfer a liability in an orderly transaction between market participants. For assets and liabilities recorded or disclosed at fair value on a recurring basis, the Company determined fair value based on the following:

- *Level 1*: Unadjusted quoted prices in active markets for identical assets or liabilities.
- *Level 2*: Observable inputs other than quoted prices in active markets for identical assets or liabilities, quoted prices for identical assets or liabilities in inactive markets, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- *Level 3*: Inputs that are both unobservable and significant to the overall fair value measurements reflecting an entity's estimates of assumptions that market participants would use in pricing the asset or liability.

The Company's consolidated financial statements include cash and cash equivalents, accounts receivable, prepaid expenses and deposits, accounts payable, accrued expenses and other current liabilities, for which the carrying amounts approximate fair value due to their short-term maturity. The fair value of the Company's variable-rate credit facility approximates its carrying amounts as the cost of borrowing is variable and approximates current market prices, which is considered Level 2 in the fair value hierarchy.

The Company does not have any assets or liabilities that are recognized or disclosed at fair value in the consolidated financial statements on a recurring basis.

Cash and Cash Equivalents

Cash and cash equivalents include all short-term highly liquid instruments with original maturities of three months or less at the time of purchase, as well as credit card receivables for sales to customers in company-operated stores that generally settle within two to five business days.

The Company maintains its cash in bank deposit accounts at multiple financial institutions as well as the individual store locations. Accounts at each institution are insured by the Federal Deposit Insurance Corporation (FDIC) up to a limit of $250 thousand per depositor. While amounts at financial institutions may exceed FDIC limits, the Company has not experienced any losses in its bank deposit accounts.

Receivables, net

Receivables, net of allowances for credit losses, consists primarily of receivables for tenant improvement allowances granted from lessors under various operating lease agreements and amounts due from certain vendors. Receivables for tenant improvement allowances are recorded when the underlying leasehold improvement work has been completed and approved by the landlord at the conclusion of a project. The allowance for credit losses is calculated using a loss-rate method based on historical

experience, current economic conditions and other factors. The Company had no allowance for credit losses at December 31, 2024 and 2023.

Inventories

Inventories are recorded at the lower of cost and net realizable value. Cost is determined using the first-in, first-out method. The Company records product returns as they are received, and obsolete and slow-moving inventory when identified, as these types of transactions have generally been immaterial to the Company's historical operations. No allowance for obsolete inventory was considered necessary at December 31, 2024 and 2023.

Property and Equipment, net

The Company records property and equipment at cost, net of accumulated depreciation. The cost of property and equipment is depreciated using the straight-line method over the estimated useful lives of the depreciable assets. Leasehold improvements are depreciated over the shorter of the remaining term of the lease or their estimated useful lives. Expenditures for maintenance and repairs are charged to expense as incurred. When property and equipment is sold or retired, the asset and related accumulated depreciation are removed from the consolidated balance sheet and the resulting gain or loss is included in income from operations in the accompanying consolidated statement of operations. Repair and maintenance costs are expensed as incurred and presented within other store operating expenses or selling, general and administrative expenses in the accompanying consolidated statements of operations.

Goodwill

Goodwill represents the excess purchase price over the estimated fair value of net assets acquired in a business combination. The Company evaluates goodwill for impairment at least annually, as of the beginning of the fourth fiscal quarter, or more frequently if an event occurs or circumstances that indicate the carrying amount may not be recoverable. The annual impairment test includes an option to perform a qualitative assessment of whether it is more likely than not that a reporting unit's fair value is less than its carrying value; the qualitative test may be performed prior to, or as an alternative to, performing a quantitative goodwill impairment test. If, after assessing the totality of events or circumstances, the Company determines that it is more likely than not that the fair value of a reporting unit is less than its carrying value, then the Company is required to perform the quantitative goodwill impairment test. Otherwise, no further analysis is required. The quantitative impairment test involves the comparison of the fair value of the reporting unit to its carrying value. An impairment loss is recognized to the extent that the financial statement carrying amount exceeds the reporting unit's fair value. The Company performed the annual qualitative impairment assessments for each of the two years in the period ended December 31, 2024, and no impairment charges were recognized, nor were there any accumulated impairment losses.

Impairment of Long-Lived Assets

The Company reviews the recoverability of its long-lived assets, such as property and equipment and finite-lived intangible assets, when events or changes in circumstances occur that indicate the carrying value of the asset or asset group may not be recoverable. The assessment of recoverability is based on the Company's ability to recover the carrying value of the asset or asset group, which is generally at the store level, and requires judgement and an estimate of future undiscounted store-generated cash flows. If these undiscounted cash flows are less than the carrying amount of the related asset, an impairment is recognized for the excess of the carrying value over its fair value.

Debt Issuance Costs and Capitalized Modification Fees

The Company's debt issuance costs and capitalized modification fees are presented in the consolidated balance sheet as a direct reduction to the carrying amount of the debt liability. These costs are amortized to interest expense over the life of the related debt liability using a method that approximates the effective interest rate method.

Leases

The Company currently leases all stores, warehouse facilities and office space for corporate administrative purposes, of which all are operating leases. The Company's real estate leases consist of build-to-suit and commercial ground leases which generally have initial terms from 10 to 15 years and typically include multiple renewal options for additional periods of up to five years. Renewal options are generally not recognized as a part of the right-of-use assets and lease liabilities as it is not reasonably certain at the commencement date that the Company would exercise the renewal options.

For operating leases, fixed lease payments are recognized as operating lease costs on a straight-line basis over the lease term and are reported in specific line items on the consolidated statement of operations. Lease expense incurred before a store opens is recorded in pre-opening costs. Once a store opens, the straight-line lease expense is recorded in occupancy and related expenses. Many of these leases have variable lease costs which require the Company to pay real estate taxes, common area maintenance costs and amounts based on a percentage of gross sales in excess of specified levels. Variable lease costs are expensed as incurred and are included in occupancy and related expenses if associated with a store and are otherwise recorded in selling, general and administrative expenses.

The Company calculates operating lease right-of-use assets and lease liabilities as the present value of fixed lease payments over the reasonably certain lease term beginning at the commencement date. As the interest rate implicit in the Company's leases is not readily determinable, the Company utilizes its incremental borrowing rate, determined by class of underlying asset, to discount the lease payments and is applied on a portfolio basis. The operating lease right-of-use assets also include lease payments made before commencement and are reduced by lease incentives.

The Company invests in leasehold improvements. Generally, a portion of the leasehold improvements and building costs are reimbursed by landlords through landlord incentives pursuant to agreed-upon terms in the lease agreements. Landlord incentives usually take the form of cash payments. In most cases, landlord incentives are received after the Company takes possession of the property and as milestones are met during the construction of the property. The Company includes these amounts in the measurement of the initial operating lease liability and right-of-use asset.

Redeemable Preferred Units

The Company applies the guidance enumerated in ASC 480, when determining the classification and measurement of preferred units. The Company classifies conditionally redeemable preferred units, which includes preferred units that features redemption rights that are either within the control of the holder or subject to redemption upon occurrence of uncertain events not solely within the Company's control, as temporary equity. The Company subsequently measures temporary equity to redemption value when the instrument is currently redeemable or when it is probable the instrument will become redeemable.

Advertising Expense

The Company expenses advertising costs as they are incurred. Advertising expenses were approximately $1.9 million for each of the years ended December 31, 2024 and 2023.

Pre-opening Costs

The Company's pre-opening costs consist of start-up and promotion costs such as labor, rents, and advertising associated with new store openings as well costs related to the store's grand opening such as labor and travel expenses, promotion campaigns and advertising. These costs are expensed as incurred. The Company's pre-opening costs were $3.4 million and $2.0 million as of December 31, 2024 and 2023, respectively.

Income Taxes

Black Rock is a limited liability company and has elected under the Internal Revenue Service Code to be taxed as a partnership whereby members of Black Rock are taxed on their proportionate share of Black

Rock's taxable income. Therefore, no provision for federal income taxes is recorded in the consolidated financial statements since all taxable income or loss is passed directly to the members. Income tax expense on the consolidated statement of operations is composed of various state and local income taxes including corporate activity and franchise taxes.

The Company will record a liability for uncertain tax positions when it is more likely than not that the position would not be sustained if examined by the taxing authority. Management has determined that the Company does not have any uncertain tax positions as of December 31, 2024 and 2023.

Use of Estimates

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions, primarily related to business combinations, long-lived asset valuation, deferred revenue, and leases that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements, and the reported amounts of revenues and expenses for the reporting period. Although management bases its estimates on historical experience and assumptions that are believed to be reasonable under the circumstances, actual results could differ from those estimates.

Concentrations

For the years ended December 31, 2024 and 2023, two suppliers accounted for approximately 78% and 69% of purchases, respectively.

Recently Issued Accounting Standards

In December 2023, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") N0. 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*. The amendments in the update are intended to enhance the transparency and decision usefulness of income tax disclosures, primarily through improvements to the rate reconciliation and income taxes paid information, specifically requiring (1) consistent categories and greater disaggregation of information in the rate reconciliation, and (2) income taxes paid disaggregated by jurisdiction. These amendments are effective for public business entities' annual periods beginning after December 15, 2024 and interim periods within fiscal years beginning after December 15, 2025, and should be applied on a prospective basis. Early adoption is permitted for annual financial statements that have not yet been issued. The Company is currently assessing the potential impacts of this standard on its income taxes disclosures and expects to provide additional detail and disclosures under the new guidance.

In November 2024, the FASB issued ASU No. 2024-03*, Income Statement – Reporting Comprehensive Income – Expense Disaggregation Disclosures (Subtopic 220-40)* . The intent of this ASU is to improve public entity financial footnote disclosures around types of expenses in commonly presented expense categories (i.e. cost of sales, selling, general and administrative expenses, and research and development). The amendments in this ASU do not change or remove current expense disclosure requirements, but rather 1) impact where this information appears in the notes to the consolidated financial statements and 2) add additional disclosure requirements for certain expense line items appearing on the face of the consolidated statement of operations. ASU 2024-03, as amended, is effective for annual reporting periods beginning after December 15, 2026, and interim reporting periods beginning after December 15, 2027. Early adoption is permitted. The Company will assess potential impacts of this standard on its disclosures in future periods.

Recently Adopted Accounting Standards

In November 2023, the FASB issued ASU No. 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures* ("Segment Reporting"). The amendments in this update are intended to improve reportable segment disclosure requirements, primarily through enhanced disclosures about significant segment expenses. Effective for annual periods beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024, with early adoption permitted.

Public entities should apply the amendments in this update retrospectively to all prior periods presented in the financial statements. Upon transition, the segment expense categories and amounts disclosed in the prior periods should be based on significant segment expense categories identified and disclosed in the period of adoption. The new standard has not had a material impact on the Company's consolidated financial statements; however, the Company has provided additional detail and disclosures under the new guidance in Note 14.

Note 3 - Revenue Recognition

	Year Ended December 31,	
(in thousands)	**2024**	**2023**
Store revenue	$ 160,682	$ 132,961
Other	235	201
Total revenue	$ 160,917	$ 133,162

The Company's gift card and loyalty program liability activity was as follows:

	Year Ended December 31,	
(in thousands)	**2024**	**2023**
Beginning balance	$ 778	$ 1,884
Revenue deferred - card activations and rewards earned	14,355	11,404
Revenue recognized - card and rewards redemptions and breakage	(13,947)	(12,510)
Ending balance	$ 1,186	$ 778

Note 4 – Supplemental Balance Sheet Information

The components of Receivables, net were as follows:

(in thousands)	**December 31, 2024**	**December 31, 2023**
Tenant improvement allowance receivables	$ 4,103	$ 557
Trade receivables	97	203
Other receivables	104	17
Receivables, net	$ 4,304	$ 777

The components of Inventories were as follows:

(in thousands)	**December 31, 2024**	**December 31, 2023**
Coffee beans and product inventory	$ 1,613	$ 1,157
Merchandise and supplies	207	161
Other	235	141
Inventories	$ 2,055	$ 1,459

The components of Property and equipment, net were as follows:

(in thousands)	Estimated Useful Lives	December 31, 2024	December 31, 2023
Manufacturing equipment	3-7 years	$ 27,476	$ 19,766
Leasehold improvements	15 years	46,100	33,264
Buildings	39 years	7,267	7,267
Furniture and fixtures	5-7 years	8,210	5,683
Vehicles	5-7 years	482	706
Software	5 years	232	-
Construction in progress		4,834	5,388
Property and equipment, gross		94,601	72,074
Less accumulated depreciation		(24,612)	(16,481)
Property and equipment, net		$ 69,989	$ 55,593

Depreciation expense was approximately $8.4 million and $6.3 million for the years ended December 31, 2024 and 2023, respectively, and is included in operating expenses in the consolidated statements of operations.

The Company capitalizes a portion of interest on borrowings related to eligible capital expenditures. Capitalized interest is added to the cost of qualified assets and amortized over the estimated useful lives of the assets. The Company capitalized approximately $361 thousand and $301 thousand in interest expense for the years ended December 31, 2024 and 2023, respectively.

Note 5 - Roasters Settlement

In September 2020, a prospective third-party buyer (“Prospect”) entered into a binding term sheet to acquire Roasters, the owner of 14 retail coffee stores throughout the state of Washington. On January 6, 2021, Roasters gave notice to the Prospect of its intent to terminate the binding term sheet. On January 20, 2021, Prospect filed an action against Roasters in Spokane County Superior Court to contest the termination, allege breach of contract, and seek specific performance. On January 21, 2021, the Company and Roasters signed and simultaneously closed an asset purchase agreement (the “Purchase Agreement”) pursuant to which the Company acquired the Roasters assets (the “Assets”) for $9 million, of which $6 million was paid upon the consummation of acquisition date and $3 million was deposited into a third-party escrow account (the “Holdback Amount”). The Holdback Amount was subject to reduction in certain situations and payable to Roasters upon the satisfaction of certain post-closing obligations. No portion of the Holdback Amount was paid to Roasters and was returned to the Company. The Assets consisted primarily of property and equipment and goodwill associated with the reporting unit along with an immaterial amount of inventories and other assets.

Prospect, Roasters and the Company, mutually agreed to arbitration, and in September 2022, the arbitration panel issued an interim award in favor of Prospect requiring specific performance. Pursuant to the terms of the award, Roasters would terminate the Purchase Agreement and return to the Company the initial $6 million paid, net of fees, for the Assets, in exchange for which the Company would return the Assets to Roasters. No portion of the Holdback was paid to Roasters and was returned to the Company. The award also required Roasters to sell the Assets to Prospect. In May 2023, the Company completed the transfer of the Assets and removed the net carrying value of the Assets from the financial statements.

In addition to specific performance, the arbitration panel further awarded Prospect damages of approximately $1.2 million, payable by the Company. The damages were paid as of December 31, 2023.

In August 2024, the Company reached full and final settlement with its insurers for its claims related to the Roasters settlement and all related insurance proceeds and gains in connection with the Company’s claims have been received and recognized, as of December 31, 2024. The amount of insurance recovery

gains and proceeds recognized within selling, general and administrative expenses on the consolidated statement of operations was approximately $1.5 million for the year ended December 31, 2024.

Note 6 – Intangible Assets

The Company has intangible assets that are being amortized over 3 to 15 years consisting of the following:

(in thousands)	December 31, 2024	December 31, 2023
Reacquired franchise rights	$ 13,504	$ 13,504
Other intangible assets	2,959	2,213
Less accumulated amortization	(9,121)	(7,151)
Total intangible assets, net	$ 7,342	$ 8,566

Amortization expense in the consolidated statement of operations was as follows:

	Year Ended December 31,	
(in thousands)	2024	2023
Reacquired franchise rights	$ 1,799	$ 2,000
Other intangible assets	171	250

Estimated future amortization expense for intangible assets is as follows:

(in thousands)	
2025	$ 1,947
2026	1,887
2027	1,268
2028	1,167
2029	683
Thereafter	390
Total	$ 7,342

Note 7 – Long-Term Debt

(in thousands)	December 31, 2024	December 31, 2023
Note payable to RCS SBIC Fund II, L.P and TCW Asset Management Company, LLC	$ 92,614	$ 80,620
Less current portion	(925)	(800)
Less debt issuance costs	(769)	(1,541)
Less capitalized modification fees	(1,651)	-
Total long-term debt	$ 89,269	$ 78,279

On May 8, 2023, the Company amended its Senior Credit Facility with RCS SBIC Fund II, L.P. and TCW Asset Management Company, LLC (the “Credit Facility”), dated as of April 29, 2022, through the Third Amendment to the Credit Facility (the “Third Amendment”). The Third Amendment reduced the total capacity of the Credit Facility to $80 million by removing the delayed draw term loan commitment in the amount of $20 million and revised certain financial covenants and reporting requirements.

On May 31, 2024, the Company amended the Credit Facility through the Fourth Amendment to the Credit Facility (the "Fourth Amendment"). The Fourth Amendment increased the total capacity of the Credit Facility to $137.5 million, consisting of a $112.5 million term loan and a $25 million delayed draw term loan, and included an option allowing the Company to increase the size of the credit facility by $20 million through incremental delayed draw term loans. The Fourth Amendment also extended the term loan maturity date to September 30, 2026, and revised certain financial covenants.

As revised by the Fourth Amendment, the Credit Facility bears interest at either (a) the Secured Overnight Financing Rate ("SOFR"), plus 6.00%, plus a 0.50% spread or (b) the greatest of (i) 2.50% per annum, (ii) the Federal Funds Rate plus 0.5%, (iii) the Prime Rate, and (iv) the Adjusted Term SOFR Rate for a one-month tenor in effect on such date plus 1.0%, in each case, plus 5.00% and a 0.5% spread, with the amount of spread in both scenarios based on a pricing grid tied to the Company's total net leverage ratio. In addition, the Fourth Amendment includes a commitment fee payable on a quarterly basis, at a rate per annum of 1.00% that is based on the total delayed draw term loan commitment. Interest on borrowings under the Credit Facility is payable at least quarterly and upon maturity. These fees are recorded within interest and other related expenses on the consolidated statement of operations. The Credit Facility is payable in quarterly principal installments equal to 0.25% of the principal balance and accrued current pay interest at 0.50% per annum.

The Credit Facility, as revised by the Fourth Amendment, also contains financial covenants that require the Company to not exceed a maximum net leverage ratio and to maintain a minimum fixed charge coverage ratio. In addition, the Credit Facility also contains certain negative covenants that, among other things, limit the Company's ability to incur additional debt, grant liens on assets, merge with or acquire other companies, make other investments, dispose of assets, and make restricted payments. Obligations under the Credit Facility are guaranteed by the Company and certain of its subsidiaries and secured by first priority liens on substantially all of the Company's assets as well as equity interests held by certain of the Company's members.

As of December 31, 2024 no amount had been drawn on the Company's delayed draw term loan. The term loans bear interest at approximately 11.82% as of December 31, 2024. The Company was in compliance with all financial covenants as of that date.

Future principal maturities of long-term debt as of December 31, 2024 are as follows:

(in thousands)	
2025	$ 925
2026	91,689
Total	$ 92,614

Interest expense, net in the consolidated statement of operations was as follows:

	Year Ended December 31,	
(in thousands)	**2024**	**2023**
Interest expense, net	$ 10,444	$ 10,340
Amortization of debt issuance costs and capitalized modification fees	1,322	1,147
Interest income	(651)	(538)
Interest expense, net	$ 11,115	$ 10,949

Note 8 – Leases

The Company leases its stores, roasting and warehouse facilities, and corporate offices under operating leases, typically with initial terms of 10 to 15 years.

The components of net lease costs, included in occupancy and related expenses as well as selling, general and administrative expenses in the consolidated statement of operations, were as follows:

	Year Ended December 31,	
(in thousands)	**2024**	**2023**
Operating lease cost	$ 13,280	$ 10,837
Variable lease cost	1,006	931
Less sublease income	(108)	(108)
Total lease cost	$ 14,178	$ 11,660

Supplemental cash flow information related to leases is as follows for the periods presented:

	Year Ended December 31,	
(in thousands)	**2024**	**2023**
Cash paid for amounts included in the measurement of operating lease liabilities	$ 10,851	$ 10,194
Operating lease right-of use-assets obtained in exchange for lease obligations	29,472	16,920

A summary of lease terms and discount rates related to leases is as follows:

	December 31, 2024	December 31, 2023
Weighted average remaining lease term (in years)	11.3	11.0
Weighted average discount rate	5.6 %	5.0 %

As of December 31, 2024, future minimum lease payments for operating leases consisted of the following:

2025	$ 14,574
2026	13,448
2027	14,325
2028	13,892
2029	13,307
Thereafter	92,242
Total lease payments	161,788
Less imputed interest	(46,378)
Total operating lease liabilities	115,410
Less current portion	(8,410)
Total operating lease liability, net of current portion	$ 107,000

Note 9 - Temporary Equity

Series A Preferred Units

On May 31, 2024, in conjunction with the execution of the Sixth Amended and Restated LLC Agreement (the “LLC Agreement”) the Company entered into a redemption agreement (the “Series A Redemption Agreement”) with the holders (“Series A Unitholders”) of the Company’s Series A Preferred Units (the “Series A Units”) to purchase all of the 19,974,660 outstanding Series A Units for an aggregate purchase price of $18 million, as soon as such purchase and redemption of the Series A Units is permitted by the Credit Facility. Under the Series A Redemption Agreement 16,169,962 Series A Units were purchased for

approximately $14.6 million in 2024. As of December 31, 2024, 3,804,698 Series A Units remain outstanding and will be purchased, when permitted by the Credit Facility, for an aggregate purchase price of $3.4 million. Additionally, the Series A Redemption Agreement waived all accrued and unpaid preferred yield associated with the Series A Units in the amount of $5.4 million. The Company paid approximately $1.4 million in fees associated with the Series A Redemption Agreement for the year ended December 31, 2024, which was recognized in other income, net on the consolidated statement of operations.

Series A-1 Preferred Units

On May 8, 2023, the Company entered into an agreement with Cynosure Partners III, LP to issue and sell 250,000 Series A-1 Preferred Units ("Series A-1 Units") for an aggregate purchase price of $25 million. Furthermore, in consideration of the purchase of the Series A-1 Units the Company agreed to issue an additional 320,368 Series A-2 Preferred Units ("Series A-2 Units") to Cynosure Partners III, LP and related entities.

On May 20, 2024, Cynosure Partners III, LP entered into an agreement with the Company to purchase an additional 100,000 Series A-1 Preferred Units for an aggregate purchase price of $10 million.

Rights, Preferences and Privileges

Rights, preference and privileges of the Company's Series A, Series A-1 and Series A-2 Units (together the "Preferred Units") are as follows:

Voting Rights: The Company has two classes of units with voting rights: Class A Common Units ("Class A Units") and Series A-2 Units. Holders of these units who individually own five percent or more of the total outstanding Class A Units and Series A-2 Units (the "Voting Members"), in the aggregate, are entitled to one vote per Class A Unit or Series A-2 Unit held. The Series A-2 Unitholders have the right to appoint one manager to the Company's board of managers (the "Board") as long as their units are outstanding and the Voting Members elect the remaining mangers. The Voting Members can increase or decrease the number of managers as long as the Board has at least five managers. Each manager has one vote on all matters put before the Board.

Preferred Yield: Both the Series A and Series A-1 Units accrue a preferred yield, which is recorded as a reduction in members' deficit and a corresponding increase in preferred equity as it is not payable by the Company and accumulates in arrears.

Prior to the Series A Redemption Agreement, all Series A Units accrued a preferred yield of 8.0% per annum in arrears on the unreturned capital contribution in the amount of $19,974,660. After the Series A Redemption Agreement, the remaining issued and outstanding Series A Units no longer accrue a preferred yield. As of December 31, 2023, the accumulated preferred yield and per unit yield was $5.4 million and $0.27, respectively.

Prior to May 8, 2023, all Series A-1 Units accrued a preferred yield equal to 12.0% per annum on the Series A-1 per unit liquidation preference of $100 (the "Series A-1 Per Unit Liquidation Preference Amount"). After May 8, 2023, all Series A-1 Units accrue an amount equal to the SOFR rate plus 12.0% per annum on the Series A-1 Per Unit Liquidation Preference Amount. As of December 31, 2024 and 2023, the accumulated yield on the Series A-1 Units was approximately $60.2 million and $30.5 million, respectively. Further, the per unit cumulative yield on the Series A-1 Units was $40.98 and $22.26 as of December 31, 2024 and 2023, respectively.

Liquidation: In the event of any liquidation, dissolution, or winding up of the Company, whether voluntary or involuntary, the holders of each Preferred Unit are entitled to receive, prior to any distributions to Class A Common Unitholders and holders of Profits Interest Units ("PIUs"), distributions in the following order (i) Series A-1 Unitholders, (ii) Series A-2 Unitholders, (iii) Series A Unitholders, (iv) Class A Common Unitholders and PIU holders in an amount equal to the liquidation preference received by the Series A-2 Unitholders and (v) any remaining amounts to Class A Common Unitholders, Series A-2 Unitholders and PIU holders pro rata in proportion to their aggregate holdings of Class A Units, Series A-2 Units and PIUs

treated as one class. As of December 31, 2024, the aggregate liquidation preferences for the Series A-1 Units, Series A-2 Units and Series A Units were $207 million, $168.8 million and $3.4 million, respectively. As of December 31, 2023, the aggregate liquidation preferences for the Series A-1 Units, Series A-2 Units and Series A Units were $167.3 million, $168.8 million and $25.3 million, respectively.

Participation: Distributions may be made to the Preferred Unitholders, subject to Board approval, in accordance with the order and liquidation preferences described above.

Redemption: Each class of Preferred Units have redemption features that may be exercised by either the Company or by the unitholders. The redemption features are generally contingent on the passage of time or a financing event that is not reasonably certain to occur.

Conversion: Upon an initial public offering by the Company, the Company has the right to convert each series of outstanding Preferred Units into shares of common stock or equity subject to the approval of the applicable unitholders and if required the Board.

Note 10 - Members' Deficit

Incentive Plan

The Company has granted PIUs to eligible employees and directors in accordance with the LLC Agreement. The LLC Agreement allows the Board to grant a maximum aggregate number of incentive units equal to 10% of the Company's total outstanding units, excluding Series A-1 Units. PIUs are nontransferable, have no voting rights and the Company has the option to repurchase prior to a sale or initial public offering. As of December 31, 2024 and 2023, there were 320,374 and 232,534 PIUs authorized, issued, and outstanding, respectively. As of December 31, 2024 and 2023, approximately 59,000 and 53,000 PIUs were subject to time-based vesting, respectively, with the remaining PIUs subject to performance conditions. All PIUs vest immediately upon a sale of the Company or an initial public offering. Each PIU entitles a participant to a residual profits interest after certain hurdle thresholds are met. The fair value of these awards as of the grant date was determined to be immaterial.

Rights, preference and privileges of the Class A Units and PIUs are as follows:

Voting: See Note 9 for a detailed explanation of voting rights associated with each unit class.

Participation: Distributions may be made to the Class A Unitholders and PIU holders, in accordance with the order and liquidation preference described in Note 9.

Redemption: The Class A Units contain a redemption feature held by the Company that is contingent on a financing event that is not reasonably certain to occur.

Note 11 - Retirement Plan

In January 2022, the Company established a qualified 401(k) retirement plan (the "Plan") that covered all eligible, non-union employees who have met eligibility requirements. The Plan replaced the Company-sponsored savings incentive match plan previously covering all eligible, non-union employees who had met the eligibility requirements. The Company matches up to 3.0% of participating employees' compensation to the Plan. For the years ended December 31, 2024 and 2023, the Company contributed approximately $340 thousand and $292 thousand to the Plan, respectively.

Note 12 - Related Party Transactions

During 2023, the Company entered into a note receivable with Viking Cake BR, LLC ("Viking Cake"), which is owned by certain of the Company's board members and beneficial owners, totaling approximately $4.9 million, including accrued interest at a per annum rate of 3.57%. Payment of this note is due upon the fifth anniversary with an option to pay early at the members' election. On May 31, 2024, the Company and Viking Cake entered into an amendment to the promissory note pursuant to which the maturity date of the note was amended to the earlier of (a) May 8, 2030, (b) the initial public offering of the

Company or a successor company, (c) a Sale Event as defined under the LLC Agreement and (d) the date on which all amounts under the promissory note become due and payable pursuant to an event of default under the note. As of December 31, 2024 and 2023, the Company has not established an allowance against the note receivable and the carrying value recorded on the consolidated balance sheet was approximately $5.2 million and $5 million, respectively.

Too Sweet Cakes, LLC ("Too Sweet"), an Oregon bakery, offers a selection of their baked goods exclusively at certain of the Company's stores. Shelbi Geyer, the wife of Clay Geyer, our Chief Operating Officer, and Viking Cake and its affiliates, a beneficial owner of the Company, are owners of and investors in Too Sweet. For the years ended December 31, 2024 and 2023, we made purchases from Too Sweet of $5.3 million and $4.2 million, respectively.

On May 31, 2024, the Company entered into the Series A Redemption Agreement to purchase the remaining Series A Preferred Units from certain members of the Company. See Note 9 for further details.

Note 13 – Commitments and Contingencies

The Company is subject to various legal actions in the ordinary course of business. In determining loss contingencies, the Company considers the likelihood of loss as well as the ability to reasonably estimate the amount of such loss or liability. An estimated loss is recognized when it is considered probable that the liability has been incurred and when the amount of loss can be reasonably estimated. While any claim, proceeding or litigation has an element of uncertainty, the Company believes the outcome of any of these that are pending or threatened will not have a material adverse effect on its financial condition, results or operations, or cash flows as of December 31, 2024.

Note 14 – Segment Reporting

The Company uses the management approach for determining its reportable segments. The management approach is based upon the way that management reviews performance and allocates resources.

The Company's chief operating decision-maker (the "CODM") is its Chief Executive Officer. The Company has one operating and one reportable segment, as the CODM allocates resources and regularly reviews operations and financial performance at a consolidated level. The CODM uses consolidated net income to allocate resources for the single segment to make decisions regarding annual budget, new store openings, marketing decisions and driving the Company's mission. The measure of the single reportable segment's assets is reported as Total assets on the consolidated balance sheets. The accounting policies of the single reportable segment are the same as those described in Note 2.

Financial information for the Company's reportable segment is as follows (in thousands):

	Year Ended December 31,	
	2024	2023
Segment revenue	$ 160,917	$ 133,162
Less:		
Beverage, food and packaging costs	46,491	41,923
Labor and related expenses	35,132	30,236
Occupancy and related expenses	13,107	10,832
Other store operating expenses[1]	21,172	17,286
Selling, general and administrative expenses	25,261	20,313
Depreciation and amortization	10,364	8,523
Pre-opening costs	3,357	2,007
Interest expense, net	11,115	10,949
Other income (expense), net	1,835	(566)
Income tax expense	270	357
Segment loss	(7,187)	(8,698)
Reconciliation of profit or loss		
Adjustments and reconciling items	—	—
Consolidated net loss	$ (7,187)	$ (8,698)

(1) Other store operating expenses consists of consists of credit card fees, repairs and maintenance, utilities, software subscriptions, property taxes, and other operating expenses, incidental to operating the Company's stores, such as store supplies, insurance, business permits, and travel expense.

Note 15 - Subsequent Events

Credit Facility

In January 2025, the Company drew $10.0 million on the delayed draw term loan. In April 2025, the Company amended the Credit Facility through the Fifth Amendment to the Credit Facility (the "Fifth Amendment") which increased the delayed draw term loan commitment by $10.0 million and extended the delayed draw availability period from September 30, 2025 to March 31, 2026. In May 2025, the Company drew another $6.0 million on the delayed draw term loan.

Series A Preferred Units

In April 2025, the Company purchased the remaining outstanding Series A units for $3.4 million.

BLACK ROCK COFFEE BAR, INC.

Balance Sheets (Unaudited)

	June 30, 2025	May 2, 2025
ASSETS		
Total assets	$ 0.01	$ 0.01
SHAREHOLDER'S EQUITY		
Common stock, par value $0.00001, 1,000 shares authorized, 1,000 shares issued and outstanding	0.01	0.01
Total shareholder's equity	$ 0.01	$ 0.01

See accompanying notes to the balance sheets.

(1) Organization

Black Rock Coffee Bar, Inc. (the "Corporation") was organized as a Delaware corporation on May 2, 2025 and in June 2025 was re-domiciled to be incorporated in Texas. The Corporation's fiscal year end is December 31. Pursuant to a reorganization into a holding corporation structure, the Corporation will become a holding corporation and its sole assets are expected to be an equity interest in Black Rock Coffee Holdings, LLC.

The Corporation will be the managing member of Black Rock Coffee Holdings, LLC and will operate and control all of the business affairs of Black Rock Coffee Holdings, LLC and through Black Rock Coffee Holdings, LLC and its subsidiaries, will continue to conduct the business now conducted by these entities.

(2) Summary of Significant Accounting Policies

Basis of Accounting

The Balance Sheets have been prepared in accordance with U.S. generally accepted accounting principles. Separate statements of income, changes in stockholder's equity, and cash flows have not been presented in the financial statements because there have been no activities in this entity.

(3) Shareholder's Equity

The Corporation is authorized to issue 1,000 shares of common stock, at par value of $0.00001 per share. Under the Corporation's certificate of incorporation in effect as of May 2, 2025, there is only one class of common stock. On May 2, 2025, the Corporation issued 1,000 shares of common stock for a total consideration of $0.01.

(4) Subsequent Events

Events and transactions occurring through the date of issuance of the financial statements have been evaluated by management and, when appropriate, recognized or disclosed in the financial statements or notes to the financial statements.

BLACK ROCK COFFEE HOLDINGS, LLC

Condensed Consolidated Balance Sheets (Unaudited)
(*in thousands, except unit data*)

	June 30, 2025	December 31, 2024
ASSETS		
Current assets:		
Cash and cash equivalents	$ 14,640	$ 10,227
Receivables, net	4,514	4,304
Inventories	2,644	2,055
Prepaid expenses and deposits	2,493	2,860
Other current assets	2,678	—
Total current assets	26,969	19,446
Property and equipment, net	80,130	69,989
Operating lease right-of-use assets, net	116,362	101,591
Note receivable from related party	5,258	5,184
Other assets	77	—
Goodwill	9,360	9,360
Intangible assets, net	6,463	7,342
Total assets	$ 244,619	$ 212,912
LIABILITIES, TEMPORARY EQUITY AND MEMBERS' DEFICIT		
Current liabilities:		
Accounts payable	$ 6,961	$ 6,621
Accrued expenses	6,813	3,400
Accrued payroll and benefits	6,024	6,984
Deferred compensation	7,512	5,778
Gift card and loyalty program liability	1,072	1,186
Current portion of long-term debt	1,085	925
Current portion of operating lease liabilities	7,615	8,410
Total current liabilities	37,082	33,304
Long-term debt, net of current portion	105,295	89,269
Operating lease liabilities, net of current portion	124,877	107,000
Total liabilities	267,254	229,573
Commitments and Contingencies (Note 11)		
Temporary equity		
Preferred units:		
Series A ($1.00 par value per unit – 20,000,000 shares authorized; 0 and 3,804,698 units issued and outstanding as of June 30, 2025 and December 31, 2024, respectively)	—	3,429
Series A-1 (2,000,000 units authorized; 1,468,058 units issued and outstanding as of June 30, 2025 and December 31, 2024)	223,541	206,973
Series A-2 (900,000 authorized; 893,835 units issued and outstanding as of June 30, 2025 and December 31, 2024; aggregate liquidation preference of $168,785,545, respectively)	30,773	30,773
Members' deficit		
Members' deficit (4,000,000 Class A Common Units authorized, 2,646,087 units issued and outstanding as of June 30, 2025 and December 31, 2024, respectively)	(276,949)	(257,836)
Total liabilities, temporary equity and members' deficit	$ 244,619	$ 212,912

See accompanying notes to the condensed consolidated financial statements

BLACK ROCK COFFEE HOLDINGS, LLC

Condensed Consolidated Statements of Operations (Unaudited)
(in thousands)

	Six Months Ended June 30,	
	2025	2024
Store revenue	$ 95,110	$ 76,542
Other	104	108
Total revenue	95,214	76,650
Store operating costs and expenses (exclusive of depreciation and amortization presented separately below):		
Beverage, food and packaging costs	27,355	22,258
Labor and related expenses	19,803	16,502
Occupancy and related expenses	7,607	6,415
Other store operating expenses	12,804	9,820
Total store operating costs and expenses	67,569	54,995
Selling, general and administrative expenses	14,740	12,563
Depreciation and amortization	5,826	4,801
Pre-opening costs	1,561	1,284
Total operating expenses	89,696	73,643
Income from operations	5,518	3,007
Interest expense, net	(6,157)	(5,115)
Other income (expense), net	(1,084)	(1)
Loss before income taxes	(1,723)	(2,109)
Income tax expense	222	126
Net loss	(1,945)	(2,235)
Net income attributable to noncontrolling interest	—	20
Net loss attributable to Black Rock Coffee Holdings, LLC	$ (1,945)	$ (2,255)

See accompanying notes to the condensed consolidated financial statements

BLACK ROCK COFFEE HOLDINGS, LLC

Condensed Consolidated Statements of Changes in Temporary Equity and Members' Deficit (Unaudited)
(in thousands)

	Temporary Equity			Total Members' Deficit and Noncontrolling Interest		
	Series A	Series A-1	Series A-2	Members' Deficit	Noncontrolling Interest	Total
Balance at December 31, 2023	$ 25,333	$ 167,258	$ 30,773	$ (226,512)	$ 436	$ (226,076)
Net loss attributable to Black Rock Coffee Holdings, LLC	—	—	—	(2,255)	—	(2,255)
Net income attributable to noncontrolling interest	—	—	—		20	20
Purchase of noncontrolled ownership interest	—	—	—	(1,111)	(456)	(1,567)
Deemed distribution for Series A-1 Preferred Units	—	14,552	—	(14,552)	—	(14,552)
Unitholder contributions	—	10,000	—	—	—	—
Unitholder distributions	—	(150)	—	(450)		(450)
Waiver of unpaid Series A preferred yield	(5,358)	—	—	5,358	—	5,358
Redemption discount on Series A Preferred Units	(1,975)	—	—	1,975	—	1,975
Unitholder redemptions	(10,000)	—	—	—	—	—
Balance at June 30, 2024	$ 8,000	$ 191,660	$ 30,773	$ (237,547)	$ —	$ (237,547)

	Temporary Equity			Total Members' Deficit and Noncontrolling Interest		
	Series A	Series A-1	Series A-2	Members' Deficit	Noncontrolling Interest	Total
Balance at December 31, 2024	$ 3,429	$ 206,973	$ 30,773	$ (257,836)	$ —	$ (257,836)
Net loss	—	—	—	(1,945)	—	(1,945)
Deemed distribution for Series A-1 Preferred Units	—	16,718	—	(16,718)	—	(16,718)
Unitholder distributions	—	(150)	—	(450)	—	(450)
Unitholder redemptions	(3,429)	—	—	—	—	—
Balance at June 30, 2025	$ —	$ 223,541	$ 30,773	$ (276,949)	$ —	$ (276,949)

See accompanying notes to the condensed consolidated financial statements

BLACK ROCK COFFEE HOLDINGS, LLC

Condensed Consolidated Statements of Cash Flows (Unaudited)
(in thousands)

	Six Months Ended June 30,	
	2025	**2024**
Cash flows from operating activities:		
Net loss	$ (1,945)	$ (2,235)
Adjustments to reconcile net loss to net cash provided by operating activities:		
Depreciation and amortization	5,826	4,801
Loss on disposal of property and equipment	—	314
Amortization of debt issuance costs and loan fees	728	629
Accrued paid-in-kind interest	146	168
Interest income from related party	(74)	(92)
Non-cash operating lease costs	4,613	3,839
Changes in operating assets and liabilities:		
Receivables, net	(210)	(2,079)
Inventories	(589)	(4)
Prepaid expenses and deposits	367	(461)
Other assets	(77)	—
Accounts payable	(70)	(1,723)
Accrued payroll and benefits	(960)	439
Deferred compensation	1,734	1,733
Accrued expenses	1,346	872
Gift card and loyalty program liability	(114)	(114)
Operating lease liabilities	(2,302)	(748)
Net cash provided by operating activities	8,419	5,339
Cash flows from investing activities:		
Purchases of property and equipment	(15,033)	(11,441)
Purchase of intangible assets	(110)	(338)
Net cash used in investing activities	(15,143)	(11,779)
Cash flows from financing activities:		
Proceeds from long-term debt	16,000	12,500
Payments on long-term debt	(528)	(432)
Payment of debt issuance costs and loan fees	(160)	(2,201)
Purchase of noncontrolling interest position	—	(1,567)
Payments for redemption of outstanding Series A units	(3,429)	(10,000)
Unitholder contributions	—	10,000
Unitholder distributions	(600)	(600)
Deferred offering costs paid	(146)	—
Net cash provided by financing activities	11,137	7,700
Net increase in cash and cash equivalents	4,413	1,260
Cash and cash equivalents, beginning of period	10,227	17,200
Cash and cash equivalents, end of period	$ 14,640	$ 18,460
Supplemental disclosure of cash flow information:		
Cash paid during the year for interest, net of capitalized interest	$ 5,306	$ 4,664
Income taxes paid, net of refunds	180	123
Supplemental disclosure of noncash investing and financing activities:		
Deferred offering costs not yet paid	2,532	—
Additions of property and equipment accrued in accounts payable	1,667	1,850

See accompanying notes to the condensed consolidated financial statements

Note 1 - Organization and Nature of Operations

Nature of Operations

Black Rock Coffee Holdings, LLC ("Black Rock") was formed on August 1, 2018. Black Rock, together with its wholly owned subsidiaries (collectively, the "Company") owns and operates a vertically integrated retail coffee business with locations in Oregon, Washington, Idaho, California, Colorado, Arizona, and Texas.

Note 2 - Basis of Presentation and Summary of Significant Accounting Policies

Basis of Presentation

The accompanying unaudited condensed consolidated financial statements have been prepared in accordance with generally accepted accounting principles and practices of the United States of America ("GAAP") for interim financial information. Certain information and footnote disclosures normally included in annual financial statements presented in accordance with GAAP have been omitted pursuant to rules and regulations of the Securities and Exchange Commission ("SEC"). In the opinion of management, all adjustments (consisting of normal recurring adjustments) considered necessary for a fair statement of the results for interim periods have been included.

The unaudited interim financial information should be read in conjunction with the audited consolidated financial statements and notes thereto for the year ended December 31, 2024.

Principles of Consolidation

The accompanying unaudited condensed consolidated financial statements include the accounts of Black Rock and its wholly owned subsidiaries. All intercompany transactions and balances have been eliminated upon consolidation.

Use of Estimates

The preparation of condensed consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions, primarily related to leases, temporary equity, and gift card and loyalty program liability that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the condensed consolidated financial statements, and the reported amounts of revenues and expenses for the reporting period. Although management bases its estimates on historical experience and assumptions that are believed to be reasonable under the circumstances, actual results could differ from those estimates.

Fair Value Measurements

Fair value is the price the Company would receive to sell an asset or pay to transfer a liability in an orderly transaction between market participants. For assets and liabilities recorded or disclosed at fair value on a recurring basis, the Company determined fair value based on the following:

- *Level 1*: Unadjusted quoted prices in active markets for identical assets or liabilities.
- *Level 2*: Observable inputs other than quoted prices in active markets for identical assets or liabilities, quoted prices for identical assets or liabilities in inactive markets, or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities.
- *Level 3*: Inputs that are both unobservable and significant to the overall fair value measurements reflecting an entity's estimates of assumptions that market participants would use in pricing the asset or liability.

The Company's condensed consolidated financial statements include cash and cash equivalents, accounts receivable, prepaid expenses and deposits, other current assets, accounts payable, accrued

expenses and other current liabilities, for which the carrying amounts approximate fair value due to their short-term maturity. The fair value of the Company's variable-rate credit facility approximates its carrying amounts as the cost of borrowing is variable and approximates current market prices, which is considered Level 2 in the fair value hierarchy.

Deferred Offering Costs

Deferred offering costs, which consist of direct incremental legal, consulting, accounting, and other fees relating to the Company's anticipated initial public offering ("IPO"), are capitalized and will be recorded as a reduction of proceeds from the IPO upon the consummation of the IPO. There were $2.7 million of deferred offering costs included in other current assets on the condensed consolidated balance sheets as of June 30, 2025. Of the costs included in the condensed consolidated balance sheets, $146 thousand and $2.5 million were paid and unpaid, respectively, as of June 30, 2025.

Advertising Expense

The Company expenses advertising costs as they are incurred. Advertising expenses were approximately $1.1 million and $904 thousand for the six months ended June 30, 2025 and 2024, respectively.

Concentrations

For the six months ended June 30, 2025 and 2024, three and two suppliers accounted for approximately 88% and 80% of purchases, respectively.

Recently Issued Accounting Standards

In December 2023, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") No. 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures*. The amendments in the update are intended to enhance the transparency and decision usefulness of income tax disclosures, primarily through improvements to the rate reconciliation and income taxes paid information, specifically requiring (1) consistent categories and greater disaggregation of information in the rate reconciliation, and (2) income taxes paid disaggregated by jurisdiction. These amendments are effective for public business entities' annual periods beginning after December 15, 2024 and interim periods within fiscal years beginning after December 15, 2025, and should be applied on a prospective basis. Early adoption is permitted for annual financial statements that have not yet been issued. The Company is currently assessing the potential impacts of this standard on its income taxes disclosures and expects to provide additional detail and disclosures under the new guidance.

In November 2024, the FASB issued ASU No. 2024-03 , *Income Statement – Reporting Comprehensive Income – Expense Disaggregation Disclosures (Subtopic 220-40)* . The intent of this ASU is to improve public entity financial footnote disclosures around types of expenses in commonly presented expense categories (i.e. cost of sales, selling, general and administrative expenses, and research and development). The amendments in this ASU do not change or remove current expense disclosure requirements, but rather 1) impact where this information appears in the notes to the consolidated financial statements and 2) add additional disclosure requirements for certain expense line items appearing on the face of the consolidated statement of operations. ASU 2024-03, as amended, is effective for annual reporting periods beginning after December 15, 2026, and interim reporting periods beginning after December 15, 2027. Early adoption is permitted. The Company will assess potential impacts of this standard on its disclosures in future periods.

Note 3 - Revenue Recognition

(in thousands)	Six Months Ended June 30, 2025	Six Months Ended June 30, 2024
Store revenue	$ 95,110	$ 76,542
Other	104	108
Total revenue	$ 95,214	$ 76,650

The Company's gift card and loyalty program liability activity was as follows:

(in thousands)	Six Months Ended June 30, 2025	Six Months Ended June 30, 2024
Beginning balance	$ 1,186	$ 778
Revenue deferred - card activations and rewards earned	8,018	6,291
Revenue recognized - card and rewards redemptions and breakage	(8,132)	(6,405)
Ending balance	$ 1,072	$ 664

Note 4 - Supplemental Balance Sheet Information

The components of Receivables, net were as follows:

(in thousands)	June 30, 2025	December 31, 2024
Tenant improvement allowance receivables	$ 4,425	$ 4,103
Trade receivables	24	97
Other receivables	65	104
Receivables, net	$ 4,514	$ 4,304

The components of Inventories were as follows:

(in thousands)	June 30, 2025	December 31, 2024
Coffee beans and product inventory	$ 2,142	$ 1,613
Merchandise and supplies	224	207
Other	278	235
Inventories	$ 2,644	$ 2,055

The components of Property and equipment, net were as follows:

(in thousands)	Estimated Useful Lives	June 30, 2025	December 31, 2024
Manufacturing equipment	3-7 years	$ 29,973	$ 27,476
Leasehold improvements	15 years	50,380	46,100
Buildings	15-39 years	8,911	7,267
Furniture and fixtures	5-7 years	9,341	8,210
Vehicles	5-7 years	482	482
Software	5 years	236	232
Construction in progress		10,256	4,834
Property and equipment, gross		109,579	94,601
Less accumulated depreciation		(29,449)	(24,612)
Property and equipment, net		$ 80,130	$ 69,989

Depreciation expense was approximately $4.8 million and $3.8 million for the six months ended June 30, 2025 and 2024, respectively, and is included in operating expenses in the condensed consolidated statements of operations.

The Company capitalizes a portion of interest on borrowings related to eligible capital expenditures. Capitalized interest is added to the cost of qualified assets and amortized over the estimated useful lives of the assets. The Company capitalized approximately $199 thousand and $188 thousand in interest expense for the six months ended June 30, 2025 and 2024, respectively.

Note 5 – Intangible Assets

The Company has intangible assets that are being amortized over 3 to 15 years consisting of the following:

(in thousands)	June 30, 2025	December 31, 2024
Reacquired franchise rights	$ 13,504	$ 13,504
Other intangible assets	3,069	2,959
Less accumulated amortization	(10,110)	(9,121)
Total intangible assets, net	$ 6,463	$ 7,342

Amortization expense in the condensed consolidated statements of operations was as follows:

	Six Months Ended June 30,	
(in thousands)	2025	2024
Reacquired franchise rights	$ 863	$ 905
Other intangible assets	126	112

Note 6 – Long-Term Debt

(in thousands)	June 30, 2025	December 31, 2024
Note payable to RCS SBIC Fund II, L.P and TCW Asset Management Company, LLC	$ 108,233	$ 92,614
Less current portion	(1,085)	(925)
Less debt issuance costs	(674)	(769)
Less capitalized modification fees	(1,179)	(1,651)
Total long-term debt	$ 105,295	$ 89,269

In January 2025, the Company executed a drawdown of $10.0 million on the delayed draw term loan under the Company's amended Senior Credit Facility with RCS SBIC Fund II, L.P and TCW Asset Management Company, LLC (the "Credit Facility"), dated as of April 29, 2022. On April 24, 2025, the Company amended the Credit Facility, through the Fifth Amendment to the Credit Facility (the "Fifth Amendment"). The Fifth Amendment, among other things, increased the delayed draw term loan commitment by $10 million and extended the delayed draw availability period from September 30, 2025 to March 31, 2026. Furthermore, in May 2025, the Company executed a drawdown of $6.0 million of delayed draw term loans.

The Credit Facility bears interest at either (a) the Secured Overnight Financing Rate ("SOFR"), plus 6.00%, plus a 0.50% spread or (b) the greatest of (i) 2.50% per annum, (ii) the Federal Funds Rate plus 0.5%, (iii) the Prime Rate, and (iv) the Adjusted Term SOFR Rate for a one-month tenor in effect on such date plus 1.0%, in each case, plus 5.00% and a 0.5% spread, with the amount of spread in both scenarios based on a pricing grid tied to the Company's total net leverage ratio. In addition, the Credit Facility includes a commitment fee payable on a quarterly basis, at a rate per annum of 1.00% that is based on the total delayed draw term loan commitment. Interest on borrowings under the Credit Facility is payable at least quarterly and upon maturity. These fees are recorded within interest expense, net on the condensed consolidated statement of operations. The Credit Facility is payable in quarterly principal installments equal to 0.25% of the principal balance and accrued current pay interest at 0.50% per annum.

The Credit Facility also contains financial covenants that require the Company to not exceed a maximum net leverage ratio and to maintain a minimum fixed charge coverage ratio. In addition, the Credit Facility also contains certain negative covenants that, among other things, limit the Company's ability to incur additional debt, grant liens on assets, merge with or acquire other companies, make other investments, dispose of assets, and make restricted payments. Obligations under the Credit Facility are guaranteed by the Company and certain of its subsidiaries and secured by first priority liens on substantially all of the Company's assets as well as equity interests held by certain of the Company's members.

The term loans bear interest at approximately 10.57% as of June 30, 2025. The Company was in compliance with all financial covenants as of that date.

Future principal maturities of long-term debt as of June 30, 2025 are as follows:

(in thousands)	
Remainder of 2025	$ 543
2026	107,690
Total	$ 108,233

Interest expense, net in the condensed consolidated statements of operations was as follows:

	Six Months Ended June 30,	
(in thousands)	**2025**	**2024**
Interest expense	$ 5,664	$ 4,836
Amortization of debt issuance costs and capitalized modification fees	728	629
Interest income	(235)	(350)
Interest expense, net	$ 6,157	$ 5,115

Note 7 – Leases

The Company leases its stores, roasting and warehouse facilities, and corporate offices under operating leases, typically with initial terms of 10 to 15 years.

The components of net lease costs, included in occupancy and related expenses, pre-opening costs as well as selling, general and administrative expenses in the condensed consolidated statement of operations, were as follows:

	Six Months Ended June 30,	
(in thousands)	**2025**	**2024**
Operating lease cost	$ 7,998	$ 6,362
Variable lease cost	530	538
Less sublease income	(54)	(54)
Total lease cost	$ 8,474	$ 6,846

Supplemental cash flow information related to leases is as follows for the periods presented:

	Six Months Ended June 30,	
(in thousands)	**2025**	**2024**
Cash paid for amounts included in the measurement of operating lease liabilities	$ 5,698	$ 5,281
Operating lease right-of use-assets obtained in exchange for lease obligations	19,485	14,208

As of June 30, 2025, future minimum lease payments for operating leases consisted of the following:

Remainder of 2025	$ 8,175
2026	14,912
2027	16,703
2028	16,262
2029	15,684
Thereafter	118,277
Total lease payments	190,013
Less imputed interest	(57,521)
Total operating lease liabilities	132,492
Less current portion	(7,615)
Total operating lease liability, net of current portion	$ 124,877

Note 8 - Temporary Equity

Series A Preferred Units

On May 31, 2024, in conjunction with the execution of the Sixth Amended and Restated LLC Agreement (the "LLC Agreement") the Company entered into a redemption agreement (the "Series A Redemption Agreement") with the holders ("Series A Unitholders") of the Company's Series A Preferred Units (the "Series A Units") to purchase all of the 19,974,660 outstanding Series A Units for an aggregate purchase price of $18 million, as soon as such purchase and redemption of the Series A Units is permitted by the Credit Facility. Under the Series A Redemption Agreement 16,169,962 Series A Units were purchased for approximately $14.6 million in 2024. As of December 31, 2024, 3,804,698 Series A Units were outstanding. In April 2025, the Company purchased the remaining outstanding Series A units for $3.4 million and incurred approximately $1.1 million in fees associated with the purchase for the six months ended June 30, 2025, which is recognized in other income (expense), net on the condensed consolidated statements of operations.

Note 9 - Members' Deficit

Incentive Plan

The Company has granted Profits Interest Units ("PIUs") to eligible employees and directors in accordance with the LLC Agreement. The LLC Agreement allows the Board to grant a maximum aggregate number of incentive units equal to 10% of the Company's total outstanding units, excluding Series A-1 Units. PIUs are nontransferable, have no voting rights and the Company has the option to repurchase prior to a sale or initial public offering. As of June 30, 2025 and December 31, 2024, there were 353,773 and 320,374 PIUs authorized, issued, and outstanding, respectively. As of June 30, 2025 and December 31, 2024, approximately 59,000 PIUs were subject to time-based vesting, with the remaining PIUs subject to performance conditions. As of June 30, 2025, approximately 334,472 PIUs will vest immediately upon a sale of the Company or an initial public offering and approximately 9,651 PIUs will vest upon each the first and secondary anniversary of a sale of the Company or initial public offering, respectively. Each PIU entitles a participant to a residual profits interest after certain hurdle thresholds are met. The fair value of these awards as of the grant date was determined to be immaterial. For the six months ended June 30, 2025 approximately 5,203 PIUs were forfeited.

Note 10 - Related Party Transactions

During 2023, the Company entered into a note receivable with Viking Cake BR, LLC ("Viking Cake"), which is owned by certain of the Company's board members and beneficial owners, totaling approximately $4.9 million, including accrued interest at a per annum rate of 3.57%. Payment of this note is due upon the fifth anniversary with an option to pay early at the members' election. On May 31, 2024, the Company and Viking Cake entered into an amendment to the promissory note pursuant to which the maturity date of the note was amended to the earlier of (a) May 8, 2030, (b) the initial public offering of the Company or a successor company, (c) a Sale Event as defined under the LLC Agreement and (d) the date on which all amounts under the promissory note become due and payable pursuant to an event of default under the note. As of June 30, 2025 and December 31, 2024, the Company has not established an allowance against the note receivable and the carrying value recorded on the condensed consolidated balance sheets was approximately $5.3 million and $5.2 million, respectively. In August of 2025, the Company forgave the full amount of the note receivable with Viking Cake.

Too Sweet Cakes, LLC ("Too Sweet"), an Oregon bakery, offers a selection of their baked goods exclusively at certain of the Company's stores. Shelbi Geyer, the wife of Clay Geyer, the Company's Chief Operating Officer, and Viking Cake and its affiliates, a beneficial owner of the Company, are owners of and investors in Too Sweet. For the six months ended June 30, 2025 and 2024, the Company made purchases from Too Sweet of $3.3 million and $2.5 million, respectively.

On May 31, 2024, the Company entered into the Series A Redemption Agreement to purchase the remaining Series A Preferred Units from certain members of the Company. See Note 8 for further details.

Note 11 – Commitments and Contingencies

The Company is subject to various legal actions in the ordinary course of business. In determining loss contingencies, the Company considers the likelihood of loss as well as the ability to reasonably estimate the amount of such loss or liability. An estimated loss is recognized when it is considered probable that the liability has been incurred and when the amount of loss can be reasonably estimated. While any claim, proceeding or litigation has an element of uncertainty, the Company believes the outcome of any of these matters that are pending or threatened will not have a material adverse effect on its financial condition, results or operations, or cash flows as of June 30, 2025.

Note 12 – Segment Reporting

The Company uses the management approach for determining its reportable segments. The management approach is based upon the way that management reviews performance and allocates resources.

The Company's chief operating decision-maker (the "CODM") is its Chief Executive Officer. The Company has one operating and one reportable segment, as the CODM allocates resources and regularly reviews operations and financial performance at a consolidated level. The CODM uses consolidated net income to allocate resources for the single segment to make decisions regarding annual budget, new store openings, marketing decisions and driving the Company's mission. The measure of the single reportable segment's assets is reported as Total assets on the condensed consolidated balance sheets.

No changes have been made to the Company's segment during the six months ended June 30, 2025. In addition, no customer represented 10% or more of total revenue for the six months ended June 30, 2025 and 2024.

Financial information for the Company's reportable segment is as follows (in thousands):

	Six Months Ended June 30,	
	2025	2024
Segment revenue	$ 95,214	$ 76,650
Less:		
Beverage, food and packaging costs	27,355	22,258
Labor and related expenses	19,803	16,502
Occupancy and related expenses	7,607	6,415
Other store operating expenses[1]	12,804	9,820
Selling, general and administrative expenses	14,740	12,563
Depreciation and amortization	5,826	4,801
Pre-opening costs	1,561	1,284
Interest expense, net	(6,157)	(5,115)
Other income (expense), net	(1,084)	(1)
Income tax expense	222	126
Segment loss	(1,945)	(2,235)
Reconciliation of profit or loss		
Adjustments and reconciling items	—	—
Consolidated net loss	$ (1,945)	$ (2,235)

(1) Other store operating expenses consists of credit card fees, repairs and maintenance, utilities, software subscriptions, property taxes, and other operating expenses, incidental to operating the Company's stores, such as store supplies, insurance, business permits, and travel expense.

Note 13 - Subsequent Events

Events and transactions occurring through the date of issuance of the financial statements have been evaluated by management and, when appropriate, recognized or disclosed in the financial statements or notes to the financial statements.

14,705,882 Shares



Class A Common Stock

, 2025

J.P. Morgan **Jefferies** **Morgan Stanley** **Baird**

Stifel **William Blair**

Raymond James

Through and including , 2025 (the 25th day after the date of this prospectus), all dealers that buy, sell or trade shares of our Class A common stock, whether or not participating in this offering, may be required to deliver a prospectus. This delivery requirement is in addition to the obligation of dealers to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscription.

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 13. Other Expenses of Issuance and Distribution

The following table sets forth the costs and expenses, other than underwriting discounts and commissions, payable by us in connection with the sale of the Class A common stock being registered. All amounts are estimates except for the Securities and Exchange Commission (the "SEC") registration fee, the Financial Industry Regulatory Authority ("FINRA") filing fee and the Nasdaq listing fee.

		Amount to Be Paid
SEC registration fee	$	46,605
FINRA filing fee	$	46,161
Stock exchange listing fee	$	295,000
Transfer agent's fees and expenses	$	5,000
Printing and engraving expenses	$	170,000
Legal fees and expenses	$	4,037,234
Accounting fees and expenses	$	1,900,000
Total	$	6,500,000

Item 14. Indemnification of Directors and Officers

The Texas Business Organizations Code (the "TBOC") permits a corporation to indemnify a director who was, is or is threatened to be a named defendant or respondent in a proceeding as a result of the performance of his or her duties if such person acted in good faith and, in the case of conduct in the person's official capacity as a director, in a manner he or she reasonably believed to be in the best interests of the corporation and, in all other cases, that the person reasonably believed his or her conduct was not opposed to the best interests of the corporation and with respect to any criminal action or proceeding, that such person had no reasonable cause to believe his or her conduct was unlawful. Subject to certain exceptions, the TBOC further permits a corporation to eliminate in its charter all monetary liability of the corporation's directors to the corporation or its shareholders for conduct in performance of such director's duties, but not for a breach of the director's duty of loyalty or receipt of an improper benefit. Our amended and restated certificate of formation will provide that a director of the corporation will not be liable to the corporation or its shareholders for monetary damages for any act or omission by the director in the performance of his or her duties, except that there will be no limitation of liability to the extent the director has been found liable under applicable law for: (i) breach of the director's duty of loyalty owed to the corporation or its shareholders; (ii) an act or omission not in good faith that constitutes a breach of duty of the director to the corporation or that involves intentional misconduct or a knowing violation of the law; (iii) a transaction from which the director received an improper benefit, regardless of whether the benefit resulted from an action taken within the scope of the director's duties; or (iv) an act or omission for which the liability of the director is expressly provided for by an applicable statute.

Sections 8.101 and 8.103 of the TBOC provide that a corporation may indemnify a person who was, is or is threatened to be a named defendant or respondent in a proceeding because the person is or was a director only if a determination is made that such indemnification is permissible under the TBOC: (i) by a majority vote of the directors who at the time of the vote are disinterested and independent, regardless of whether such directors constitute a quorum; (ii) by a majority vote of a board committee designated by a majority of disinterested and independent directors and consisting solely of disinterested and independent directors; (iii) by special legal counsel selected by the board of directors or a committee of the board of

directors as set forth in (i) or (ii); (iv) by the shareholders in a vote that excludes the shares held by directors who are not disinterested and independent; or (v) by a unanimous vote of the shareholders.

Section 8.104 of the TBOC provides that the corporation may pay or reimburse, in advance of the final disposition of the proceeding, reasonable expenses incurred by a present director who was, is or is threatened to be made a named defendant or respondent in a proceeding after the corporation receives a written affirmation by the director of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under Section 8.101 and a written undertaking by or on behalf of the director to repay the amount paid or reimbursed if it is ultimately determined that he or she has not met that standard or if it is ultimately determined that indemnification of the director is not otherwise permitted under the TBOC. Section 8.105 also provides that reasonable expenses incurred by a former director, or a present or former employee, agent, or officer of the corporation, who was, is or is threatened to be made a named defendant or respondent in a proceeding may be paid or reimbursed by the corporation, in advance of the final disposition of the action, as the corporation considers appropriate.

Section 8.105 of the TBOC provides that, subject to restrictions in its certificate of formation and to the extent consistent with other law, a corporation may indemnify and advance expenses to a person who is not a director, including an officer, employee, or agent of the corporation as provided by: (i) the corporation's governing documents; (ii) an action by the corporation's governing authority; (iii) resolution by the shareholders; (iv) contract; or (v) common law. As consistent with Section 8.105, persons who are not directors may seek indemnification and advancement of expenses from a corporation to the same extent that directors may seek indemnification and advancement of expenses from a corporation.

Further, our amended and restated certificate of formation and amended and restated bylaws will provide that we must indemnify our directors and officers to the fullest extent authorized by law. We are also expressly required to advance certain expenses to our directors and officers, except for claims brought by us, and carry directors' and officers' insurance providing indemnification for our directors and officers for some liabilities. We believe that these indemnification provisions and the directors' and officers' insurance are useful to attract and retain qualified directors and executive officers.

We have also entered into, or will enter into prior to the completion of this offering, indemnification agreements with each of our directors and executive officers. The indemnification agreements provide, or will provide, among other things, for indemnification to the fullest extent permitted by the TBOC and our amended and restated certificate of formation and amended and restated bylaws against (i) any and all direct and indirect liabilities and reasonable expenses, including judgments, fines, penalties, interest and amounts paid in settlement of any claim with our approval and reasonable counsel fees and disbursements and (ii) any liabilities incurred as a result of serving as a director, officer, employee, or agent (including as a trustee, fiduciary, partner, or manager or in a similar capacity) of another enterprise or an employee benefit plan at our request. The indemnification agreements also provide for, or will provide for, the advancement or payment of expenses to the indemnitee and for reimbursement to us if it is found that such indemnitee is not entitled to such indemnification under applicable law and our amended and restated certificate of formation and amended and restated bylaws or the terms of the indemnification agreements.

We expect to maintain standard policies of insurance that provide coverage (i) to our directors and officers against loss rising from claims made by reason of breach of duty or other wrongful act and (ii) to us with respect to indemnification payments that we may make to such directors and officers. The underwriting agreement provides for indemnification by the underwriters of us and our officers and directors, and by us of the underwriters, for certain liabilities arising under the Securities Act or otherwise in connection with this offering.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers, or persons controlling us under any of the foregoing provisions, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

Item 15. Recent Sales of Unregistered Securities

On May 2, 2025, the registrant issued 1,000 shares of the registrant's common stock, par value $0.00001 per share, to an officer of the registrant for $0.01. Such shares of common stock will be redeemed upon the consummation of this offering. The issuance of such shares of common stock was exempt from registration under Section 4(a)(2) of the Securities Act, as a transaction by an issuer not involving any public offering.

Item 16. Exhibits and Financial Statement Schedules

(a) Exhibits

The following documents are filed as exhibits to this registration statement.

EXHIBIT INDEX

Exhibit Number	Exhibit Description
1.1	Form of Underwriting Agreement.
3.1+	Certificate of Formation of Black Rock Coffee Bar, Inc., as in effect prior to the consummation of the Transactions.
3.2	Form of Amended and Restated Certificate of Formation of Black Rock Coffee Bar, Inc., to be in effect upon the consummation of the Transactions.
3.3+	Bylaws of Black Rock Coffee Bar, Inc., as in effect prior to the consummation of the Transactions.
3.4	Form of Amended and Restated Bylaws of Black Rock Coffee Bar, Inc. to be in effect upon the consummation of the Transactions.
4.1	Specimen Stock Certificate evidencing the shares of Class A common stock.
5.1	Opinion of Latham & Watkins LLP.
10.1†	Credit Agreement, dated as of April 29, 2022, by and among Black Rock Coffee Holdings, LLC, Black Rock Coffee Bar, LLC, Black Rock Store Operations LLC, Black Rock Development, LLC, Black Rock Roasting, LLC, BRSO 67th, LLC, and BR Castle Rock LLC; BRSO PNW XX, LLC, as Guarantor; the Credit Parties and the Lenders; RSC Agent, LLC, as Administrative Agent; RSC SBIC Fund II, L.P., as Joint Lead Arranger and Co-Bookrunner and TCW Asset Management Company LLC, as Collateral Agent, Joint Lead Arranger and Co-Bookrunner.
10.2	First Amendment to Credit Agreement, dated as of November 11, 2022, by and among Black Rock Coffee Holdings, LLC, Black Rock Coffee Bar, LLC, Black Rock Store Operations LLC, Black Rock Development, LLC, Black Rock Roasting, LLC, BRSO 67th, LLC, and BR Castle Rock LLC; BRSO PNW XX, LLC, as Guarantor; the Credit Parties and the Lenders; RSC Agent, LLC, as Administrative Agent; RSC SBIC Fund II, L.P., as Joint Lead Arranger and Co-Bookrunner and TCW Asset Management Company LLC, as Collateral Agent, Joint Lead Arranger and Co-Bookrunner.
10.3	Second Amendment to Credit Agreement, dated as of June 13, 2023, by and among Black Rock Coffee Holdings, LLC, Black Rock Coffee Bar, LLC, Black Rock Store Operations LLC, Black Rock Development, LLC, Black Rock Roasting, LLC, BRSO 67th, LLC, and BR Castle Rock LLC; BRSO PNW XX, LLC, as Guarantor; the Credit Parties and the Lenders; RSC Agent, LLC, as Administrative Agent; RSC SBIC Fund II, L.P., as Joint Lead Arranger and Co-Bookrunner and TCW Asset Management Company LLC, as Collateral Agent, Joint Lead Arranger and Co-Bookrunner.

Exhibit Number	Exhibit Description
10.4†	Third Amendment to Credit Agreement, dated as of May 8, 2023, by and among Black Rock Coffee Holdings, LLC, Black Rock Coffee Bar, LLC, Black Rock Store Operations LLC, Black Rock Development, LLC, Black Rock Roasting, LLC, BRSO 67th, LLC, and BR Castle Rock LLC; BRSO PNW XX, LLC, as Guarantor; the Credit Parties and the Lenders; RSC Agent, LLC, as Administrative Agent; RSC SBIC Fund II, L.P., as Joint Lead Arranger and Co-Bookrunner and TCW Asset Management Company LLC, as Collateral Agent, Joint Lead Arranger and Co-Bookrunner.
10.5†	Fourth Amendment to Credit Agreement, dated as of May 31, 2024, by and among Black Rock Coffee Holdings, LLC, Black Rock Coffee Bar, LLC, Black Rock Store Operations LLC, Black Rock Development, LLC, Black Rock Roasting, LLC, BRSO 67th, LLC, and BR Castle Rock LLC; BRSO PNW XX, LLC and Black Rock Coffee Investments, LLC, as Guarantors; the Credit Parties and the Lenders; RSC Agent, LLC, as Administrative Agent; RSC SBIC Fund II, L.P., as Joint Lead Arranger and Co-Bookrunner and TCW Asset Management Company LLC, as Collateral Agent, Joint Lead Arranger and Co-Bookrunner.
10.6†	Fifth Amendment to Credit Agreement, dated as of April 24, 2025, by and among Black Rock Coffee Holdings, LLC, Black Rock Coffee Bar, LLC, Black Rock Store Operations LLC, Black Rock Development, LLC, Black Rock Roasting, LLC, BRSO 67th, LLC, and BR Castle Rock LLC; BRSO PNW XX, LLC and Black Rock Coffee Investments, LLC, as Guarantors; the Credit Parties and the Lenders; RSC Agent, LLC, as Administrative Agent; RSC SBIC Fund II, L.P., as Joint Lead Arranger and Co-Bookrunner and TCW Asset Management Company LLC, as Collateral Agent, Joint Lead Arranger and Co-Bookrunner.
10.7	Form of Tax Receivable Agreement, to be effective upon the consummation of the Transactions.
10.8	Form of Amended and Restated LLC Agreement of Black Rock Coffee Holdings, LLC, to be effective upon the consummation of the Transactions.
10.9	Form of Registration Rights Agreement, to be effective upon the consummation of the Transactions.
10.10	Form of Voting Agreement, to be effective upon consummation of the Transactions, by and between Black Rock Coffee Bar, Inc. and the Co-Founders.
10.11	Form of Voting Agreement, to be effective upon consummation of the Transactions, by and between Black Rock Coffee Bar, Inc. and our Sponsor.
10.12#	2025 Incentive Award Plan.
10.13#	Form Option Agreement under 2025 Incentive Award Plan .
10.14#	Form Option Agreement under 2025 Incentive Award Plan (CEO).
10.15#	Form Restricted Stock Unit Award Agreement under 2025 Incentive Award Plan .
10.16#	Form Restricted Stock Unit Award Agreement under 2025 Incentive Award Plan (CEO).
10.17#	Non-Employee Director Compensation Program.
10.18#	Executive Severance Plan.
10.19	Form of Indemnification Agreement.
21.1+	List of Subsidiaries
23.1	Consent of KPMG LLP, as to Black Rock Coffee Bar, Inc.
23.2	Consent of KPMG LLP, as to Black Rock Coffee Holdings, LLC.
23.3	Consent of Latham & Watkins LLP (contained in its opinion filed as Exhibit 5.1 hereto).
24.1+	Power of Attorney (included on the signature page of the initial filing of the Registration Statement).
99.1	Consent of Kristina Cashman to be Named as Director Nominee .

Exhibit Number	Exhibit Description
107	Filing Fee Table.

+ Previously filed.
# Indicates management contract or compensatory plan.
† Certain schedules and exhibits to this agreement have been omitted pursuant to Item 601(a)(5) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished supplementally to the SEC upon request.

(b) All financial statement schedules are omitted because the information required to be set forth therein is not applicable or is shown in the consolidated financial statements or the notes thereto.

Item 17. Undertakings

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer, or controlling person of the registrant in the successful defense of any action, suit, or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered hereunder, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Scottsdale, State of Arizona, on the 2nd day of September, 2025.

BLACK ROCK COFFEE BAR, INC.

By: /s/ Mark Davis
Name: Mark Davis
Title: *Chief Executive Officer and Director*

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Mark Davis Mark Davis	Chief Executive Officer and Director (Principal Executive Officer)	September 2, 2025
/s/ Rodd Booth Rodd Booth	Chief Financial Officer (Principal Financial Officer)	September 2, 2025
/s/ Michael Schmidt Michael Schmidt	Controller (Principal Accounting Officer)	September 2, 2025
* Jeff Hernandez	Director	September 2, 2025
* Daniel Brand	Director	September 2, 2025
* Jake Spellmeyer	Director	September 2, 2025
* Bryan Pereboom	Director	September 2, 2025
* Richard Federico	Director	September 2, 2025
* Sarah Goldsmith-Grover	Director	September 2, 2025
* Andrew Braithwaite	Director	September 2, 2025

*By: /s/ Mark Davis
Mark Davis
Attorney-in-Fact

Calculation of Filing Fee Tables

S-1

Black Rock Coffee Bar, Inc.

Table 1: Newly Registered and Carry Forward Securities ☐Not Applicable

		Security Type	Security Class Title	Fee Calculation or Carry Forward Rule	Amount Registered	Proposed Maximum Offering Price Per Unit	Maximum Aggregate Offering Price	Fee Rate	Amount of Registration Fee	Carry Forward Form Type	Carry Forward File Number	Carry Forward Initial Effective Date	Filing Fee Previously Paid in Connection with Unsold Securities to be Carried Forward
Newly Registered Securities													
Fees to be Paid	1	Equity	Class A Common Stock, par value $0.00001 per share	457(a)	16,911,764	$ 18.00	$ 304,411,752.00	0.0001531	$ 46,605.44				
Fees Previously Paid	2	Equity	Class A Common Stock, par value $0.00001 per share	457(o)	0	$ 0.00	$ 1.00		$ 0.00				
Carry Forward Securities													
Carry Forward Securities													
				Total Offering Amounts:			$ 304,411,753.00		$ 46,605.44				
				Total Fees Previously Paid:					$ 15,310.00				
				Total Fee Offsets:					$ 0.00				
				Net Fee Due:					$ 31,295.44				

Offering Note

1

1a: Includes offering price of additional shares that the underwriters have the option to purchase. See "Underwriting."
1b: Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(a) under the Securities Act of 1933, as amended.

2

See Note 1a
2a: Estimated solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended.

Table 2: Fee Offset Claims and Sources ☑Not Applicable

		Registrant or Filer Name	Form or Filing Type	File Number	Initial Filing Date	Filing Date	Fee Offset Claimed	Security Type Associated with Fee Offset Claimed	Security Title Associated with Fee Offset Claimed	Unsold Securities Associated with Fee Offset Claimed	Unsold Aggregate Offering Amount Associated with Fee Offset Claimed	Fee Paid with Fee Offset Source
Rules 457(b) and 0-11(a)(2)												
Fee Offset Claims	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Fee Offset Sources	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Rule 457(p)												
Fee Offset Claims	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Fee Offset Sources	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Table 3: Combined Prospectuses ☑Not Applicable

	Security Type	Security Class Title	Amount of Securities Previously Registered	Maximum Aggregate Offering Price of Securities Previously Registered	Form Type	File Number	Initial Effective Date

N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Exhibit 1.1

Black Rock Coffee Bar, Inc.

_____Shares of Class A Common Stock

Underwriting Agreement

_____, 2025

J.P. Morgan Securities LLC
Jefferies LLC
Morgan Stanley & Co. LLC
Robert W. Baird & Co. Incorporated

As Representatives of the
several Underwriters listed
in Schedule 1 hereto

c/o J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179

c/o Jefferies LLC
520 Madison Avenue
New York, New York 10022

c/o Morgan Stanley & Co. LLC
1585 Broadway
New York, New York 10036

c/o Robert W. Baird & Co. Incorporated
777 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

Ladies and Gentlemen:

Black Rock Coffee Bar, Inc., a Texas corporation (the "Company"), proposes to issue and sell to the several underwriters listed in Schedule 1 hereto (the "Underwriters"), for whom you are acting as representatives (the "Representatives"), an aggregate of [●] shares of Class A common stock, par value $0.00001 per share (the "Class A Common Stock"), of the Company (the "Underwritten Shares"). In addition, the Company proposes to issue and sell, at the option of the Underwriters, up to an additional [●] shares of Class A Common Stock of the Company (the "Option Shares"). The Underwritten Shares and the Option Shares are herein referred to as the "Shares". The shares of Class A Common Stock of the Company to be outstanding after giving effect to the sale of the Shares are referred to herein as the "Stock".

The Company was formed in contemplation of the proposed issuance and sale of the Shares (the "Offering"). It is understood and agreed to by all parties that the Company will, prior to the closing of the Offering, enter into certain reorganization transactions described under the section "Organizational Structure" in the Registration Statement, the Pricing Disclosure Package and the Prospectus (each as defined herein) (the "Reorganization Transactions"). Following the Offering (including the use of the net proceeds therefrom) and the Reorganization Transactions, the Company will be a holding company whose sole asset will consist of equity interests (such equity interests, "LLC Units") in Black Rock Coffee Holdings, LLC ("Black Rock OpCo" and, together with the Company, the "Company Parties"). The Company will be the sole managing member of Black Rock OpCo and will exclusively operate and control all of the business and affairs of Black Rock OpCo and conduct its business through Black Rock OpCo and its subsidiaries. References herein to the "Company and its subsidiaries" refer to Company and its subsidiaries pro forma following the Reorganization Transactions.

J.P. Morgan Securities LLC (the "Directed Share Underwriter") has agreed to reserve a portion of the Shares to be purchased by it under this Agreement, up to [●] Shares, for sale to certain parties related to the Company (collectively, "Participants"), as set forth in the Prospectus (as hereinafter defined) under the heading "Underwriting" (the "Directed Share Program"). The Shares to be sold by the Directed Share Underwriter and its affiliates pursuant to the Directed Share Program are referred to hereinafter as the "Directed Shares". Any Directed Shares not orally confirmed for purchase by any Participant by [●], New York City time on the business day on which this Agreement is executed will be offered to the public by the Underwriters as set forth in the Prospectus.

The Company hereby confirms its agreement with the several Underwriters concerning the purchase and sale of the Shares, as follows:

1. Registration Statement. The Company has prepared and filed with the Securities and Exchange Commission (the "Commission") under the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Securities Act"), a registration statement (File No. 333-[●]), including a prospectus, relating to the Shares. Such registration statement, as amended at the time it became effective, including the information, if any, deemed pursuant to Rule 430A, 430B or 430C under the Securities Act to be part of the registration statement at the time of its effectiveness ("Rule 430 Information"), is referred to herein as the "Registration Statement"; and as used herein, the term "Preliminary Prospectus" means each prospectus included in such registration statement (and any amendments thereto) before effectiveness, any prospectus filed with the Commission pursuant to Rule 424(a) under the Securities Act and the prospectus included in the Registration Statement at the time of its effectiveness that omits Rule 430 Information, and the term "Prospectus" means the prospectus in the form first used (or made available upon request of purchasers pursuant to Rule 173 under the Securities Act) in connection with confirmation of sales of the Shares. If the Company has filed an abbreviated registration statement pursuant to Rule 462(b) under the Securities Act (the "Rule 462 Registration Statement"), then any reference herein to the term "Registration Statement" shall be deemed to include such Rule 462 Registration Statement. Capitalized terms used but not

defined herein shall have the meanings given to such terms in the Registration Statement and the Prospectus.

At or prior to the Applicable Time (as defined below), the Company had prepared the following information (collectively with the pricing information set forth on Annex A, the "Pricing Disclosure Package"): a Preliminary Prospectus, dated [●], 2025, and each "free-writing prospectus" (as defined pursuant to Rule 405 under the Securities Act) listed on Annex A hereto.

"Applicable Time" means [●] [A/P].M., New York City time, on [●], 2025.

2. Purchase of the Shares. (a) The Company agrees to issue and sell the Underwritten Shares to the several Underwriters as provided in this underwriting agreement (this "Agreement"), and each Underwriter, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, agrees, severally and not jointly, to purchase at a price per share of $[●] (the "Purchase Price") from the Company the respective number of Underwritten Shares set forth opposite such Underwriter's name in Schedule 1 hereto.

In addition, the Company agrees to issue and sell the Option Shares to the several Underwriters as provided in this Agreement, and the Underwriters, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, shall have the option to purchase, severally and not jointly, from the Company the Option Shares at the Purchase Price less an amount per share equal to any dividends or distributions declared by the Company and payable on the Underwritten Shares but not payable on the Option Shares.

If any Option Shares are to be purchased, the number of Option Shares to be purchased by each Underwriter shall be the number of Option Shares which bears the same ratio to the aggregate number of Option Shares being purchased as the number of Underwritten Shares set forth opposite the name of such Underwriter in Schedule 1 hereto (or such number increased as set forth in Section 10 hereof) bears to the aggregate number of Underwritten Shares being purchased from the Company by the several Underwriters, subject, however, to such adjustments to eliminate any fractional Shares as the Representatives in their sole discretion shall make.

The Underwriters may exercise the option to purchase Option Shares at any time in whole, or from time to time in part, on or before the thirtieth day following the date of the Prospectus, by written notice from the Representatives to the Company. Such notice shall set forth the aggregate number of Option Shares as to which the option is being exercised and the date and time when the Option Shares are to be delivered and paid for, which may be the same date and time as the Closing Date (as hereinafter defined) but shall not be earlier than the Closing Date nor later than the tenth full business day (as hereinafter defined) after the date of such notice (unless such time and date are postponed in accordance with the provisions of Section 10 hereof). Any such notice shall be given at least two business days prior to the date and time of delivery specified therein.

(b) The Company understands that the Underwriters intend to make a public offering of the Shares, and initially to offer the Shares on the terms set forth in the Pricing Disclosure Package. The Company acknowledges and agrees that the Underwriters may offer and sell Shares to or through any affiliate of an Underwriter.

(c) Payment for the Shares shall be made by wire transfer in immediately available funds to the account specified by the Company to the Representatives, in the case of the Underwritten Shares, at the offices of Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, Illinois 60654 at 10:00 A.M., New York City time, on [●], 2025, or at such other time or place on the same or such other date, not later than the fifth business day thereafter, as the Representatives and the Company may agree upon in writing or, in the case of the Option Shares, on the date and at the time and place specified by the Representatives in the written notice of the Underwriters' election to purchase such Option Shares. The time and date of such payment for the Underwritten Shares is referred to herein as the "Closing Date," and the time and date for such payment for the Option Shares, if other than the Closing Date, is herein referred to as the "Additional Closing Date".

Payment for the Shares to be purchased on the Closing Date, or the Additional Closing Date, as the case may be, shall be made against delivery to the Representatives for the respective accounts of the several Underwriters of the Shares to be purchased on the Closing Date or the Additional Closing Date, as the case may be, with any transfer taxes payable in connection with the sale of such Shares to the Underwriters duly paid by the Company. Delivery of the Shares shall be made through the facilities of The Depository Trust Company ("DTC") unless the Representatives shall otherwise instruct.

(d) The Company acknowledges and agrees that the Representatives and the other Underwriters are acting solely in the capacity of an arm's length contractual counterparty to the Company with respect to the offering of Shares contemplated hereby (including in connection with determining the terms of the offering) and not as a financial advisor or a fiduciary to, or an agent of, the Company or any other person. Additionally, neither the Representatives nor any other Underwriter is advising the Company or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Company shall consult with its advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and neither the Representatives nor any other Underwriter shall have any responsibility or liability to the Company with respect thereto. Any review by the Representatives and the other Underwriters of the Company, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Representatives and the other Underwriters and shall not be on behalf of the Company.

3. Representations and Warranties of the Company Parties. Each Company Party represents and warrants to each Underwriter that:

(a) *Preliminary Prospectus.* No order preventing or suspending the use of any Preliminary Prospectus has been issued by the Commission, and each Preliminary Prospectus included in the Pricing Disclosure Package, at the time of filing thereof,

complied in all material respects with the Securities Act, and no Preliminary Prospectus, at the time of filing thereof, contained any untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company Parties make no representation or warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company Parties in writing by such Underwriter through the Representatives expressly for use in any Preliminary Prospectus, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof.

(b) *Pricing Disclosure Package*. The Pricing Disclosure Package as of the Applicable Time did not, and as of the Closing Date and as of the Additional Closing Date, as the case may be, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company Parties make no representation or warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company Parties in writing by such Underwriter through the Representatives expressly for use in such Pricing Disclosure Package, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof. No statement of material fact included in the Prospectus has been omitted from the Pricing Disclosure Package and no statement of material fact included in the Pricing Disclosure Package that is required to be included in the Prospectus has been omitted therefrom.

(c) *Issuer Free Writing Prospectus.* Other than the Registration Statement, the Preliminary Prospectus and the Prospectus, the Company (including its agents and representatives, other than the Underwriters in their capacity as such) has not prepared, made, used, authorized, approved or referred to and will not prepare, make, use, authorize, approve or refer to any "written communication" (as defined in Rule 405 under the Securities Act) that constitutes an offer to sell or solicitation of an offer to buy the Shares (each such communication by the Company or its agents and representatives (other than a communication referred to in clause (i) below) an "Issuer Free Writing Prospectus") other than (i) any document not constituting a prospectus pursuant to Section 2(a)(10)(a) of the Securities Act or Rule 134 under the Securities Act or (ii) the documents listed on Annex A hereto, each electronic road show and any other written communications approved in writing in advance by the Representatives. Each such Issuer Free Writing Prospectus complies in all material respects with the Securities Act, has been or will be (within the time period specified in Rule 433) filed in accordance with the Securities Act (to the extent required thereby) and does not conflict with the information contained in the Registration Statement or the Pricing Disclosure Package, and, when taken together with the Preliminary Prospectus accompanying, or delivered prior to delivery of, such Issuer Free Writing Prospectus, did not, and as of the Closing Date and as of the Additional Closing Date, as the case may be, will not, contain any

untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company Parties make no representation or warranty with respect to any statements or omissions made in each such Issuer Free Writing Prospectus or Preliminary Prospectus in reliance upon and in conformity with information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in such Issuer Free Writing Prospectus or Preliminary Prospectus, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof.

(d) *Emerging Growth Company*. From the time of initial confidential submission of the Registration Statement to the Commission (or, if earlier, the first date on which the Company engaged directly or through any person authorized to act on its behalf in any Testing-the-Waters Communication undertaken in reliance on Section 5(d) of the Securities Act) through the date hereof, the Company has been and is an "emerging growth company," as defined in Section 2(a) of the Securities Act (an "Emerging Growth Company"). "Testing-the-Waters Communication" means any oral or written communication with potential investors undertaken in reliance on either Section 5(d) of, or Rule 163B under, the Securities Act.

(e) *Testing-the-Waters Materials.* The Company (i) has not alone engaged in any Testing-the-Waters Communications other than Testing-the-Waters Communications with the consent of the Representatives (x) with entities that are qualified institutional buyers ("QIBs") within the meaning of Rule 144A under the Securities Act or institutions that are accredited investors within the meaning of Rule 501(a)(1), (a)(2), (a)(3), (a)(7), (a)(8), (a)(9), (a)(12) or (a)(13) under the Securities Act ("IAIs") and otherwise in compliance with the requirements of Section 5(d) of the Securities Act or (y) with entities that the Company reasonably believed to be QIBs or IAIs and otherwise in compliance with the requirements of Rule 163B under the Securities Act and (ii) has not authorized anyone other than the Representatives to engage in Testing-the-Waters Communications. The Company reconfirms that the Representatives have been authorized to act on its behalf in undertaking Testing-the-Waters Communications. The Company has not distributed or approved for distribution any Written Testing-the-Waters Communications other than those listed on Annex B hereto. "Written Testing-the-Waters Communication" means any Testing-the-Waters Communication that is a written communication within the meaning of Rule 405 under the Securities Act. Any individual Written Testing-the-Waters Communication does not conflict with the information contained in the Registration Statement or the Pricing Disclosure Package, complied in all material respects with the Securities Act, and when taken together with the Pricing Disclosure Package as of the Applicable Time, did not, and as of the Closing Date and as of the Additional Closing Date, as the case may be, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(f) *Registration Statement and Prospectus.* The Registration Statement has been declared effective by the Commission. No order suspending the effectiveness of the Registration Statement has been issued by the Commission, and no proceeding for that purpose or pursuant to Section 8A of the Securities Act against the Company or related to the offering of the Shares has been initiated or, to the knowledge of the Company Parties, threatened by the Commission; as of the applicable effective date of the Registration Statement and any post-effective amendment thereto, the Registration Statement and any such post-effective amendment complied and will comply in all material respects with the Securities Act, and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading; and as of the date of the Prospectus and any amendment or supplement thereto and as of the Closing Date and as of the Additional Closing Date, as the case may be, the Prospectus will comply in all material respects with the Securities Act and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company Parties make no representation or warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company Parties in writing by such Underwriter through the Representatives expressly for use in the Registration Statement and the Prospectus and any amendment or supplement thereto, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof.

(g) *Financial Statements.* The financial statements (including the related notes thereto) of the Company and Black Rock OpCo and their respective consolidated subsidiaries included in the Registration Statement, the Pricing Disclosure Package and the Prospectus comply in all material respects with the applicable requirements of the Securities Act and present fairly in all material respects the financial position of the Company, Black Rock OpCo and their respective consolidated subsidiaries as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified; such financial statements have been prepared in conformity with generally accepted accounting principles ("GAAP") in the United States applied on a consistent basis throughout the periods covered thereby, except in the case of unaudited financial statements, which are subject to normal period end adjustments and do not contain footnotes as permitted by the applicable rules of the Commission, and any supporting schedules included in the Registration Statement present fairly in all material respects the information required to be stated therein; and the other financial information included in the Registration Statement, the Pricing Disclosure Package and the Prospectus has been derived from the accounting records of the Company and its consolidated subsidiaries and presents fairly in all material respects the information shown thereby; all disclosures included in the Registration Statement, the Pricing Disclosure Package and the Prospectus regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of Commission) comply in all material respects with Regulation G of the Securities Exchange Act of 1934, as amended, and the

rules and regulations of the Commission thereunder (collectively, the "Exchange Act") and Item 10 of Regulation S-K of the Securities Act, to the extent applicable; and the pro forma financial information and the related notes thereto included in the Registration Statement, the Pricing Disclosure Package and the Prospectus have been prepared in all material respects in accordance with the applicable requirements of the Securities Act and the assumptions underlying such pro forma financial information are reasonable and are set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(h) *No Material Adverse Change.* Since the date of the most recent financial statements of the Company included in the Registration Statement, the Pricing Disclosure Package and the Prospectus, (i) there has not been any material change in the capital stock (other than (a) the Reorganization Transactions and (b) the issuance of shares of common stock upon conversion or exercise of stock options and warrants described as outstanding in, and the exchange, if any, of equity interests of Black Rock OpCo, and the grant of options and awards under existing equity incentive plans described in, the Registration Statement, the Pricing Disclosure Package and the Prospectus), short-term debt or long-term debt of the Company Parties or any of their respective subsidiaries, or any dividend or distribution of any kind declared, set aside for payment, paid or made by the Company or Black Rock OpCo on any class of capital stock or membership interests, as applicable, or any material adverse change, or any development that would reasonably be expected to result in a material adverse change, in or affecting the business, properties, management, financial position, stockholders' equity, results of operations or prospects of the Company Parties and their subsidiaries taken as a whole; (ii) none of the Company Parties or any of their respective subsidiaries has entered into any transaction or agreement (whether or not in the ordinary course of business) that is material to the Company Parties and their subsidiaries taken as a whole or incurred any liability or obligation, direct or contingent, that is material to the Company and its subsidiaries taken as a whole; and (iii) none of the Company Parties or any of their respective subsidiaries has sustained any loss or interference with its business that is material to the Company Parties and their subsidiaries taken as a whole and that is either from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor disturbance or dispute or any action, order or decree of any court or arbitrator or governmental or regulatory authority, except in each case as otherwise disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(i) *Organization and Good Standing.* Each of the Company Parties and each of their respective subsidiaries have been duly organized and are validly existing and in good standing under the laws of their respective jurisdictions of organization, are duly qualified to do business and are in good standing in each jurisdiction in which their respective ownership or lease of property or the conduct of their respective businesses requires such qualification, and have all power and authority necessary to own or hold their respective properties and to conduct the businesses in which they are engaged, except where the failure to be so qualified or in good standing or have such power or authority would not, individually or in the aggregate, have a material adverse effect on

the business, properties, management, financial position, stockholders' equity, member's equity, results of operations or prospects of the Company Parties, as applicable, and their respective subsidiaries taken as a whole or on the performance by the Company Parties of their respective obligations under the Transaction Documents (as defined below) (a "Material Adverse Effect"). The subsidiaries listed in Exhibit 21.1 to the Registration Statement are the only "significant subsidiaries" of the Company.

(j) *Capitalization.* Black Rock OpCo has the capitalization set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus under the heading "Capitalization". After giving effect to the Reorganization Transactions, the issuance of the Shares to be sold by the Company and the use of the net proceeds therefrom as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, the Company will have an authorized capitalization as set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus under the pro forma column under the heading "Capitalization"; all the outstanding shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and are not subject to any pre-emptive or similar rights; except as described in or expressly contemplated by the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no outstanding rights (including, without limitation, pre-emptive rights), warrants or options to acquire, or instruments convertible into or exchangeable for, any shares of capital stock or other equity interest in the Company or any of its subsidiaries (including, without limitation, Black Rock OpCo), or any contract, commitment, agreement, understanding or arrangement of any kind relating to the issuance of any capital stock of the Company or any such subsidiary (including, without limitation, Black Rock OpCo), any such convertible or exchangeable securities or any such rights, warrants or options; after giving effect to the Reorganization Transactions, the capital stock of the Company and the equity interests in Black Rock OpCo will conform in all material respects to the description thereof contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus; and after giving effect to the Reorganization Transactions, all the outstanding shares of capital stock or other equity interests of each subsidiary owned, directly or indirectly, by the Company will have been duly and validly authorized and issued, will be fully paid and non-assessable and will be owned directly or indirectly by the Company, free and clear of any lien, charge, encumbrance, security interest, restriction on voting or transfer or any other claim of any third party.

(k) *Stock Options.* Except as set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no stock options or other equity awards granted or otherwise currently outstanding pursuant to any stock based compensation plans of any Company Party.

(l) *Due Authorization.* Each Company Party has full right, power and authority to execute and deliver, to the extent a party thereto, this Agreement, the tax receivable agreement to be entered into by and among the Company Parties and certain equity owners in connection with the closing of the Offering (the "Tax Receivable

Agreement"), the registration rights agreement to be entered into among the Company and certain stockholders party thereto (the "Registration Rights Agreement"), the stockholders' agreement to be entered into among the Company and certain stockholders party thereto (the "Stockholders' Agreement") and the seventh amended and restated limited liability company agreement of Black Rock OpCo (the "Amended LLC Agreement" and collectively, the "Transaction Documents") and to perform its obligations hereunder and thereunder; and all action required to be taken for the due and proper authorization, execution and delivery by it of this Agreement and each of the Transaction Documents to which it is a party and the consummation by it of the transactions contemplated hereby and thereby has been duly and validly taken.

(m) *Underwriting Agreement.* This Agreement has been duly authorized, executed and delivered by each Company Party.

(n) *The Shares.* The Shares to be issued and sold by the Company hereunder, the shares of Class B common stock, par value $0.00001 per share (the "Class B Common Stock") and the shares of Class C common stock, par value $0.00001 per share (the "Class C Common Stock") to be issued by the Company and the LLC Units to be issued by Black Rock OpCo in the Reorganization Transactions have all been duly authorized by the Company or Black Rock OpCo, as applicable, and, when issued and delivered and paid for as provided herein or, for the shares of Class B Common Stock, the shares of Class C Common Stock and the LLC Units to be issued to members of Black Rock OpCo, will be duly and validly issued, will be fully paid and nonassessable and will conform in all material respects to the descriptions thereof in the Registration Statement, the Pricing Disclosure Package and the Prospectus; and the issuances of the Shares, the shares of Class B Common Stock and the shares of Class C Common Stock are not subject to any preemptive or similar rights.

(o) *Other Transaction Documents.* Each of the Transaction Documents has been duly authorized, and, as of the Closing Date, will have been duly executed and delivered by each Company Party, to the extent each is a party thereto, and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of each such Company Party enforceable against such Company Party, in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

(p) *Descriptions of the Transaction Documents.* Each Transaction Document conforms in all material respects to the description thereof contained in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(q) *No Violation or Default.* None of the Company Parties or any of their respective subsidiaries is (i) in violation of its charter or by-laws or similar organizational documents; (ii) in default, and no event has occurred that, with notice or lapse of time or both, would constitute such a default, in the due performance or observance of any term, covenant or condition contained in any indenture, mortgage, deed of trust, loan agreement

or other agreement or instrument to which any Company Party or any of their respective subsidiaries is a party or by which any Company Party or any of their respective subsidiaries is bound or to which any property or asset of any Company Party or any of their respective subsidiaries is subject; or (iii) in violation of any law or statute applicable to each Company Party, or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority having jurisdiction over the Company or any of its subsidiaries, except, in the case of clauses (ii) and (iii) above, for any such default or violation that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(r) *No Conflicts.* The execution, delivery and performance by each Company Party of each of the Transaction Documents to which it is a party, the issuance and sale of the Shares by the Company and the consummation by the Company Parties of the transactions contemplated by the Transaction Documents or the Pricing Disclosure Package and the Prospectus (including, without limitation, the Reorganization Transactions) will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, result in the termination, modification or acceleration of, or result in the creation or imposition of any lien, charge or encumbrance upon any property, right or asset of any of the Company Parties or any of their respective subsidiaries pursuant to, any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which any Company Party or any of their respective subsidiaries is a party or by which any Company Party or any of their respective subsidiaries is bound or to which any property, right or asset of any Company Party or any of their respective subsidiaries is subject, (ii) result in any violation of the provisions of the charter or by-laws or similar organizational documents of any Company Party or any of their respective subsidiaries or (iii) result in the violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority, except, in the case of clauses (i) and (iii) above, for any such conflict, breach, violation, default, lien, charge or encumbrance that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(s) *No Consents Required.* No consent, approval, authorization, order, registration or qualification of or with any court or arbitrator or governmental or regulatory authority is required for the execution, delivery and performance by any Company Party of each of the Transaction Documents to which it is a party, the issuance and sale of the Shares and the consummation of the transactions contemplated by the Transaction Documents (including, without limitation, the Reorganization Transactions), except for the registration of the Shares under the Securities Act and such consents, approvals, authorizations, orders and registrations or qualifications as may be required by the Financial Industry Regulatory Authority, Inc. ("FINRA") and under applicable state securities laws in connection with the purchase and distribution of the Shares by the Underwriters.

(t) *Legal Proceedings.* Except as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no legal, governmental or regulatory investigations, actions, demands, claims, suits, arbitrations, inquiries or proceedings ("Actions") pending to which any Company Party or any of their respective subsidiaries is or may be a party or to which any property of any Company Party or any of their respective subsidiaries is or may be the subject that, individually or in the aggregate, if determined adversely to any Company Party or any of their respective subsidiaries, could reasonably be expected to have a Material Adverse Effect; no such Actions are threatened or, to the knowledge of the Company Parties, contemplated by any governmental or regulatory authority or threatened by others that would reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect; and (i) there are no current or pending Actions that are required under the Securities Act to be described in the Registration Statement, the Pricing Disclosure Package or the Prospectus that are not so described in the Registration Statement, the Pricing Disclosure Package and the Prospectus and (ii) there are no statutes, regulations or contracts or other documents that are required under the Securities Act to be filed as exhibits to the Registration Statement or described in the Registration Statement, the Pricing Disclosure Package or the Prospectus that are not so filed as exhibits to the Registration Statement or described in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(u) *Independent Accountants*. KPMG LLP, who has certified certain financial statements of the Company and Black Rock OpCo and its subsidiaries, is an independent registered public accounting firm with respect to the Company, Black Rock OpCo and its subsidiaries within the applicable rules and regulations adopted by the Commission and the Public Company Accounting Oversight Board (United States) and as required by the Securities Act.

(v) *Title to Real and Personal Property.* Each Company Party and its subsidiaries have good and marketable title in fee simple to, or have valid rights to lease or otherwise use, all items of real and personal property that are material to the respective businesses of each Company Party and its subsidiaries, in each case free and clear of all liens, encumbrances, claims and defects and imperfections of title except those that (i) do not materially interfere with the use made and proposed to be made of such property by each Company Party and its subsidiaries or (ii) could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(w) *Intellectual Property.* Each Company Party and its subsidiaries own or have the right to use all patents, patent applications, trademarks, service marks, trade names, domain names and other source indicators, and all goodwill associated therewith, copyrights know-how, trade secrets, proprietary or confidential information and all other worldwide intellectual property, industrial property and proprietary rights (collectively, "Intellectual Property") that is used in and material to the conduct of their respective businesses as currently conducted. Except as would not reasonably be expected to be material to a Company Party or its business, to the knowledge of the Company Parties, each Company

Party's and its subsidiaries' conduct of their respective businesses does not infringe, misappropriate or otherwise violate any Intellectual Property of any person. Except as would not reasonably be expected to be material to a Company Party or its business, no Company Party nor any of its subsidiaries have received any written notice of any claim or other written communication (x) alleging that any Company Party or the conduct of its business infringes, misappropriates or otherwise violates any Intellectual Property of any person or (y) challenging the validity, enforceability, registration or ownership of any Intellectual Property owned or purported to be owned by any Company Party or any of its subsidiaries. The material Intellectual Property owned by the Company Parties and their subsidiaries (A) in the case of such material Intellectual Property consisting of issued patents, registered trademarks or registered copyrights, is subsisting and, to the knowledge of the Company Parties, valid and enforceable, and in the case of all other such material Intellectual Property, is subsisting and enforceable, and (B) to the knowledge of the Company Parties, is not being infringed, misappropriated or otherwise violated by any person.

(x) *No Undisclosed Relationships.* No relationship, direct or indirect, exists between or among any Company Party or any of their respective subsidiaries, on the one hand, and the directors, officers, stockholders, customers, suppliers or other affiliates of any Company Party or any of their respective subsidiaries, on the other, that is required by the Securities Act to be described in each of the Registration Statement and the Prospectus and that is not so described in such documents and in the Pricing Disclosure Package.

(y) *Investment Company Act.* Neither Company Party is and, after giving effect to the offering and sale of the Shares and the application of the proceeds thereof received by the Company as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, will be required to register as an "investment company" or an entity "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Investment Company Act").

(z) *Taxes.* Each Company Party and its subsidiaries have paid all material federal, state, local and foreign taxes (other than any taxes that are being contested in good faith by appropriate proceedings and for which adequate reserves have been established in accordance with GAAP) and filed all material tax returns required to be paid or filed through the date hereof; and except as otherwise disclosed in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, there is no material tax deficiency that has been, or could reasonably be expected to be, asserted against any Company Party or any of their respective subsidiaries or any of their respective properties or assets.

(aa) *Licenses and Permits.* Each Company Party and its subsidiaries possess all licenses, sub-licenses, certificates, permits and other authorizations issued by, and have made all declarations and filings with, the appropriate federal, state, local or foreign

governmental or regulatory authorities that are necessary for the ownership or lease of their respective properties or the conduct of their respective businesses as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, except where the failure to possess or make the same would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and except as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, no Company Party nor any of their respective subsidiaries has received notice of any revocation or modification of any such license, sub-license, certificate, permit or authorization or has any reason to believe that any such license, sub-license, certificate, permit or authorization will not be renewed in the ordinary course, except where such revocation, modification or non-renewal would not reasonably be expected to have a Material Adverse Effect.

(bb) *No Labor Disputes.* No labor disturbance by or dispute with employees of any Company Party or any of their respective subsidiaries exists or, to the knowledge of the Company Parties, is contemplated or threatened, except as would not reasonably be expected to have a Material Adverse Effect. No Company Party nor any of their respective subsidiaries has received any notice of cancellation or termination with respect to any collective bargaining agreement to which it is a party.

(cc) *Certain Environmental Matters*. (i) Each Company Party and its subsidiaries (x) are in compliance with all, and have not violated any, applicable federal, state, local and foreign laws (including common law), rules, regulations, requirements, decisions, judgments, decrees, orders and other legally enforceable requirements relating to pollution or the protection of human health or safety, the environment, natural resources, hazardous or toxic substances or wastes, pollutants or contaminants (collectively, "Environmental Laws"); (y) have received and are in compliance with all, and have not violated any, permits, licenses, certificates or other authorizations or approvals required of them under any Environmental Laws to conduct their respective businesses; and (z) have not received notice of any actual or potential liability or obligation under or relating to, or any actual or potential violation of, any Environmental Laws, including for the investigation or remediation of any disposal or release of hazardous or toxic substances or wastes, pollutants or contaminants, and have no knowledge of any event or condition that would reasonably be expected to result in any such notice; (ii) there are no costs or liabilities associated with Environmental Laws or relating to any Company Party or any of their respective subsidiaries, except in the case of each of (i) and (ii) above, for any such matter as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; and (iii) except as described in each of the Registration Statement, Pricing Disclosure Package and the Prospectus, (x) there is no proceeding that is pending, or that is known to be contemplated, against any Company Party or any of their respective subsidiaries under any Environmental Laws in which a governmental entity is also a party, other than such proceeding regarding which it is reasonably believed no monetary sanctions of $300,000 or more will be imposed, (y) none of the Company Parties or any of their respective subsidiaries are aware of any facts or issues regarding compliance with Environmental

Laws, or liabilities or other obligations under Environmental Laws or concerning hazardous or toxic substances or wastes, pollutants or contaminants, that could reasonably be expected to have a material effect on the capital expenditures, earnings or competitive position of the Company and its subsidiaries, and (z) none of the Company Parties or any of their respective subsidiaries anticipates material capital expenditures relating to any Environmental Laws.

(dd) *Compliance with ERISA*. (i) Each employee benefit plan, within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") for which a Company Party or any member of its "Controlled Group" (defined as any entity, whether or not incorporated, that is under common control with a Company Party within the meaning of Section 4001(a)(14) of ERISA or any entity that would be regarded as a single employer with a Company Party under Section 414(b),(c),(m) or (o) of the Code) would have any liability (each, a "Plan"), other than any multiemployer plan, as defined in Section 3(37) of ERISA, or any employee welfare benefit plan (as defined in Section 3(1) of ERISA) of a Controlled Group entity, has been maintained in compliance with its terms and the requirements of any applicable statutes, orders, rules and regulations, including, but not limited to, ERISA and the Code; (ii) no prohibited transaction, within the meaning of Section 406 of ERISA or Section 4975 of the Code, has occurred with respect to any Plan, excluding transactions effected pursuant to a statutory or administrative exemption; (iii) for each Plan that is subject to the funding rules of Section 412 of the Code or Section 302 of ERISA, no Plan has failed (whether or not waived), or is reasonably expected to fail, to satisfy the minimum funding standards (within the meaning of Section 302 of ERISA or Section 412 of the Code) applicable to such Plan; (iv) no Plan is, or is reasonably expected to be, in "at risk status" (within the meaning of Section 303(i) of ERISA) and no Plan that is a "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA is in "endangered status" or "critical status" (within the meaning of Sections 304 and 305 of ERISA); (v) the fair market value of the assets of each Plan exceeds the present value of all benefits accrued under such Plan (determined based on those assumptions used to fund such Plan); (vi) no "reportable event" (within the meaning of Section 4043(c) of ERISA and the regulations promulgated thereunder) has occurred or is reasonably expected to occur; (vii) each Plan maintained by a Company Party that is intended to be qualified under Section 401(a) of the Code is so qualified, and nothing has occurred, whether by action or by failure to act, which would cause the loss of such qualification; (viii) no Company Party nor any member of the Controlled Group has incurred, and no Company Party reasonably expects to incur any liability under Title IV of ERISA (other than contributions to the Plan or premiums to the Pension Benefit Guaranty Corporation, in the ordinary course and without default) in respect of a Plan (including a "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA); and (ix) none of the following events has occurred or, to the knowledge of the Company Parties, is reasonably likely to occur: (A) a material increase in the aggregate amount of contributions required to be made to all Plans by a Company Party or their respective Controlled Group affiliates in the current fiscal year of such Company Party and its Controlled Group affiliates compared to the amount of such contributions made in such Company Party's and its Controlled Group affiliates' most

recently completed fiscal year; or (B) a material increase in any Company Party's and their respective subsidiaries' "accumulated post-retirement benefit obligations" (within the meaning of Accounting Standards Codification Topic 715-60) compared to the amount of such obligations in any Company Party's and their respective subsidiaries' most recently completed fiscal year, except in each case with respect to the events or conditions set forth in (i) through (ix) hereof, as would not, individually or in the aggregate, have a Material Adverse Effect.

(ee) *Disclosure Controls*. The Company and its subsidiaries maintain an effective system of "disclosure controls and procedures" (as defined in Rule 13a-15(e) of the Exchange Act) that complies with the requirements of the Exchange Act and that has been designed to ensure that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure.

(ff) *Accounting Controls.* The Company Parties and their respective subsidiaries maintain systems of "internal control over financial reporting" (as defined in Rule 13a-15(f) of the Exchange Act) that are reasonably designed to comply with the applicable requirements of the Exchange Act and have been designed by, or under the supervision of, their respective principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. The Company Parties and their respective subsidiaries maintain internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as disclosed in the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no material weaknesses in any Company Party's internal controls over financial reporting and no changes to any Company Party's internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, such Company Party's internal control over financial reporting (it being understood that this paragraph (ff) shall not require the Company to comply with Section 404 of the Sarbanes-Oxley Act (as defined below) as of an earlier date than it would otherwise be required to so comply under applicable law). The auditors of each Company Party and the Audit Committee of the board of directors of the Company have been advised of: (i) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which have adversely affected or are reasonably likely to adversely affect any Company Party's ability to record, process,

summarize and report financial information; and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in such Company Party's internal controls over financial reporting.

(gg) *Insurance.* Each Company Party and its subsidiaries have insurance covering their respective properties, operations, personnel and businesses, including business interruption insurance, which insurance is in amounts and insures against such losses and risks as are generally maintained by similarly situated companies and which the Company Parties reasonably believe are reasonably adequate to protect such Company Party and its subsidiaries and their respective businesses; and none of the Company Parties or any of their respective subsidiaries has (i) received notice from any insurer or agent of such insurer that capital improvements or other expenditures are required or necessary to be made in order to continue such insurance or (ii) any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage at reasonable cost from similar insurers as may be necessary to continue its business.

(hh) *Cybersecurity; Data Protection.* Each Company Party and its subsidiaries' information technology assets and equipment, computers, systems, networks, hardware, software, websites, applications, and databases (collectively, "IT Systems") (i) have not experienced any outages that have caused any material disruption to the business of a Company Party or any of its subsidiaries, (ii) are adequate for, and operate and perform in all material respects as required by each of the Company Parties and its subsidiaries in connection with, the operation of the business of each Company Party and its subsidiaries as currently conducted, and (iii) to the knowledge of the Company Parties, are free and clear of any material bugs, errors, defects, Trojan horses, time bombs, malware and other corruptants. Each Company Party and its subsidiaries have implemented and maintained commercially reasonable controls, policies, procedures, and safeguards designed to maintain and protect their material confidential information and the integrity, continuous operation, redundancy and security of all IT Systems used by or for a Company Party or its subsidiaries and data (including all personal, personally identifiable, sensitive, confidential or regulated data ("Personal Data")) collected, stored or otherwise processed thereby, and there have been no breaches, violations, or unauthorized uses of or accesses to any such IT Systems (or the data processed thereby), except for those that have been remedied without material cost or liability to any Company Party or any of its subsidiaries, or the duty of any Company Party or any of its subsidiaries to notify any other person, nor, to the knowledge of the Company Parties, any incidents under internal review or investigations relating to the same. Each Company Party and its subsidiaries are presently in compliance in all material respects with all applicable laws or statutes, judgments, orders, rules and regulations of any court or arbitrator or governmental or regulatory authority, external policies and contractual obligations relating to the privacy and security of IT Systems and Personal Data and to the protection of such IT Systems and Personal Data from unauthorized use, access, misappropriation or modification.

(ii) *No Unlawful Payments.* None of the Company Parties or any of their respective subsidiaries, nor any director, officer or employee of any Company Party or any of their respective subsidiaries nor, to the knowledge of the Company Parties, any agent, affiliate or other person associated with or acting on behalf of any Company Party or any of their respective subsidiaries has (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made or taken an act in furtherance of an offer, promise or authorization of any direct or indirect unlawful payment or benefit to any foreign or domestic government official or employee, including of any government-owned or controlled entity or of a public international organization, or any person acting in an official capacity for or on behalf of any of the foregoing, or any political party or party official or candidate for political office; (iii) violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, as amended, or any applicable law or regulation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, or committed an offence under the Bribery Act 2010 of the United Kingdom or any other applicable anti-bribery or anti-corruption law; or (iv) made, offered, agreed, requested or taken an act in furtherance of any unlawful bribe or other unlawful benefit, including, without limitation, any rebate, payoff, influence payment, kickback or other unlawful or improper payment or benefit. Each of the Company Parties and its subsidiaries have instituted, maintain and enforce, and will continue to maintain and enforce policies and procedures designed to promote and ensure compliance with all applicable anti-bribery and anti-corruption laws.

(jj) *Compliance with Anti-Money Laundering Laws*. The operations of each Company Party and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements, including those of the Currency and Foreign Transactions Reporting Act of 1970, as amended, the applicable money laundering statutes of all jurisdictions where any Company Party or any of their respective subsidiaries conducts business, the rules and regulations thereunder and any related or similar rules, regulations or guidelines issued, administered or enforced by any governmental agency having jurisdiction over such Company Party or any of its subsidiaries (collectively, the "Anti-Money Laundering Laws"), and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Anti-Money Laundering Laws is pending or, to the knowledge of the Company Parties, threatened.

(kk) *No Conflicts with Sanctions Laws.* None of the Company Parties, any of their respective subsidiaries, directors, officers or employees, nor, to the knowledge of the Company Parties, any agent, affiliate or other person associated with or acting on behalf of any Company Party or any of their respective subsidiaries is currently the subject or the target of any sanctions administered or enforced by the U.S. government (including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC") or the U.S. Department of State and including, without limitation, the designation as a "specially designated national" or "blocked

person"), the United Nations Security Council ("UNSC"), the European Union, His Majesty's Treasury ("HMT") or other relevant sanctions authority (collectively, "Sanctions"), nor is any Company Party or any of their respective subsidiaries located, organized or resident in a country or territory that is the subject or target of Sanctions, including, without limitation, the Crimea Region of Ukraine, the so-called Donetsk People's Republic, the so-called Luhansk People's Republic, Cuba, Iran, North Korea and Syria (each, a "Sanctioned Country"); and the Company Parties will not directly or indirectly use the proceeds of the offering of the Shares hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity (i) to fund or facilitate any activities of or business with any person that, at the time of such funding or facilitation, is the subject or target of Sanctions, (ii) to fund or facilitate any activities of or business in any Sanctioned Country or (iii) in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions. Since April 24, 2019, no Company Party nor any of their respective subsidiaries have knowingly engaged in and are not now knowingly engaged in any dealings or transactions with any person that at the time of the dealing or transaction is or was the subject or the target of Sanctions or with any Sanctioned Country.

(ll) *No Restrictions on Subsidiaries*. Except as otherwise described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, no subsidiary of any Company Party is currently prohibited, directly or indirectly, under any agreement or other instrument to which it is a party or is subject, from paying any dividends to any Company Party, from making any other distribution on such subsidiary's capital stock or similar ownership interest, from repaying to any Company Party any loans or advances to such subsidiary from such Company Party or from transferring any of such subsidiary's properties or assets to any Company Party or any other subsidiary of any Company Party.

(mm) *No Broker's Fees.* Neither the Company nor any of its subsidiaries is a party to any contract, agreement or understanding with any person (other than this Agreement) that would give rise to a valid claim against any of them or any Underwriter for a brokerage commission, finder's fee or like payment in connection with the offering and sale of the Shares.

(nn) *No Registration Rights*. Except for those related to the Registration Rights Agreement described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, no person has the right to require any Company Party or any of their respective subsidiaries to register any securities for sale under the Securities Act by reason of the filing of the Registration Statement with the Commission or the issuance and sale of the Shares by the Company.

(oo) *No Stabilization.* None of the Company Parties or any of their respective subsidiaries or affiliates has taken, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Shares.

(pp) *Margin Rules*. Neither the issuance, sale and delivery of the Shares nor the application of the proceeds thereof by the Company as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus will violate Regulation T, U or X of the Board of Governors of the Federal Reserve System or any other regulation of such Board of Governors.

(qq) *Forward-Looking Statements.* No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) included in any of the Registration Statement, the Pricing Disclosure Package or the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(rr) *Statistical and Market Data.* Nothing has come to the attention of any Company Party that has caused such Company Party to believe that the statistical and market-related data included in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus is not based on or derived from sources that are reliable and accurate in all material respects.

(ss) *Sarbanes-Oxley Act.* There is and has been no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002, as amended and the rules and regulations promulgated in connection therewith (the "Sarbanes-Oxley Act"), including Section 402 related to loans and Sections 302 and 906 related to certifications.

(tt) *Status under the Securities Act.* At the time of filing the Registration Statement and any post-effective amendment thereto, at the earliest time thereafter that the Company or any offering participant made a *bona fide* offer (within the meaning of Rule 164(h)(2) under the Securities Act) of the Shares and at the date hereof, the Company was not and is not an "ineligible issuer," as defined in Rule 405 under the Securities Act.

(uu) *No Ratings*. There are (and prior to the Closing Date, will be) no debt securities, convertible securities or preferred stock issued or guaranteed by any Company Party or any of their respective subsidiaries that are rated by a "nationally recognized statistical rating organization", as such term is defined in Section 3(a)(62) under the Exchange Act.

(vv) *No Recent Issuance*. Each Company Party has not sold, issued or distributed any shares of Class A Common Stock or any LLC Unit, as applicable, during the six month period preceding the date hereof, including any sales pursuant to Rule 144A under, or Regulation D or S of, the Securities Act, other than shares or units issued pursuant to employee benefit plans, qualified stock option plans or other employee compensation plans or pursuant to outstanding options, rights or warrants.

(ww) *Directed Share Program*. The Company represents and warrants that (i) the Registration Statement, the Pricing Disclosure Package and the Prospectus, any

Preliminary Prospectus and any Issuer Free Writing Prospectuses comply in all material respects, and any further amendments or supplements thereto will comply in all material respects, with any applicable laws or regulations of foreign jurisdictions in which the Pricing Disclosure Package, the Prospectus, any Preliminary Prospectus and any Issuer Free Writing Prospectus, as amended or supplemented, if applicable, are distributed in connection with the Directed Share Program, and that (ii) no authorization, approval, consent, license, order, registration or qualification of or with any government, governmental instrumentality or court, other than such as have been obtained, is necessary under the securities laws and regulations of foreign jurisdictions in which the Directed Shares are offered outside the United States. The Company has not offered, or caused the underwriters to offer, Shares to any person pursuant to the Directed Share Program with the specific intent to unlawfully influence (i) a customer or supplier of the Company to alter the customer or supplier's level or type of business with the Company, or (ii) a trade journalist or publication to write or publish favorable information about the Company or its products.

4. Further Agreements of the Company Parties. Each Company Party covenants and agrees with each Underwriter that:

(a) *Required Filings.* The Company will file the final Prospectus with the Commission within the time periods specified by Rule 424(b) and Rule 430A, 430B or 430C under the Securities Act, will file any Issuer Free Writing Prospectus to the extent required by Rule 433 under the Securities Act; and the Company will furnish copies of the Prospectus and each Issuer Free Writing Prospectus (to the extent not previously delivered) to the Underwriters in New York City prior to 10:00 A.M., New York City time, on the business day next succeeding the date of this Agreement in such quantities as the Representatives may reasonably request.

(b) *Delivery of Copies.* The Company will deliver, if requested, without charge, (i) to the Representatives, five signed copies of the Registration Statement as originally filed and each amendment thereto, in each case including all exhibits and consents filed therewith; and (ii) to each Underwriter (A) a conformed copy of the Registration Statement as originally filed and each amendment thereto (without exhibits) and (B) during the Prospectus Delivery Period (as defined below), as many copies of the Prospectus (including all amendments and supplements thereto and each Issuer Free Writing Prospectus) as the Representatives may reasonably request. As used herein, the term "Prospectus Delivery Period" means such period of time after the first date of the public offering of the Shares as in the opinion of counsel for the Underwriters a prospectus relating to the Shares is required by law to be delivered (or required to be delivered but for Rule 172 under the Securities Act) in connection with sales of the Shares by any Underwriter or dealer.

(c) *Amendments or Supplements, Issuer Free Writing Prospectuses.* Before making, preparing, using, authorizing, approving, referring to or filing any Issuer Free Writing Prospectus, and before filing any amendment or supplement to the Registration

Statement, the Pricing Disclosure Package or the Prospectus, the Company will furnish to the Representatives and counsel for the Underwriters a copy of the proposed Issuer Free Writing Prospectus, amendment or supplement for review and will not make, prepare, use, authorize, approve, refer to or file any such Issuer Free Writing Prospectus or file any such proposed amendment or supplement to which the Representatives reasonably object.

(d) *Notice to the Representatives.* The Company will advise the Representatives promptly, and confirm such advice in writing (which may be by electronic mail), (i) when the Registration Statement has become effective; (ii) when any amendment to the Registration Statement has been filed or becomes effective; (iii) when any supplement to the Pricing Disclosure Package, the Prospectus, any Issuer Free Writing Prospectus or any Written Testing-the-Waters Communication or any amendment to the Prospectus has been filed or distributed; (iv) of any request by the Commission for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or the receipt of any comments from the Commission relating to the Registration Statement or any other request by the Commission for any additional information including, but not limited to, any request for information concerning any Testing-the-Waters Communication; (v) of the issuance by the Commission or any other governmental or regulatory authority of any order suspending the effectiveness of the Registration Statement or preventing or suspending the use of any Preliminary Prospectus, any of the Pricing Disclosure Package, or the Prospectus or any Written Testing-the-Waters Communication or the initiation or, to the knowledge of the Company, threatening of any proceeding for that purpose or pursuant to Section 8A of the Securities Act; (vi) of the occurrence of any event or development within the Prospectus Delivery Period as a result of which the Prospectus, any of the Pricing Disclosure Package, or any Issuer Free Writing Prospectus or any Written Testing-the-Waters Communication as then amended or supplemented would include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in light of the circumstances existing when the Prospectus, the Pricing Disclosure Package, or any such Issuer Free Writing Prospectus or any Written Testing-the-Waters Communication is delivered to a purchaser, not misleading; and (vii) of the receipt by the Company of any notice with respect to any suspension of the qualification of the Shares for offer and sale in any jurisdiction or the initiation or, to the knowledge of the Company, threatening of any proceeding for such purpose; and the Company will use its reasonable best efforts to prevent the issuance of any such order suspending the effectiveness of the Registration Statement, preventing or suspending the use of any Preliminary Prospectus, any of the Pricing Disclosure Package or the Prospectus or any Written Testing-the-Waters Communication or suspending any such qualification of the Shares and, if any such order is issued, will obtain as soon as possible the withdrawal thereof.

(e) *Ongoing Compliance.* (1) If during the Prospectus Delivery Period (i) any event or development shall occur or condition shall exist as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a

material fact or omit to state any material fact necessary in order to make the statements therein, in light of the circumstances existing when the Prospectus is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Prospectus to comply with applicable law, the Company will promptly notify the Underwriters thereof and forthwith prepare and, subject to paragraph (c) above, file with the Commission and furnish to the Underwriters and to such dealers as the Representatives may designate such amendments or supplements to the Prospectus as may be necessary so that the statements in the Prospectus as so amended or supplemented will not, in light of the circumstances existing when the Prospectus is delivered to a purchaser, be misleading or so that the Prospectus will comply with law; and (2) if at any time prior to the Closing Date (i) any event or development shall occur or condition shall exist as a result of which the Pricing Disclosure Package as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Pricing Disclosure Package is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Pricing Disclosure Package to comply with applicable law, the Company will promptly notify the Underwriters thereof and forthwith prepare and, subject to paragraph (c) above, file with the Commission (to the extent required) and furnish to the Underwriters and to such dealers as the Representatives may designate, such amendments or supplements to the Pricing Disclosure Package as may be necessary so that the statements in the Pricing Disclosure Package as so amended or supplemented will not, in light of the circumstances existing when the Pricing Disclosure Package is delivered to a purchaser, be misleading or so that the Pricing Disclosure Package will comply with law.

(f) *Blue Sky Compliance.* The Company will qualify the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions as the Representatives shall reasonably request and will continue such qualifications in effect so long as required for distribution of the Shares; provided that the Company shall not be required to (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify, (ii) file any general consent to service of process in any such jurisdiction or (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject.

(g) *Earning Statement.* The Company will make generally available to its security holders and the Representatives as soon as practicable an earning statement that satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 of the Commission promulgated thereunder covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the "effective date" (as defined in Rule 158) of the Registration Statement; provided that the Company will be deemed to have complied with such requirement by furnishing such earnings statement on the Commission's Electronic, Data Gathering, Analysis and Retrieval System ("EDGAR") (or any successor system).

(h) *Clear Market.* For a period of 180 days after the date of the Prospectus (the "Lock-Up Period"), the Company will not (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of, directly or indirectly, or submit to, or file with, the Commission a registration statement under the Securities Act relating to, any shares of Stock or any securities convertible into or exercisable or exchangeable for Stock, or publicly disclose the intention to undertake any of the foregoing, or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Stock or such other securities, in cash or otherwise, without the prior written consent of J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC, other than the Shares to be sold hereunder.

The restrictions described above do not apply to (i) the issuance of shares of Stock or securities convertible into or exercisable for shares of Stock pursuant to the conversion or exchange of convertible or exchangeable securities or the exercise of warrants or options (including net exercise) or the vesting and/or settlement of restricted stock units (including net settlement), in each case outstanding on the date of this Agreement and described in the Prospectus; (ii) grants of stock options, stock awards, restricted stock, RSUs, or other compensatory equity-based awards and the issuance of shares of Stock, or securities convertible into or exercisable or exchangeable for shares of Stock, with respect thereto (whether upon the exercise of stock options or otherwise) to the Company's employees, officers, directors, advisors, or consultants pursuant to the terms of any equity-based compensation plan in effect as of the Closing Date and described in the Prospectus, provided that such recipients enter into a lock-up agreement with the Underwriters; (iii) the issuance or purchase of shares of Stock or securities convertible into or exercisable or exchangeable for Stock (including, without limitation, the LLC Units) in connection with the Reorganization Transactions as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus; (iv) the filing of any registration statement on Form S-8 relating to securities granted or to be granted pursuant to any plan in effect on the date of this Agreement and described in the Prospectus or any assumed benefit plan pursuant to an acquisition or similar strategic transaction; (v) the facilitation of the establishment of a trading plan on behalf of a stockholder, officer or director of the Company pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Class A Common Stock, Class B Common Stock or Class C Common Stock; provided that (a) such plans do not provide for the transfer of shares of Class A Common Stock, Class B Common Stock or Class C Common Stock, as applicable, during the Lock-Up Period and (b) no filing by any party under the Exchange Act or other public announcement shall be required or made voluntarily in connection with such trading plan (other than the required disclosure on Form 10-Q or Form 10-K, as applicable, of the entrance into any trading plan during the relevant fiscal quarter, provided that such disclosure includes a statement to the effect that no transfers may be made pursuant to such trading plan during the Lock-Up Period); or (vi) the issuance of up to 5% of the outstanding shares of capital stock (assuming all

outstanding LLC Units are exchanged for newly issued shares of Class A Common Stock on a one-for-one basis) or securities convertible into, exercisable for, or which are otherwise exchangeable for, Class A Common Stock (including, without limitation LLC Units or any such substantially similar securities of the Company) in connection with the acquisition of, a joint venture with or a merger with, another company, and the filing of a registration statement with respect thereto; provided that, with respect to clause (vii), prior to any such issuance each recipient of any such securities shall have executed and delivered to the Representatives an agreement substantially in the form of Schedule C hereto)).

If J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC, in their sole discretion, agree to release or waive the restrictions set forth in a lock-up letter described in Section 6(k) hereof for an officer or director of the Company and provide the Company with notice of the impending release or waiver substantially in the form of Exhibit A hereto at least three business days before the effective date of the release or waiver, the Company agrees to announce the impending release or waiver substantially in the form of Exhibit B hereto through a major news service at least two business days before the effective date of the release or waiver.

(i) *Use of Proceeds.* Each of the Company Parties will apply the net proceeds from the sale of the Shares as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus under the heading "Use of Proceeds".

(j) *No Stabilization.* Neither the Company nor its subsidiaries or affiliates will take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Stock.

(k) *Exchange Listing.* The Company will use its reasonable best efforts to list, subject to notice of issuance, the Shares on the Nasdaq Stock Market (the "Exchange").

(l) *Reports.* For a period of three years from the date of this Agreement, the Company will furnish to the Representatives, as soon as they are available, copies of all reports or other communications (financial or other) furnished to holders of the Shares, and copies of any reports and financial statements furnished to or filed with the Commission or any national securities exchange or automatic quotation system; provided the Company will be deemed to have furnished such reports and financial statements to the Representatives to the extent they are filed on EDGAR.

(m) *Record Retention.* The Company will, pursuant to reasonable procedures developed in good faith, retain copies of each Issuer Free Writing Prospectus that is not filed with the Commission in accordance with Rule 433 under the Securities Act.

(n) *Filings.* The Company will file with the Commission such reports as may be required by Rule 463 under the Securities Act.

(o) *Directed Share Program*. The Company will comply with all applicable securities and other laws, rules and regulations in each jurisdiction in which the Directed Shares are offered in connection with the Directed Share Program.

(p) *Emerging Growth Company*. The Company will promptly notify the Representatives if the Company ceases to be an Emerging Growth Company at any time prior to the later of (i) completion of the distribution of Shares within the meaning of the Securities Act and (ii) completion of the 180-day restricted period referred to in Section 4(h) hereof.

5. Certain Agreements of the Underwriters. Each Underwriter hereby severally represents and agrees that:

(a) It has not and will not use, authorize use of, refer to or participate in the planning for use of, any "free writing prospectus", as defined in Rule 405 under the Securities Act (which term includes use of any written information furnished to the Commission by the Company and any press release issued by the Company) other than (i) a free writing prospectus that contains no "issuer information" (as defined in Rule 433(h)(2) under the Securities Act) that was not included (including through incorporation by reference) in the Preliminary Prospectus or a previously filed Issuer Free Writing Prospectus, (ii) any Issuer Free Writing Prospectus listed on Annex A or prepared pursuant to Section 3(c) above (including any electronic road show), or (iii) any free writing prospectus prepared by such Underwriter and approved by the Company in advance in writing.

(b) It has not and will not, without the prior written consent of the Company, use any free writing prospectus that contains the final terms of the Shares unless such terms have previously been included in a free writing prospectus filed with the Commission; provided that Underwriters may use a term sheet substantially in the form of Annex C hereto without the consent of the Company; provided further that any Underwriter using such term sheet shall notify the Company, and provide a copy of such term sheet to the Company, prior to, or substantially concurrently with, the first use of such term sheet.

(c) It is not subject to any pending proceeding under Section 8A of the Securities Act with respect to the offering (and will promptly notify the Company if any such proceeding against it is initiated during the Prospectus Delivery Period).

6. Conditions of Underwriters' Obligations. The obligation of each Underwriter to purchase the Underwritten Shares on the Closing Date or the Option Shares on the Additional Closing Date, as the case may be, as provided herein is subject to the performance by the Company Parties of their respective covenants and other obligations hereunder and to the following additional conditions:

(a) *Registration Compliance; No Stop Order.* No order suspending the effectiveness of the Registration Statement shall be in effect, and no proceeding for such

purpose or pursuant to Section 8A under the Securities Act shall be pending before or threatened by the Commission; the Prospectus and each Issuer Free Writing Prospectus shall have been timely filed with the Commission under the Securities Act (in the case of an Issuer Free Writing Prospectus, to the extent required by Rule 433 under the Securities Act) and in accordance with Section 4(a) hereof; and all requests by the Commission for additional information shall have been complied with to the reasonable satisfaction of the Representatives.

(b) *Representations and Warranties.* The respective representations and warranties of each Company Party contained herein shall be true and correct on the date hereof and on and as of the Closing Date or the Additional Closing Date, as the case may be; and the statements of each Company Party and its officers made in any certificates delivered pursuant to this Agreement shall be true and correct on and as of the Closing Date or the Additional Closing Date, as the case may be.

(c) *No Material Adverse Change.* No event or condition of a type described in Section 3(h) hereof shall have occurred or shall exist, which event or condition is not described in the Pricing Disclosure Package (excluding any amendment or supplement thereto) and the Prospectus (excluding any amendment or supplement thereto) and the effect of which in the judgment of the Representatives make it impracticable or inadvisable to proceed with the offering, sale or delivery of the Shares on the Closing Date or the Additional Closing Date, as the case may be, on the terms and in the manner contemplated by this Agreement, the Pricing Disclosure Package and the Prospectus.

(d) *Officer's Certificate.* The Representatives shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, a certificate of the chief financial officer or chief accounting officer of each Company Party and one additional senior executive officer of such Company Party who is satisfactory to the Representatives on behalf of the Company Parties, and not in their personal capacities, (i) confirming that such officers have carefully reviewed the Registration Statement, the Pricing Disclosure Package and the Prospectus and, to the knowledge of such officers, the representations set forth in Sections 3(b) and 3(f) hereof are true and correct, (ii) confirming that the other representations and warranties of the Company Parties, as applicable, in this Agreement are true and correct and that the Company Parties, as applicable, have complied with all agreements and satisfied all conditions on their part to be performed or satisfied hereunder at or prior to the Closing Date or the Additional Closing Date, as the case may be, and (iii) to the effect set forth in paragraphs (a) and (c) above.

(e) *Comfort Letters.* (i) On the date of this Agreement and on the Closing Date or the Additional Closing Date, as the case may be, KPMG LLP shall have furnished to the Representatives, at the request of the Company, letters, dated the respective dates of delivery thereof and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, containing statements and information of the type customarily included in accountants' "comfort letters" to

underwriters with respect to the financial statements and certain financial information contained in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus; provided, that the letter delivered on the Closing Date or the Additional Closing Date, as the case may be, shall use a "cut-off" date no more than two business days prior to such Closing Date or such Additional Closing Date, as the case may be; (ii) on the date of this Agreement and on the Closing Date or the Additional Closing Date, as the case may be, the Company shall have furnished to the Representatives a certificate, dated the respective dates of delivery thereof and addressed to the Underwriters, of its chief financial officer with respect to certain financial data contained in the Pricing Disclosure Package and the Prospectus, providing "management comfort" with respect to such information, in form and substance reasonably satisfactory to the Representatives.

(f) *Opinion and 10b-5 Statement of Counsel for the Company Parties.* Latham & Watkins LLP, counsel for the Company Parties, shall have furnished to the Representatives, at the request of the Company Parties, their written opinion and 10b-5 statement, dated the Closing Date or the Additional Closing Date, as the case may be, and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives.

(g) *Opinion and 10b-5 Statement of Counsel for the Underwriters.* The Representatives shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, an opinion and 10b-5 statement, addressed to the Underwriters, of Kirkland & Ellis LLP, counsel for the Underwriters, with respect to such matters as the Representatives may reasonably request, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(h) *No Legal Impediment to Issuance and/or Sale.* No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority that would, as of the Closing Date or the Additional Closing Date, as the case may be, prevent the issuance or sale of the Shares by the Company; and no injunction or order of any federal, state or foreign court shall have been issued that would, as of the Closing Date or the Additional Closing Date, as the case may be, prevent the issuance or sale of the Shares by the Company.

(i) *Good Standing*. The Representatives shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, satisfactory evidence of the good standing of the Company and its subsidiaries in their respective jurisdictions of organization and their good standing in such other jurisdictions as the Representatives may reasonably request, in each case in writing or any standard form of telecommunication from the appropriate governmental authorities of such jurisdictions.

(j) *Exchange Listing.* The Shares to be delivered on the Closing Date or the Additional Closing Date, as the case may be, shall have been approved for listing on the Exchange, subject to official notice of issuance.

(k) *Lock-up Agreements.* The "lock-up" agreements, each substantially in the form of Exhibit C hereto, between you and certain equity holders, officers and directors of the Company, relating to sales and certain other dispositions of shares of Stock or certain other securities, delivered to you on or before the date hereof, shall be full force and effect on the Closing Date or the Additional Closing Date, as the case may be.

(l) *Additional Documents.* On or prior to the Closing Date or the Additional Closing Date, as the case may be, the Company Parties shall have furnished to the Representatives such further certificates and documents as the Representatives may reasonably request.

(m) *Reorganization Transactions*. Prior to or substantially concurrent with the Closing Date, the Reorganization Transactions shall have been consummated in a manner substantially consistent with the description thereof in the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(n) *No Objection*. FINRA has confirmed that it has not raised any objection with respect to the fairness and reasonableness of the underwriting terms and arrangements relating to the offering of the Shares.

All opinions, letters, certificates and evidence mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Underwriters.

7. Indemnification and Contribution.

(a) *Indemnification of the Underwriters by the Company Parties.* The Company Parties, jointly and severally, agree to indemnify and hold harmless each Underwriter, its affiliates, directors and officers and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, reasonable legal fees and other reasonable expenses incurred and documented in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, not misleading, or (ii) any untrue statement or alleged untrue statement of a material fact contained in the Prospectus (or any amendment or supplement thereto), any Preliminary Prospectus, any Issuer Free Writing Prospectus, any "issuer information" filed or required to be filed pursuant to Rule 433(d) under the Securities Act, any Written Testing-the-Waters Communication prepared or authorized by the Company, any road show as defined in Rule 433(h) under the Securities Act (a "road show") or any Pricing Disclosure Package (including any Pricing Disclosure Package that has subsequently been amended), or caused by any omission or alleged omission to state therein a material fact necessary in order to make the statements therein,

in light of the circumstances under which they were made, not misleading, in each case except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to any Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use therein, it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in paragraph (b) below.

(b) *Indemnification of the Company Parties.* Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless each Company Party, directors of the Company, officers of the Company who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in paragraph (a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to such Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement, the Prospectus (or any amendment or supplement thereto), any Preliminary Prospectus, any Issuer Free Writing Prospectus, any Written Testing-the-Waters Communication, any road show or any Pricing Disclosure Package (including any Pricing Disclosure Package that has subsequently been amended), it being understood and agreed upon that the only such information furnished by any Underwriter consists of the following information in the Prospectus furnished on behalf of each Underwriter: the concession and reallowance figures appearing in the third paragraph under the caption "Underwriting" and the information contained in the first, second, fourth, fifth and seventh sentences of the sixteenth paragraph and the first sentence of the seventeenth paragraph relating to price stabilization, short positions, and penalty bids under the caption "Underwriting".

(c) *Notice and Procedures.* If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnification may be sought pursuant to the preceding paragraphs of this Section 7, such person (the "Indemnified Person") shall promptly notify the person against whom such indemnification may be sought (the "Indemnifying Person") in writing; provided that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under the preceding paragraphs of this Section 7 except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided, further, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under the preceding paragraphs of this Section 7. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Person thereof, the Indemnifying Person shall retain counsel reasonably satisfactory to the Indemnified Person (who shall not, without the consent of the Indemnified Person, be counsel to the

Indemnifying Person) to represent the Indemnified Person and any others entitled to indemnification pursuant to this Section that the Indemnifying Person may designate in such proceeding and shall pay the reasonable and documented fees and expenses in such proceeding and shall pay the reasonable and documented fees and expenses of such counsel related to such proceeding, as incurred. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary; (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person; (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding or related proceeding in the same jurisdiction, be liable for the reasonable and documented fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such reasonable and documented fees and expenses shall be paid or reimbursed as they are incurred. Any such separate firm for any Underwriter, its affiliates, directors and officers and any control persons of such Underwriter shall be designated in writing by the Representatives and any such separate firm for the Company Parties, the directors and officers of the Company who signed the Registration Statement and any control persons of the Company shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement. Notwithstanding the foregoing sentence, if at any time an Indemnified Person shall have requested that an Indemnifying Person reimburse the Indemnified Person for reasonable and documented fees and expenses of counsel as contemplated by this paragraph, the Indemnifying Person shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 60 days after receipt by the Indemnifying Person of such request and (ii) the Indemnifying Person shall not have reimbursed the Indemnified Person in accordance with such request prior to the date of such settlement. No Indemnifying Person shall, without the written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnification could have been sought hereunder by such Indemnified Person, unless such settlement (x) includes an unconditional release of such Indemnified Person, in form and substance reasonably satisfactory to such Indemnified Person, from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(d) *Contribution.* If the indemnification provided for in paragraphs (a) or (b) above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company Parties, on the one hand, and the Underwriters on the other, from the offering of the Shares or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of the Company Parties, on the one hand, and the Underwriters on the other, in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company Parties, on the one hand, and the Underwriters on the other, shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company from the sale of the Shares and the total underwriting discounts and commissions received by the Underwriters in connection therewith, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate offering price of the Shares. The relative fault of the Company Parties, on the one hand, and the Underwriters on the other, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company Parties or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) *Limitation on Liability.* The Company Parties and the Underwriters agree that it would not be just and equitable if contribution pursuant to paragraph (d) above were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any reasonable and documented legal or other expenses incurred by such Indemnified Person in connection with any such action or claim. Notwithstanding the provisions of paragraphs (d) and (e), in no event shall an Underwriter be required to contribute any amount in excess of the amount by which the total underwriting discounts and commissions received by such Underwriter with respect to the offering of the Shares exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to paragraphs (d) and (e) are several in proportion to their respective purchase obligations hereunder and not joint.

(f) *Non-Exclusive Remedies.* The remedies provided for in paragraphs (a) through (e) of this Section 7 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity.

(g) *Directed Share Program Indemnification.* The Company agrees to indemnify and hold harmless the Directed Share Underwriter, its affiliates, directors and officers and each person, if any, who controls the Directed Share Underwriter within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act (each a "Directed Share Underwriter Entity") from and against any and all losses, claims, damages and liabilities (including, without limitation, any legal fees and other expenses incurred in connection with defending or investigating any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred) (i) caused by any untrue statement or alleged untrue statement of a material fact contained in any material prepared by or with the consent of the Company for distribution to Participants in connection with the Directed Share Program or caused by any omission or alleged omission to state therein a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; (ii) caused by the failure of any Participant to pay for and accept delivery of Directed Shares that the Participant agreed to purchase; or (iii) related to, arising out of, or in connection with the Directed Share Program, other than losses, claims, damages or liabilities (or expenses relating thereto) that are finally judicially determined to have resulted from the bad faith or gross negligence of the Directed Share Underwriter Entities.

(h) In case any proceeding (including any governmental investigation) shall be instituted involving any Directed Share Underwriter Entity in respect of which indemnity may be sought pursuant to paragraph (g) above, the Directed Share Underwriter Entity seeking indemnity shall promptly notify the Company in writing and the Company, upon request of the Directed Share Underwriter Entity, shall retain counsel reasonably satisfactory to the Directed Share Underwriter Entity to represent the Directed Share Underwriter Entity and any others the Company may designate in such proceeding and shall pay the reasonable fees and disbursements of such counsel related to such proceeding. In any such proceeding, any Directed Share Underwriter Entity shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Directed Share Underwriter Entity unless (i) the Company and such Directed Share Underwriter Entity shall have mutually agreed to the retention of such counsel, (ii) the Company has failed within a reasonable time to retain counsel reasonably satisfactory to such Directed Share Underwriter Entity, (iii) the Directed Share Underwriter Entity shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Company or (iv) the named parties to any such proceeding (including any impleaded parties) include both the Company and the Directed Share Underwriter Entity and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. The Company shall not, in respect of the legal expenses of the Directed Share Underwriter Entities in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the fees and expenses of more than one

separate firm (in addition to any local counsel) for all Directed Share Underwriter Entities. The Company shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent, the Company agrees to indemnify the Directed Share Underwriter Entities from and against any loss or liability by reason of such settlement. Notwithstanding the foregoing sentence, if at any time any Directed Share Underwriter Entity shall have requested the Company to reimburse such Directed Share Underwriter Entity for fees and expenses of counsel as contemplated by the second and third sentences of this paragraph, the Company agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 60 days after receipt by the Company of the aforesaid request and (ii) the Company shall not have reimbursed such Directed Share Underwriter Entity in accordance with such request prior to the date of such settlement. The Company shall not, without the prior written consent of the Directed Share Underwriter, effect any settlement of any pending or threatened proceeding in respect of which any Directed Share Underwriter Entity is or could have been a party and indemnity could have been sought hereunder by such Directed Share Underwriter Entity, unless (x) such settlement includes an unconditional release of the Directed Share Underwriter Entities from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of the Directed Share Underwriter Entity.

(i) To the extent the indemnification provided for in paragraph (h) above is unavailable to a Directed Share Underwriter Entity or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then the Company in lieu of indemnifying the Directed Share Underwriter Entity thereunder, shall contribute to the amount paid or payable by the Directed Share Underwriter Entity as a result of such losses, claims, damages or liabilities (1) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Directed Share Underwriter Entities on the other hand from the offering of the Directed Shares or (2) if the allocation provided by clause 9(j)(1) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause 9(j)(1) above but also the relative fault of the Company on the one hand and of the Directed Share Underwriter Entities on the other hand in connection with any statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Directed Share Underwriter Entities on the other hand in connection with the offering of the Directed Shares shall be deemed to be in the same respective proportions as the net proceeds from the offering of the Directed Shares (before deducting expenses) and the total underwriting discounts and commissions received by the Directed Share Underwriter Entities for the Directed Shares, bear to the aggregate public offering price of the Directed Shares. If the loss, claim, damage or liability is caused by an untrue or alleged untrue statement of material fact or the omission or alleged omission to state a material fact, the relative fault of the Company on the one hand and the Directed Share Underwriter Entities on the other hand shall be determined by reference to, among other things, whether the untrue or alleged untrue

statement or the omission or alleged omission relates to information supplied by the Company or by the Directed Share Underwriter Entities and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(j) The Company and the Directed Share Underwriter Entities agree that it would be not just or equitable if contribution pursuant to paragraph (i) above were determined by pro rata allocation (even if the Directed Share Underwriter Entities were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (i) above. The amount paid or payable by the Directed Share Underwriter Entities as a result of the losses, claims, damages and liabilities referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by the Directed Share Underwriter Entities in connection with investigating or defending such any action or claim. Notwithstanding the provisions of paragraph (i) above, no Directed Share Underwriter Entity shall be required to contribute any amount in excess of the amount by which the total price at which the Directed Shares distributed to the public were offered to the public exceeds the amount of any damages that such Directed Share Underwriter Entity has otherwise been required to pay. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The remedies provided for in paragraphs (h) through (k) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

(k) The indemnity and contribution provisions contained in paragraphs (h) through (k) shall remain operative and in full force and effect regardless of (i) any termination of this Agreement, (ii) any investigation made by or on behalf of any Directed Share Underwriter Entity or the Company, its officers or directors or any person controlling the Company and (iii) acceptance of and payment for any of the Directed Shares.

8. Effectiveness of Agreement. This Agreement shall become effective as of the date first written above.

9. Termination. This Agreement may be terminated in the absolute discretion of the Representatives, by notice to the Company, if after the execution and delivery of this Agreement and on or prior to the Closing Date or, in the case of the Option Shares, prior to the Additional Closing Date (i) trading generally shall have been suspended or materially limited on or by any of the New York Stock Exchange or The Nasdaq Stock Market; (ii) trading of any securities issued or guaranteed by the Company shall have been suspended on any exchange or in any over-the-counter market; (iii) a general moratorium on commercial banking activities shall have been declared by federal or New York State authorities; or (iv) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis, either within or outside the United States, that, in the judgment of the Representatives, is material

and adverse and makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Shares on the Closing Date or the Additional Closing Date, as the case may be, on the terms and in the manner contemplated by this Agreement, the Pricing Disclosure Package and the Prospectus.

10. Defaulting Underwriter.

(a) If, on the Closing Date or the Additional Closing Date, as the case may be, any Underwriter defaults on its obligation to purchase the Shares that it has agreed to purchase hereunder on such date, the non-defaulting Underwriters may in their discretion arrange for the purchase of such Shares by other persons satisfactory to the Company on the terms contained in this Agreement. If, within 36 hours after any such default by any Underwriter, the non-defaulting Underwriters do not arrange for the purchase of such Shares, then the Company shall be entitled to a further period of 36 hours within which to procure other persons satisfactory to the non-defaulting Underwriters to purchase such Shares on such terms. If other persons become obligated or agree to purchase the Shares of a defaulting Underwriter, either the non-defaulting Underwriters or the Company may postpone the Closing Date or the Additional Closing Date, as the case may be, for up to five full business days in order to effect any changes that in the opinion of counsel for the Company or counsel for the Underwriters may be necessary in the Registration Statement and the Prospectus or in any other document or arrangement, and the Company agrees to promptly prepare any amendment or supplement to the Registration Statement and the Prospectus that effects any such changes. As used in this Agreement, the term "Underwriter" includes, for all purposes of this Agreement unless the context otherwise requires, any person not listed in Schedule 1 hereto that, pursuant to this Section 10, purchases Shares that a defaulting Underwriter agreed but failed to purchase.

(b) If, after giving effect to any arrangements for the purchase of the Shares of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate number of Shares that remain unpurchased on the Closing Date or the Additional Closing Date, as the case may be, does not exceed one-eleventh of the aggregate number of Shares to be purchased on such date, then the Company shall have the right to require each non-defaulting Underwriter to purchase the number of Shares that such Underwriter agreed to purchase hereunder on such date plus such Underwriter's pro rata share (based on the number of Shares that such Underwriter agreed to purchase on such date) of the Shares of such defaulting Underwriter or Underwriters for which such arrangements have not been made.

(c) If, after giving effect to any arrangements for the purchase of the Shares of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate number of Shares that remain unpurchased on the Closing Date or the Additional Closing Date, as the case may be, exceeds one-eleventh of the aggregate amount of Shares to be purchased on such date, or if the Company shall not exercise the right described in paragraph (b) above, then this Agreement or, with respect to any Additional Closing Date, the obligation of the

Underwriters to purchase Shares on the Additional Closing Date, as the case may be, shall terminate without liability on the part of the non-defaulting Underwriters. Any termination of this Agreement pursuant to this Section 10 shall be without liability on the part of the Company Parties, except that the Company Parties, jointly and severally, will continue to be liable for the payment of expenses as set forth in Section 11 hereof and except that the provisions of Section 7 hereof shall not terminate and shall remain in effect.

(d) Nothing contained herein shall relieve a defaulting Underwriter of any liability it may have to the Company Parties or any non-defaulting Underwriter for damages caused by its default.

11. Payment of Expenses.

(a) Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, the Company Parties, jointly and severally, will pay or cause to be paid all costs and expenses incident to the performance of each Company Party's obligations hereunder, including without limitation, (i) the costs incident to the authorization, issuance, sale, preparation and delivery of the Shares to the Underwriters and any taxes payable in that connection; (ii) the costs incident to the preparation, printing and filing under the Securities Act of the Registration Statement, the Preliminary Prospectus, any Issuer Free Writing Prospectus, any Pricing Disclosure Package and the Prospectus (including all exhibits, amendments and supplements thereto) and the distribution thereof; (iii) the costs of reproducing and distributing each of the Transaction Documents; (iv) the fees and expenses of the Company's counsel and independent accountants; (v) the fees and expenses incurred in connection with the registration or qualification and determination of eligibility for investment of the Shares under the laws of such jurisdictions as the Representatives may designate and the preparation, printing and distribution of a Blue Sky Memorandum (including the reasonable related fees and expenses of counsel for the Underwriters); (vi) the cost of preparing stock certificates; (vii) the costs and charges of any transfer agent and any registrar; (viii) all expenses and application fees incurred in connection with any filing with, and clearance of the offering by, FINRA; (ix) all expenses incurred by the Company in connection with any "road show" presentation to potential investors, *provided* that fifty percent (50%) of the cost of any chartered aircraft or other means of transportation chartered in connection with the road show will be paid by the Underwriters; (x) all expenses and application fees related to the listing of the Shares on the Exchange and (xi) all of the reasonable and documented fees and disbursements of counsel incurred by the Underwriters in connection with the Directed Share Program and stamp duties, similar taxes or duties or other taxes, if any, incurred by the Underwriters in connection with the Directed Share Program; provided, however, that the amount payable by the Company pursuant to clauses (v) and (viii) of this Section 11(a) shall not exceed $50,000 in the aggregate for fees and expenses of counsel to the Underwriters.

(b) If (i) this Agreement is terminated pursuant to Section 9, (ii) the Company for any reason fails to tender the Shares for delivery to the Underwriters or (iii) the Underwriters decline to purchase the Shares for any reason permitted under this Agreement, the Company Parties, jointly and severally, agree to reimburse the Underwriters for all reasonable and documented out-of-pocket costs and expenses (including the reasonable and documented fees and expenses of their counsel) reasonably incurred by the Underwriters in connection with this Agreement and the offering contemplated hereby; provided that in the case of a termination pursuant to Section 10(c) hereto, the Company shall only reimburse the non-defaulting Underwriters.

12. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers and directors and any controlling persons referred to herein and the affiliates of each Underwriter referred to in Section 7 hereof. Nothing in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No purchaser of Shares from any Underwriter shall be deemed to be a successor merely by reason of such purchase.

13. Survival. The respective indemnities, rights of contribution, representations, warranties and agreements of the Company Parties and the Underwriters contained in this Agreement or made by or on behalf of the Company Parties or the Underwriters pursuant to this Agreement or any certificate delivered pursuant hereto shall survive the delivery of and payment for the Shares and shall remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of the Company Parties or the Underwriters or the directors, officers, controlling persons or affiliates referred to in Section 7 hereof.

14. Certain Defined Terms. For purposes of this Agreement, (a) except where otherwise expressly provided, the term “affiliate” has the meaning set forth in Rule 405 under the Securities Act; (b) the term “business day” means any day other than a day on which banks are permitted or required to be closed in New York City; (c) the term “subsidiary” has the meaning set forth in Rule 405 under the Securities Act; and (d) the term “significant subsidiary” has the meaning set forth in Rule 1-02 of Regulation S-X under the Exchange Act.

15. Compliance with USA Patriot Act. In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Underwriters are required to obtain, verify and record information that identifies their respective clients, including the Company, which information may include the name and address of their respective clients, as well as other information that will allow the Underwriters to properly identify their respective clients.

16. Miscellaneous.

(a) *Notices.* All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted and confirmed by any standard form of telecommunication. Notices to the Underwriters shall

be given to the Representatives c/o J.P. Morgan Securities LLC, 383 Madison Avenue, New York, New York 10179 (fax: (212) 622-8358), Attention: Equity Syndicate Desk; c/o Jefferies LLC, 520 Madison Avenue, New York, New York 10022 (fax: (646) 619-4437), Attention: General Counsel; c/o Morgan Stanley & Co. LLC, 1585 Broadway, 29th Floor, New York, New York 10036 (fax: (212) 507-8999), Attention: Investment Banking Division and c/o Robert W. Baird & Co. Incorporated, 777 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202 (fax: (414) 298-7474), Attention: Syndicate Department. Notices to the Company shall be given to it at 9170 E. Bahia Drive, Suite 101, Scottsdale, AZ 85260, Attention: Sam Seiberling (email:).

(b) *Governing Law.* This Agreement and any claim, controversy or dispute arising under or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(c) *Submission to Jurisdiction.* Each of the Company Parties hereby submits to the exclusive jurisdiction of the U.S. federal and New York state courts in the Borough of Manhattan in The City of New York in any suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. Each of the Company Parties waives any objection which it may now or hereafter have to the laying of venue of any such suit or proceeding in such courts. Each of the Company Parties agrees that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Company Parties and may be enforced in any court to the jurisdiction of which the Company Parties are subject by a suit upon such judgment.

(d) *Waiver of Jury Trial.* Each of the parties hereto hereby waives any right to trial by jury in any suit or proceeding arising out of or relating to this Agreement.

(e) *Recognition of the U.S. Special Resolution Regimes*.

(i) In the event that any Underwriter that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(ii) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

As used in this Section 16(e):

"BHC Act Affiliate" has the meaning assigned to the term "affiliate" in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

"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.

"U.S. Special Resolution Regime" means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

(f) *Counterparts.* This Agreement may be signed in counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original and all of which together shall constitute one and the same instrument. Counterparts may be delivered via electronic mail (including any electronic signature complying with the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act or other applicable law, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

(g) *Amendments or Waivers.* No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(h) *Headings.* The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

If the foregoing is in accordance with your understanding, please indicate your acceptance of this Agreement by signing in the space provided below.

Very truly yours,

BLACK ROCK COFFEE BAR, INC.

By: _____
Name:
Title:

BLACK ROCK COFFEE HOLDINGS, LLC

By: _____
Name:
Title:

Accepted: As of the date first written above

J.P. MORGAN SECURITIES LLC

By: _____
Name:
Title:

JEFFERIES LLC

By: _____
Name:
Title:

MORGAN STANLEY & CO. LLC

By: _____
Name:
Title:

ROBERT W. BAIRD & CO. INCORPORATED

By: _____
Name:
Title:

For themselves and on behalf of the several Underwriters listed in Schedule 1 hereto.

Schedule 1

Underwriter	Number of Shares
J.P. Morgan Securities LLC	[●]
Jefferies LLC	[●]
Morgan Stanley & Co. LLC	[●]
Robert W. Baird & Co. Incorporated	[●]
Stifel Nicolaus & Company, Incorporated	[●]
William Blair & Company, L.L.C.	[●]
Raymond James & Associates, Inc.	[●]
Total	[●]

a. Pricing Disclosure Package

[●]

b. Pricing Information Provided Orally by Underwriters

Public Offering Price:

Number of Underwritten Shares:

Number of Option Shares:

Annex B

Written Testing-the-Waters Communications

[●]

Annex B-1

BLACK ROCK COFFEE BAR, INC.

Pricing Term Sheet

None.

Form of Waiver of Lock-up

[●]

Black Rock Coffee Bar, Inc
Public Offering of Common Stock

, 20__

[Name and Address of
Officer or Director
Requesting Waiver]

Dear Mr./Ms. [Name]:

This letter is being delivered to you in connection with the offering by Black Rock Coffee Bar, Inc. (the "Company") of _____ shares of Class A common stock, $[●] par value (the "Class A Common Stock"), of the Company and the lock-up letter, dated _____, 2025 (the "Lock-up Letter"), executed by you in connection with such offering, and your request for a [waiver] [release], dated_____, 20__, with respect to _____shares of Class A Common Stock (the "Shares").

[●] hereby agrees to [waive] [release] the transfer restrictions set forth in the Lock-up Letter, but only with respect to the Shares, effective _____, 20__; provided, however, that such [waiver] [release] is conditioned on the Company announcing the impending [waiver] [release] by press release through a major news service at least two business days before effectiveness of such [waiver] [release]. This letter will serve as notice to the Company of the impending [waiver] [release].

Except as expressly [waived] [released] hereby, the Lock-up Letter shall remain in full force and effect.

Yours very truly,

[Signature Block]

cc: Company

Exhibit B

Form of Press Release

Black Rock Coffee Bar, Inc.
[Date]

Black Rock Coffee Bar, Inc. ("Company") announced today that [●], the lead book-running manager in the Company's recent public sale of shares of Class A common stock, is [waiving] [releasing] a lock-up restriction with respect to shares of the Company's Class A common stock held by [certain officers or directors] [an officer or director] of the Company. The [waiver] [release] will take effect on _____, 20__, and the shares may be sold on or after such date.

This press release is not an offer for sale of the securities in the United States or in any other jurisdiction where such offer is prohibited, and such securities may not be offered or sold in the United States absent registration or an exemption from registration under the United States Securities Act of 1933, as amended.

FORM OF LOCK-UP AGREEMENT

_____, 2025

J.P. MORGAN SECURITIES LLC
JEFFERIES LLC
MORGAN STANLEY & CO. LLC
ROBERT W. BAIRD & CO. INCORPORATED

As Representatives of
the several Underwriters listed in
Schedule 1 to the Underwriting
Agreement referred to below

c/o J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179

c/o Jefferies LLC
520 Madison Avenue
New York, New York 10022

c/o Morgan Stanley & Co. LLC
1585 Broadway
New York, New York 10036

c/o Robert W. Baird & Co. Incorporated
777 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202

Re: Black Rock Coffee Bar, Inc. --- Public Offering

Ladies and Gentlemen:

The undersigned understands that you, as Representatives of the several Underwriters, propose to enter into an underwriting agreement (the "Underwriting Agreement") with Black Rock Coffee Bar, Inc., a Texas corporation (the "Company"), and Black Rock Coffee Holdings, LLC, a limited liability company organized under the laws of Delaware ("OpCo"), providing for the public offering (the "Public Offering") by the several Underwriters named in Schedule 1 to the Underwriting Agreement (the "Underwriters"), of Class A common stock, par value $0.00001 per share, of the Company (the "Class A common stock"). Capitalized terms used

herein and not otherwise defined shall have the meanings set forth in the Underwriting Agreement.

In consideration of the Underwriters' agreement to purchase and make the Public Offering of Class A common stock, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned hereby agrees that, without the prior written consent of J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC on behalf of the Underwriters, the undersigned will not, and will not cause any direct or indirect affiliate to, during the period beginning on the date of this letter agreement (this "Letter Agreement") and ending at the close of business 180 days after the date of the final prospectus relating to the Public Offering (the "Prospectus") (such period, the "Restricted Period"), (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Class A common stock, any shares of Class B common stock, par value $0.00001 per share, of the Company (the "Class B common stock") or any shares of Class C common stock, par value $0.00001 per share, of the Company (the "Class C common stock," and together with Class A common stock and Class B common stock, the "Common Stock") or any securities convertible into or exercisable or exchangeable for Common Stock (including without limitation, Common Stock or such other securities which may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the Securities and Exchange Commission and securities which may be issued upon exercise of a stock option or warrant) (collectively with the Common Stock, the "Lock-Up Securities"), (2) enter into any hedging, swap or other agreement or transaction that transfers, in whole or in part, any of the economic consequences of ownership of the Lock-Up Securities, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Lock-Up Securities, in cash or otherwise, (3) make any demand for, or exercise any right with respect to, the registration of any Lock-Up Securities, provided that, to the extent the undersigned has demand and/or piggyback registration rights, the foregoing shall not prohibit the undersigned from notifying the Company privately that it is or will be exercising its demand and/or piggyback registration rights following the expiration of the Restricted Period and undertaking any preparations related thereto, including a confidential submission of a registration statement so long as no public announcement is made regarding the submission or transaction during the Restricted Period, or (4) publicly disclose the intention to do any of the foregoing. The undersigned acknowledges and agrees that the foregoing precludes the undersigned from engaging in any hedging or other transactions or arrangements (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) designed or intended, or which could reasonably be expected to lead to or result in, a sale or disposition or transfer (whether by the undersigned or any other person) of any economic consequences of ownership, in whole or in part, directly or indirectly, of any Lock-Up Securities, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of Lock-Up Securities, in cash or otherwise.

Notwithstanding the foregoing, the undersigned may:

(a) transfer, distribute, cause the disposition of or surrender (as the case may be) the undersigned's Lock-Up Securities:

(i) as a bona fide gift or gifts, or for bona fide estate planning purposes, including, without limitation to charitable organizations or educational institutions,

(ii) by will, testamentary document or intestacy,

(iii) to any immediate family member or other dependent of the undersigned (for purposes of this Letter Agreement, "immediate family" shall mean any relationship by blood, marriage or adoption, not more remote than first cousin),

(iv) to any trust for the direct or indirect benefit of the undersigned or the immediate family of the undersigned, or if the undersigned is a trust, to a trustor or beneficiary of the trust or to the estate of a beneficiary of such trust (for purposes of this Letter Agreement, "immediate family" shall mean any relationship by blood, current or former marriage, domestic partnership or adoption, not more remote than first cousin),

(v) to a partnership, limited liability company or other entity of which the undersigned and the immediate family of the undersigned are the legal and beneficial owner of all of the outstanding equity securities or similar interests,

(vi) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (i) through (v) above,

(vii) (A) to another corporation, partnership, limited liability company, trust or other business entity that is an affiliate (as defined in Rule 405 promulgated under the Securities Act of 1933, as amended) of the undersigned, or to any investment fund or other entity controlling, controlled by, managing or managed by or under common control with the undersigned or affiliates of the undersigned (including, for the avoidance of doubt, where the undersigned is a partnership, to its general partner or a successor partnership or fund, or any other funds managed by such partnership), or (B) as part of a distribution, transfer or disposition without consideration to partners, beneficiaries, members or shareholders of the undersigned or its affiliates,

(viii) by operation of law, such as pursuant to a court or regulatory agency pursuant to a qualified domestic order, divorce settlement, divorce decree or separation agreement,

(ix) to the Company or OpCo from an employee of the Company upon death, disability or termination of employment, in each case, of such employee,

(x) as part of a sale of the undersigned's Lock-Up Securities acquired in open market transactions after the closing date for the Public Offering or acquired from the Underwriters in connection with the Public Offering (other than issuer-directed shares of Class A common stock purchased in the Public Offering by officers or directors of the Company),

(xi) to the Company in connection with the vesting, conversion, settlement, or exercise of restricted stock units, options, warrants or other rights to purchase shares of Common Stock (including, in each case, by way of "net" or "cashless" exercise), including for the payment of exercise price and tax and remittance payments due as a result of the vesting, conversion, settlement, or exercise of such restricted stock units, options, warrants or rights, provided that any such shares of Common Stock received upon such exercise, vesting, conversion, or settlement shall be subject to the terms of this Letter Agreement, and provided further that any such restricted stock units, options, warrants or rights are held by the undersigned pursuant to an agreement or equity awards granted under a stock incentive plan or other equity award plan, each such agreement or plan which is described in the Registration Statement, the Pricing Disclosure Package and the Prospectus,

(xii) pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction that is approved by the Board of Directors of the Company and made to all holders of the Company's capital stock involving a Change of Control (as defined below) of the Company or OpCo, as applicable (for purposes hereof, "Change of Control" shall mean the transfer (whether by tender offer, merger, consolidation or other similar transaction), in one transaction or a series of related transactions, to a person or group of affiliated persons, of shares of capital stock if, after such transfer, such person or group of affiliated persons would hold at least a majority of the outstanding voting securities of the Company or OpCo, as applicable (or the surviving entity)); provided that in the event that such tender offer, merger, consolidation or other similar transaction is not completed, the undersigned's Lock-Up Securities shall remain subject to the provisions of this Letter Agreement,

(xiii) in any redemption, conversion or exchange of (i) common units of OpCo and a corresponding number of shares of Class B common stock or Class C common stock, as applicable, into or for shares of Class A common stock (or securities convertible into or exercisable or exchangeable for Class A common stock) or (ii) shares of Class B common stock or Class C common stock, as applicable, into shares of Class A common stock, in each case in a manner consistent with the provisions therefor set forth in the Prospectus (an "Exchange"); provided that, any shares of Class A common stock or other securities received upon such Exchange shall remain subject to the terms of this Letter Agreement for the remainder of the Restricted Period, and provided, further that an Exchange pursuant to this clause (xiii) shall only be permitted in connection with another transfer, disposition or sale of Lock-Up Securities that is otherwise permitted under this Letter Agreement,

(xiv) transfers, conversion, reclassification, redemption or exchange of Common Stock (or any securities convertible into or exercisable or exchangeable for Common Stock) or such other securities to the Company or any of its affiliates in connection with the Reorganization Transactions, as described in the Registration Statement, Pricing Disclosure Package and Prospectus relating to the offering,

(xv) [in connection with any pledge, hypothecation or other grant of a security interest in any Lock-Up Securities to one or more lending institutions (including their successors, assignees, participants, agents or representatives) as collateral or security for any loan, advance or extension

of credit, including the transfer of such Lock-Up Securities to such lending institution upon foreclosure of such Lock-Up Securities. In addition, (i) any such lending institutions (including their successors, assignees, participants, agents or representatives) may (x) assign or transfer such Lock-Up Securities to their successors, assignees, participants, agents or representatives or (y) transfer, sell, or otherwise dispose of such Lock-Up Securities in connection with their exercise of rights and remedies, including any hedging, swap or other agreement or transaction that transfers, in whole or in part, any of the economic consequences of ownership of such Lock-Up Securities, (ii) the undersigned or its lending institutions (including their successors, assignees, participants, agents or representatives) may sell, transfer or otherwise dispose of such Lock-Up Securities in connection with a margin call, including without limitation any sale, transfer or other disposition intended to satisfy a margin call or potential margin call, and (iii) the undersigned or its lending institutions (including their successors, assignees, participants, agents or representatives) may publicly disclose any pledge, hypothecation, grant of security interest or transfer pursuant to this paragraph (xv) if such disclosure is required by applicable law][1], or

(xvi) in connection with the sale of any Lock-Up Securities to be sold by the undersigned in the manner described in the Prospectus used to sell the shares of Class A common stock,

provided that (A) in the case of any transfer or distribution pursuant to clause (a)(i), (ii), (iii), (iv), (v), (vi), (vii) and (viii), such transfer shall not involve a disposition for value and each donee, devisee, transferee or distributee shall execute and deliver to the Representatives a lock-up letter in the form of this Letter Agreement, (B) in the case of any transfer or distribution pursuant to clause (a)(i), (ii), (iii), (iv), (v), (vi), (vii), (x) and (xi), no filing reporting a reduction in beneficial ownership by any party (donor, donee, devisee, transferor, transferee, distributer or distributee) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or other public announcement shall be required or shall be made voluntarily in connection with such transfer or distribution (other than a filing on a Form 5 made after the expiration of the Restricted Period referred to above, any required filing on Schedule 13 and, in the case of clauses (a)(i), (ii), (vii), (viii), (ix), (x) and (xi), any required Form 4 filing as a result of such transfer) and (C) in the case of any transfer or distribution pursuant to clause (a)(viii) and (ix) it shall be a condition to such transfer that no public filing, report or announcement shall be voluntarily made and if any filing under Section 16(a) of the Exchange Act, or other public filing, report or announcement reporting a reduction in beneficial ownership of shares of Common Stock in connection with such transfer or distribution shall be legally required during the Restricted Period, such filing, report or announcement shall clearly indicate in the footnotes thereto the nature and conditions of such transfer;

(b) exercise outstanding options, settle restricted stock units or other equity awards or exercise warrants pursuant to plans or other equity compensation arrangements described in the Registration Statement, the Pricing Disclosure Package and the Prospectus; provided that any Lock-Up Securities received upon such exercise, vesting or settlement shall be subject to the terms of this Letter Agreement;

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[1] To be included in the lock-up agreements for the Co-Founders.

(c) convert outstanding preferred stock, warrants to acquire preferred stock or convertible securities into shares of Common Stock or warrants to acquire shares of Common Stock; provided that any such shares of Common Stock or warrants received upon such conversion shall be subject to the terms of this Letter Agreement; and

(d) establish or modify trading plans pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Lock-Up Securities; provided that (1) such plans do not provide for the transfer of Lock-Up Securities during the Restricted Period and (2) no filing by any party under the Exchange Act or other public announcement shall be made voluntarily in connection with such trading plan and any public announcement or filing under the Exchange Act made by any person regarding the establishment or modification of such plan during the Restricted Period shall include a statement that the undersigned is not permitted to transfer, sell or otherwise dispose of securities under such plan during the Restricted Period in contravention of this Letter Agreement.

If the undersigned is an officer or director of the Company, the undersigned further agrees that the foregoing provisions shall be equally applicable to any Company-directed shares of Class A common stock the undersigned may purchase in the Public Offering.

If the undersigned is an officer or director of the Company, (i) J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC on behalf of the Underwriters agree that, at least three business days before the effective date of any release or waiver of the foregoing restrictions in connection with a transfer of Lock-Up Securities, J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC on behalf of the Underwriters will notify the Company of the impending release or waiver, and (ii) the Company has agreed in the Underwriting Agreement to announce the impending release or waiver through a major news service at least two business days before the effective date of the release or waiver. Any release or waiver granted by J.P. Morgan Securities LLC, Jefferies LLC and Morgan Stanley & Co. LLC on behalf of the Underwriters hereunder to any such officer or director shall only be effective two business days after the publication date of such announcement. The provisions of this paragraph will not apply if (a) the release or waiver is effected solely to permit a transfer not for consideration or that is to an immediate family member as defined in FINRA Rule 5130(i)(5) and (b) the transferee has agreed in writing to be bound by the same terms described in this letter to the extent and for the duration that such terms remain in effect at the time of the transfer.

[If any record or beneficial owner of any securities of the Company other than the undersigned (each, a "Triggering Shareholder") is granted an early release or waiver from the restrictions described in this Letter Agreement or in any other similar agreement during the Restricted Period in connection with an underwritten public offering, whether or not such offering or sale is wholly or partially a secondary offering of the Company's securities, then the undersigned shall also be provided with the opportunity to be released to participate in such offering, pro rata relative to the Triggering Shareholder. If the undersigned elects to participate in such offering, the undersigned shall be granted an early release or waiver from the restrictions described in this Letter Agreement, but only with respect to the securities actually sold in such offering.][2]

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[2] Note to Draft: To be included in the lock-up agreements for the Co-Founders and Cynosure.

In furtherance of the foregoing, the Company, and any duly appointed transfer agent for the registration or transfer of the securities described herein, are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Letter Agreement.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Letter Agreement. All authority herein conferred or agreed to be conferred and any obligations of the undersigned shall be binding upon the successors, assigns, heirs or personal representatives of the undersigned.

The undersigned acknowledges and agrees that the Underwriters have not provided any recommendation or investment advice nor have the Underwriters solicited any action from the undersigned with respect to the Public Offering of Class A common stock and the undersigned has consulted their own legal, accounting, financial, regulatory and tax advisors to the extent deemed appropriate. The undersigned further acknowledges and agrees that, although the Representatives may be required or choose to provide certain Regulation Best Interest and Form CRS disclosures to you in connection with the Public Offering, the Representatives and the other Underwriters are not making a recommendation to you to participate in the Public Offering, enter into this Letter Agreement, or sell any Shares at the price determined in the Public Offering, and nothing set forth in such disclosures is intended to suggest that the Representatives or any Underwriter is making such a recommendation.

The undersigned understands that, upon the earliest to occur, if any, if (i) the Underwriting Agreement does not become effective by December 12, 2025 (provided, however, that the Company may, by written notice to the undersigned prior to such date, extend such date one time by a period of up to an additional 60 days), (ii) the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Common Stock to be sold thereunder, (iii) prior to the execution of the Underwriting Agreement, either the Company, on one hand, or the Representatives, on the other hand, notifies the other in writing that it does not intend to proceed with the Public Offering, or (iv) the registration statement filed with the SEC in connection with the Public Offering is withdrawn, this Letter Agreement shall automatically terminate, and the undersigned shall automatically be released from all obligations under this Letter Agreement. The undersigned understands that the Underwriters are entering into the Underwriting Agreement and proceeding with the Public Offering in reliance upon this Letter Agreement.

Signatures transmitted by facsimile, electronic mail (including any electronic signature complying with the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act or other applicable law, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

This Letter Agreement and any claim, controversy or dispute arising under or related to this Letter Agreement shall be governed by and construed in accordance with the laws of the State of New York.

AMENDED AND RESTATED
CERTIFICATE OF FORMATION
OF
BLACK ROCK COFFEE BAR, INC.

Black Rock Coffee Bar, Inc. (the "***Corporation***"), a for-profit corporation organized and existing under and by virtue of the provisions of the Texas Business Organizations Code, as amended from time to time (the "***TBOC***"), does hereby certify:

FIRST: The name of the filing entity is Black Rock Coffee Bar, Inc.

SECOND: The Corporation was initially formed as a Delaware corporation on May 2, 2025.

THIRD: The Corporation was converted into a corporation incorporated under the laws of the State of Texas under the name "Black Rock Coffee Bar, Inc." on June 27, 2025 pursuant to a plan of conversion under which the Delaware corporation converted to the Corporation, and issued file number 806096870 by the Secretary of State of the State of Texas.

FOURTH: Each new amendment has been made in accordance with the provisions of the TBOC. The amendments to the certificate of formation and the Restated Certificate (as defined below) have been approved in the manner required by the TBOC and by the governing documents of the entity.

FIFTH: The Amended and Restated Certificate of Formation in the form attached hereto as **Exhibit A** (the "***Restated Certificate***"), accurately states the text of the certificate of formation being restated, and each amendment to the certificate of formation being restated that is in effect, as further amended by the Restated Certificate. The Restated Certificate does not contain any other change in the certificate of formation being restated except for the information permitted to be omitted by the provisions of the TBOC applicable to the filing entity.

SIXTH: The Restated Certificate takes effect upon the occurrence of a future event or fact, other than the passage of time. The event or fact that will cause the document to take effect is the declaration of effectiveness by the U.S. Securities and Exchange Commission of the Corporation's registration statement on Form S-1 (registration number 333-289685) in connection with the initial public offering of the Corporation's Class A Common Stock (as defined in the Restated Certificate). The 90th day after the date of signing is November **[●]**, 2025.

The undersigned affirms that the person designated as registered agent in the Restated Certificate has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized to execute the filing instrument.

BLACK ROCK COFFEE BAR, INC.

By: _____
Name: Mark Davis
Title: Chief Executive Officer

Date: [●], 2025

EXHIBIT A

ARTICLE I

The name of this corporation is Black Rock Coffee Bar, Inc. (the "***Corporation***").

ARTICLE II

The address of the registered office of the Corporation in the State of Texas is 1999 Bryan Street, Suite 900, Dallas, Texas 75201, and the name of the registered agent at that address is CT Corporation System. The mailing address of the Corporation is 9170 E. Bahia Drive, Suite 101, Scottsdale, AZ 85260.

ARTICLE III

The purpose of the Corporation is to engage in any lawful business for which business corporations may be organized under the Texas Business Organizations Code as it now exists or may hereafter be amended and supplemented (the "***TBOC***"), including, without limitation, (i) investing in securities of Black Rock Coffee Holdings, LLC, a Delaware limited liability company, or any successor entities thereto ("***Black Rock Coffee Holdings, LLC***") and any of its subsidiaries, (ii) exercising all rights, powers, privileges and other incidents of ownership or possession with respect to the Corporation's assets, including managing, holding, selling and disposing of such assets and (iii) engaging in any other activities incidental or ancillary thereto.

ARTICLE IV

The total number of shares of all classes of capital stock which the Corporation will have authority to issue is 770,000,000 shares, consisting of (i) 750,000,000 shares of Common Stock, $0.00001 par value per share (the "***Common Stock***"), of which (a) 500,000,000 shares shall be a series designated as Class A Common Stock ("***Class A Common Stock***"), (b) 200,000,000 shares shall be a series designated as Class B Common Stock ("***Class B Common Stock***"), and (c) 50,000,000 shares shall be a series designated as Class C Common Stock ("***Class C Common Stock***"), and (ii) 20,000,000 shares of Preferred Stock, $0.00001 par value per share ("***Preferred Stock***"). For the avoidance of doubt, each of the Class A Common Stock, Class B Common Stock and Class C Common Stock is a series of the class of Common Stock for all purposes, including, without limitation, under the TBOC.

Subject to the rights of any holders of Preferred Stock then outstanding, the number of authorized shares of Class A Common Stock, Class B Common Stock, Class C Common Stock or Preferred Stock may be increased or decreased (but not below (i) the number of shares thereof then outstanding and (ii) with respect to the Class A Common Stock and Class B Common Stock, the number of shares of Class A Common Stock and Class B Common Stock required to be reserved pursuant to Section 11 of Part A of Article IV) by the affirmative vote of the holders of capital stock representing a majority of the voting power of all of the then outstanding shares of capital stock of the Corporation entitled to vote thereon, and no vote of the holders of the Class A Common Stock, the Class B Common Stock, the Class C Common Stock or the

Preferred Stock voting separately as a series shall be required therefor, to the extent permitted by Section 21.364(d) and Section 21.365 of the TBOC.

Upon the effectiveness of this Amended and Restated Certificate of Formation (such certificate, the "***Restated Certificate***" and such time, the "***Effective Time***"), (i) each share of capital stock of the Corporation (the "***Prior Stock***") authorized under the Corporation's certificate of formation heretofore in effect issued and outstanding or held in treasury immediately prior to the Effective Time shall, automatically and without further action by any shareholder, be reclassified as, and shall become, one (1) share of Class A Common Stock (the "***Reclassification***"), (ii) the shareholders registered on the Corporation's books as owners of any shares of Prior Stock shall be registered on the Corporation's books as the owners of shares of Class A Common Stock issued upon the Reclassification and (iii) any stock certificate that, immediately prior to the Effective Time, represented one or more shares of Prior Stock, shall, from and after the Effective Time, automatically and without the necessity of presenting the same for surrender or exchange, represent the same number of shares of Class A Common Stock.

The designations and the powers, preferences, privileges and rights, and the qualifications, limitations or restrictions thereof in respect of each class and series of capital stock of the Corporation are as follows:

A. Common Stock.

1. General. The rights, privileges, preferences and powers of shares of Class A Common Stock, Class B Common Stock and Class C Common Stock shall be as set forth in this Part A of Article IV. The voting, dividend, liquidation and other rights, powers and preferences of the holders of Common Stock are subject to, and qualified by, the rights, powers and preferences of any series of Preferred Stock as may be designated by the Board of Directors of the Corporation (the "***Board***") and outstanding from time to time.

2. Quorum; Voting. Except as otherwise provided by applicable law, this Restated Certificate or the Bylaws of the Corporation, the presence, in person or by proxy, at a shareholders meeting of the holders of shares of outstanding capital stock of the Corporation representing a majority of the voting power of all outstanding shares of capital stock of the Corporation entitled to vote at such meeting and not less than one-third of the then outstanding shares of capital stock of the Corporation entitled to vote at such meeting shall constitute a quorum for the transaction of business at such meeting, except that when specified business is to be voted on by a class or series of stock voting as a class, the holders of shares representing a majority of the voting power of the then outstanding shares of such class or series entitled to vote at such meeting and not less than one-third of the outstanding shares of such class or series entitled to vote at such meeting shall constitute a quorum of such class or series for the transaction of such business. Except as otherwise provided herein or expressly required by a nonwaivable provision of the TBOC, at all meetings of shareholders and on all matters submitted to a vote of shareholders of the Corporation generally:

(i) each holder of Class A Common Stock, as such, shall have one (1) vote per share of Class A Common Stock held of record by such holder, on all matters submitted

to a vote of the holders of Class A Common Stock, whether voting separately as a series or otherwise;

(ii) each holder of Class B Common Stock, as such, shall have one (1) vote per share of Class B Common Stock held of record by such holder on all matters submitted to a vote of the holders of Class B Common Stock, whether voting separately as a series or otherwise; and

(iii) each holder of Class C Common Stock, as such, shall have ten (10) votes per share of Class C Common Stock held of record by such holder, on all matters submitted to a vote of the holders of Class C Common Stock, whether voting separately as a series or otherwise. On the earlier of (a) the ten-year anniversary of the later of the closing date of the IPO and the date of the closing of an exercised over-allotment option in connection with the IPO (the "***IPO Closing Date***") and (b) with respect to each Individual Founder, the date on which the aggregate number of shares of Class C Common Stock Constructively Held by such Individual Founder is less than thirty-three percent (33%) of the shares of Class C Common Stock Constructively Held by such Individual Founder (calculated in accordance with the following sentence) as of the IPO Closing Date, each such holder's Class C Common Stock shall automatically, without further action by the Corporation or any holder thereof, convert to one fully paid non-assessable share of Class B Common Stock. The date on which no shares of Class C Common Stock are outstanding is referred to as the "***Sunset Date***." For the avoidance of doubt, the number of shares of Class C Common Stock Constructively Held by an Individual Founder as of the IPO Closing Date or any subsequent date shall equal the sum of (A) the total number of shares of Class C Common Stock directly owned by such Individual Founder (including any shares owned by such Individual Founder's Immediate Family or any Estate Planning Vehicles, trusts or other entities formed for the benefit of such Individual Founder or such Individual Founder's Immediate Family) plus (B) the product of (x) the total number of shares of Class C Common Stock owned by Viking Cake and its wholly-owned subsidiaries, *multiplied by* (y) the percentage ownership of equity interests of Viking Cake of such Individual Founder (together with the percentage ownership of such Individual Founder's Immediate Family or any Estate Planning Vehicles, trusts or other entities formed for the benefit of such Individual Founder or such Individual Founder's Immediate Family);

provided, however, that, except as otherwise required by law, holders of Class A Common Stock, Class B Common Stock and Class C Common Stock, as such, shall not be entitled to vote on any amendment to this Restated Certificate that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together with the holders of one or more other such series, to vote thereon pursuant to this Restated Certificate (including any Certificate of Designation (as defined below)) or pursuant to the TBOC. Except as otherwise provided herein or required by a nonwaivable provision of the TBOC, the holders of shares of Class A Common Stock, Class B Common Stock and Class C Common Stock shall at all times vote together as a single class on all matters (or, if any holders of Preferred Stock are entitled to vote together with the holders of Common Stock, as a single class with the holders of Preferred Stock), including the election of Directors, submitted to a vote of the shareholders of the Corporation generally. There shall be no cumulative voting. To the

extent permitted by Section 21.365 of the TBOC, in lieu of the vote required by Section 21.457 or Section 21.364 of the TBOC, unless otherwise stated in this Restated Certificate, the shareholders by the affirmative vote of the holders of capital stock representing a majority of the voting power of all of the then outstanding shares of capital stock of the Corporation entitled to vote thereon will approve (i) any "fundamental action" as defined in Section 21.364 of the TBOC or (ii) any "fundamental business transaction" as defined in Section 1.002 of the TBOC. To the extent permitted by Section 21.365(b) of the TBOC, notwithstanding any other provision of the TBOC, except as otherwise provided in this Restated Certificate, all classes or series of stock shall only be entitled to vote as a single class or series, and separate voting by class or series is not required, for the purpose of approving any matter, including in connection with any "fundamental action" as defined in Section 21.364 of the TBOC or a "fundamental business transaction" as defined in Section 1.002 of the TBOC; provided that, if a class or series of shares is nevertheless entitled to vote as a class or series on any "fundamental action" as defined in Section 21.364 of the TBOC, then unless otherwise stated in this Restated Certificate, the shareholders by the affirmative vote of the holders of capital stock representing a majority of the voting power of all of the then outstanding shares of capital stock of the Corporation of such class or series shall approve such "fundamental action".

3. Dividends. Subject to the preferential or other rights of any holders of any then-outstanding shares of Preferred Stock or any class or series of stock having a preference over or the right to participate with the Class A Common Stock, dividends may be declared and paid on the Class A Common Stock out of the assets or funds of the Corporation that are by law available therefor, at such times and in such amounts as the Board in its discretion shall determine. Other than in connection with a dividend declared by the Board in connection with a share dividend, dividend of securities convertible, exercisable or exchangeable for Common Stock, or a "poison pill" or similar shareholder rights plan (each of the foregoing, a "Share Dividend"), dividends shall not be declared or paid on the Class B Common Stock or the Class C Common Stock and the holders of shares of Class B Common Stock and the Class C Common Stock shall have no right to receive dividends in respect of such shares of Class B Common Stock or Class C Common Stock, respectively. In no event will any Share Dividend be declared or made on any class of Common Stock unless (a) a corresponding Share Dividend for all other classes of Common Stock is made in the same proportion and the same manner and (b) the Corporation shall cause Black Rock Coffee Holdings, LLC to cause the Share Dividend to be reflected in the same economically equivalent manner on all Common Units to give effect to such Share Dividend. Share Dividends with respect to each class of Common Stock may not be declared or paid with shares of stock, or securities convertible, exercisable or exchangeable for shares of stock, of a different class of Common Stock.

4. Subdivisions, Combinations or Reclassifications. Shares of Class A Common Stock, Class B Common Stock or Class C Common Stock may not be subdivided, combined or reclassified unless the shares of the other series of Common Stock are concurrently therewith proportionately subdivided, combined or reclassified in a manner that maintains the same proportionate ownership of Common Stock among the holders of the outstanding Class A Common Stock, Class B Common Stock and Class C Common Stock on the record date for such subdivision, combination or reclassification; provided, however, that shares of one such series

may be subdivided, combined or reclassified in a different or disproportionate manner if such subdivision, combination or reclassification is approved by the affirmative vote of the holders of a majority of the then outstanding shares of Class A Common Stock, Class B Common Stock and Class C Common Stock, each voting separately as a series. In the event of any such subdivision, combination or reclassification, the Corporation shall cause Black Rock Coffee Holdings, LLC to make corresponding changes to the Common Units to give effect to such subdivision, combination or reclassification, as applicable.

5 . Liquidation, Dissolution or Winding Up. Subject to the preferential or other rights of any holders of Preferred Stock then outstanding, upon the dissolution, distribution of assets, liquidation or winding up of the Corporation, whether voluntary or involuntary, after payment or provision for payment of the debts and other liabilities of the Corporation, holders of Class A Common Stock will be entitled to receive all assets of the Corporation available for distribution to its shareholders in proportion to the number of shares held by each such shareholder. The holders of shares of Class B Common Stock and Class C Common Stock, as such, shall not be entitled to receive any assets of the Corporation in the event of any dissolution, distribution of assets, liquidation or winding up of the Corporation, whether voluntary or involuntary. A consolidation, reorganization or merger of the Corporation with any other Person or Persons (as defined below), a conversion of the Corporation, or a sale of all or substantially all of the assets of the Corporation, shall not be considered to be a dissolution, liquidation or winding up of the Corporation within the meaning of this Section 5 of Part A of Article IV.

6. Class A Common Stock.

6.1 In the case of any distribution or payment in respect of the shares of Class A Common Stock, or any consideration into which such shares are converted, upon the merger, consolidation or Change of Control (as defined below) of the Corporation with or into any other entity, or in the case of any other transaction having an effect on shareholders substantially similar to that resulting from a merger or consolidation of the Corporation with or into any other entity, such distribution, payment or consideration that the holders of shares of Class A Common Stock have the right to receive, or the right to elect to receive, shall be made ratably on a per share basis among the holders of the Class A Common Stock. For the avoidance of doubt, any distribution, payment or consideration for purposes of this Section 6 of Part A of Article IV shall not be deemed to include (i) any amount or consideration to be paid to or received by a holder of Class A Common Stock pursuant to any indemnification, employment, consulting, severance or similar services arrangement, whether or not entered into in connection with a transaction described in this Section 6 of Part A of Article IV or (ii) a negotiated agreement between a holder of Class A Common Stock with any counterparty (or Affiliate (as defined below) thereof) to a transaction described in this Section 6 of Part A of Article IV wherein such holder is contributing, selling, transferring or otherwise disposing of shares of the Corporation's capital stock to such counterparty (or Affiliate thereof) as part of a "rollover" or similar transaction that is in connection with such transaction.

7. Class B Common Stock.

7.1 (i) (x) shares of Class B Common Stock may be issued only to, and registered only in the name of, the holders of Common Units (excluding the Corporation) and their respective Permitted Transferees (as defined below) in accordance with Article IV (including all subsequent Permitted Transferees) (the holders of Common Units (excluding the Corporation) together with such Persons, collectively, the "***Permitted Class B Owners***") and (y) the aggregate number of shares of Class B Common Stock at any time registered in the name of each such Permitted Class B Owner must be equal to the aggregate number of Common Units (as defined below) held of record at such time by such Permitted Class B Owner under the Seventh Amended and Restated Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC, dated as of the date hereof, as such agreement may be further amended, restated, amended and restated, supplemented or otherwise modified from time to time (the "***LLC Agreement***"). Notwithstanding the foregoing, the Corporation may issue additional shares of Class B Common Stock in the event Black Rock Coffee Holdings, LLC issues additional Common Units (other than to the Corporation) following the IPO Closing Date.

7.2 The Corporation shall, to the fullest extent permitted by law, undertake all necessary and appropriate action within its control to ensure that the number of shares of Class B Common Stock issued by the Corporation at any time to, or otherwise held of record by, any Permitted Class B Owner shall be equal to the aggregate number of Common Units held of record by such Permitted Class B Owner in accordance with the terms of the LLC Agreement. In accordance with the foregoing, in the event that the Corporation contributes property (including cash) to Black Rock Coffee Holdings, LLC in accordance with Section 3.04(c) of the LLC Agreement and such contribution results in an adjustment of the Common Units held by the Permitted Class B Owners, the number of Class B Common Stock shall be correspondingly adjusted.

7.3 In the event that there is a merger, consolidation, conversion, transfer, reorganization or Change of Control (as defined below) of the Corporation that was approved by the Board prior to such merger, consolidation, conversion, transfer, reorganization or Change of Control, without limiting the rights of the holders of Class B Common Stock to have their Common Units redeemed or exchanged in accordance with Article XI of the LLC Agreement, the holders of shares of Class B Common Stock shall not be entitled to receive more than $0.00001 per share of Class B Common Stock, whether in the form of consideration for such shares or in the form of a distribution of the proceeds of a sale of all or substantially all of the assets of the Corporation with respect to such shares.

8. Class C Common Stock.

8.1 (x) shares of Class C Common Stock may be issued only to, and registered only in the name of, our Founders and their respective Permitted Transferees in accordance with Article IV (including all subsequent Permitted Transferees) (the Founders together with such persons, collectively, the "***Permitted Class C Owners***") and (y) the aggregate

number of shares of Class C Common Stock at any time registered in the name of each such Permitted Class C Owner must be equal to the aggregate number of Common Units held of record at such time by such Permitted Class C Owner.

8.2 The Corporation shall, to the fullest extent permitted by law, undertake all necessary and appropriate action within its control to ensure that the number of shares of Class C Common Stock issued by the Corporation at any time to, or otherwise held of record by, any Permitted Class C Owner shall be equal to the aggregate number of Common Units held of record by such Permitted Class C Owner in accordance with the terms of the LLC Agreement. In accordance with the foregoing, in the event that the Corporation contributes property (including cash) to Black Rock Coffee Holdings, LLC in accordance with Section 3.04(c) of the LLC Agreement and such contribution results in an adjustment of the Common Units held by the Permitted Class C Owners, the number of Class C Common Stock shall be correspondingly adjusted.

8.3 In the event that there is a merger, consolidation, conversion, transfer, reorganization or Change of Control (as defined below) of the Corporation that was approved by the Board prior to such merger, consolidation, conversion, transfer, reorganization or Change of Control, without limiting the rights of the holders of Class C Common Stock to have their Common Units redeemed or exchanged in accordance with Article XI of the LLC Agreement, the holders of shares of Class C Common Stock shall not be entitled to receive more than $0.00001 per share of Class C Common Stock, whether in the form of consideration for such shares or in the form of a distribution of the proceeds of a sale of all or substantially all of the assets of the Corporation with respect to such shares.

9. Transfer of Class B Common Stock and Class C Common Stock; Conversion of Class C Common Stock.

9.1 A holder of Class B Common Stock or Class C Common Stock may surrender and Transfer shares of such Class B Common Stock or Class C Common Stock, as applicable, to the Corporation for cancellation for no consideration at any time. Following the surrender and Transfer, or other acquisition, of any shares of Class B Common Stock or Class C Common Stock to or by the Corporation, the Corporation will take all actions necessary to cancel and retire such shares and such shares shall not be re-issued by the Corporation.

9.2 Except as set forth in Section 9.1 of Part A of Article IV, a holder of Class B Common Stock or Class C Common Stock may Transfer shares of Class B Common Stock or Class C Common Stock only to a Permitted Transferee of such holder, and only if such holder also simultaneously Transfers an equal number of such holder's Common Units to such Permitted Transferee in compliance with the LLC Agreement. The Transfer restrictions described in this Section 9.2 of Part A of Article IV are referred to as the "***Restrictions***".

9.3 If a holder of Class C Common Stock Transfers shares of Class C Common Stock to a Permitted Transferee of such holder, such shares shall remain shares of Class C Common Stock upon consummation of such Transfer. If a holder of Class C Common

Stock Transfers shares of Class C Common Stock to any Person that is not a Permitted Transferee of such holder, such shares shall automatically, without further action by the Corporation or any holder thereof, convert into fully paid non-assessable shares of Class B Common Stock, on a one-for-one basis, upon consummation of such Transfer.

9.4 To the fullest extent permitted by law, any purported Transfer of shares of Class B Common Stock or Class C Common Stock in violation of the Restrictions shall be null and void *ab initio*. If, notwithstanding the Restrictions, a Person, voluntarily or involuntarily (including by way of a foreclosure), purportedly becomes or attempts to become, the purported owner (the "***Purported Owner***") of shares of Class B Common Stock or Class C Common Stock, as applicable, in violation of the Restrictions, then the Purported Owner shall not obtain any rights in, to or with respect to such shares of (i) Class B Common Stock (the "***Class B Restricted Shares***") or (ii) Class C Common Stock (the "***Class C Restricted Shares***"), and the purported Transfer of the Class B Restricted Shares or the Class C Restricted Shares, as applicable, to the Purported Owner shall not be recognized by the Corporation, the Corporation's transfer agent (the "***Transfer Agent***") or the Secretary of the Corporation and each holder of such Class B Restricted Shares or Class C Restricted Shares shall, to the fullest extent permitted by law, automatically, without any further action on the part of the Corporation, the holder thereof, the Purported Owner or any other party, not be entitled to any voting rights with respect to those shares.

9.5 Upon a determination by the Board that a Person has attempted or may attempt to Transfer or to acquire Class B Restricted Shares or Class C Restricted Shares in violation of the Restrictions, the Corporation may take such action as it deems necessary or advisable to refuse to give effect to such Transfer or acquisition on the books and records of the Corporation, including without limitation to cause the Transfer Agent or the Secretary of the Corporation, as applicable, to not record the Purported Owner as the record owner of the Class B Restricted Shares or the Class C Restricted Shares and to institute proceedings to enjoin or rescind any such Transfer or acquisition.

9.6 The Board may, to the extent permitted by law, from time to time establish, modify, amend or rescind, by bylaw or otherwise, regulations and procedures not inconsistent with the provisions of this Section 9 of Part A of Article IV for determining whether any Transfer or acquisition of shares of Class B Common Stock or Class C Common Stock would violate the Restrictions, and for the orderly application, administration and implementation of the provisions of this Section 9 of Part A of Article IV; provided, that if any such action is taken with respect to a Transfer or acquisition of shares of Class B Common Stock or Class C Common Stock held by any of the Founders, it shall also be authorized by the Board with respect to Cynosure. Any such procedures and regulations shall be kept on file with the Secretary of the Corporation and with the Transfer Agent and shall be made available for inspection by and, upon written request shall be mailed to, any requesting holders of shares of Class B Common Stock and/or Class C Common Stock.

9.7 Each share of the outstanding Class C Common Stock held of record by a natural person or by such natural person's Permitted Transferees, shall automatically,

without further action by the Corporation or the holder thereof, convert into one validly issued, fully paid and non-assessable share of Class B Common Stock upon the death or Disability of such natural person solely to the extent that such Class C Common Stock would not, by operation of law, otherwise transfer to a Permitted Transferee. Each share of the outstanding Class C Common Stock held of record by an Individual Founder's Immediate Family or any Estate Planning Vehicles, trusts or other entities formed for the benefit of such Individual Founder or such Individual Founder's Immediate Family, shall automatically, without further action by the Corporation or the holder thereof, convert into one validly issued, fully paid and non-assessable share of Class B Common Stock upon the death or Disability of such Individual Founder. Each share of the outstanding Class C Common Stock held of record by Viking Cake (including its wholly-owned subsidiaries) or such Person's Permitted Transferees, shall automatically, without further action by the Corporation or the holder thereof, convert into one validly issued, fully paid and non-assessable share of Class B Common Stock upon the death or Disability of each of Jeffrey Hernandez, Daniel Brand, Jacob Spellmeyer and Bryan Pereboom.

10. Certificates. All certificates or book entries representing shares of Class B Common Stock and/or Class C Common Stock shall bear a legend substantially in the following form (or in such other form as the Board may determine):

THE SECURITIES REPRESENTED BY THIS [CERTIFICATE][BOOK ENTRY] ARE SUBJECT TO THE RESTRICTIONS (INCLUDING RESTRICTIONS ON TRANSFER) SET FORTH IN THE CERTIFICATE OF FORMATION OF THE CORPORATION AS IT MAY BE AMENDED AND/OR RESTATED AND THE LIMITED LIABILITY COMPANY AGREEMENT OF BLACK ROCK COFFEE HOLDINGS, LLC AS IT MAY BE AMENDED AND/OR RESTATED (COPIES OF WHICH ARE ON FILE WITH THE SECRETARY OF THE CORPORATION AND SHALL BE PROVIDED FREE OF CHARGE TO ANY SHAREHOLDER MAKING A REQUEST THEREFOR).

A notice of such legend shall be given to holders of shares of Class B Common Stock and Class C Common Stock in accordance with applicable law.

11. Reservation of Stock.

11.1 The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class A Common Stock, such number of shares of Class A Common Stock that shall from time to time be sufficient to effect (i) the redemption or exchange of all outstanding Common Units held by holders of Class B Common Stock (along with Class B Common Stock) for shares of Class A Common Stock, and (ii) the redemption or exchange of all outstanding Common Units held by holders of Class C Common Stock (along with Class C Common Stock) for shares of Class A Common Stock, provided that nothing contained herein shall be construed to preclude the Corporation from satisfying its obligations in respect of the redemption or exchange of the Common Units by delivery of shares of Class A Common Stock that are held in the treasury of the Corporation.

11.2 The Corporation shall use its best efforts to cause to be reserved and kept available for issuance at all times a sufficient number of authorized but unissued shares

of Class B Common Stock, such number of shares of Class B Common Stock that shall from time to time be sufficient to effect the issuance of shares of Class B Common Stock after the Effective Time to holders of newly issued Common Units for such consideration and for such corporate purposes as the Board may from time to time determine.

11.3 The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Class B Common Stock, such number of shares of Class B Common Stock that shall from time to time be sufficient to effect any exchange pursuant to Section 9.7 of Part A of Article IV.

12. Definitions.

12.1 "***Affiliate***" means, with respect to any person, an "affiliate" of such person as defined in Rule 405 of the Securities Act (as defined below).

12.2 "***Change of Control***" means the occurrence of any of the following events: (1) any "Person" or "group" (within the meaning of Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such Person and its subsidiaries, and any Person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the "beneficial owner" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of shares of Class A Common Stock, Class B Common Stock, Class C Common Stock, Preferred Stock and/or any other class or classes or series of capital stock of the Corporation (if any) representing in the aggregate more than fifty percent (50%) of the voting power of all of the outstanding shares of capital stock of the Corporation entitled to vote; (2) the shareholders of the Corporation approve a plan of complete liquidation or dissolution of the Corporation or there is consummated a transaction or series of related transactions for the sale, lease, exchange or other disposition, directly or indirectly, by the Corporation of all or substantially all of the Corporation's assets (including a sale of all or substantially all of the assets of Black Rock Coffee Holdings, LLC); (3) there is consummated a merger or consolidation of the Corporation with any other corporation or entity, and, immediately after the consummation of such merger or consolidation, the voting securities of the Corporation immediately prior to such merger or consolidation do not continue to represent, or are not converted into, voting securities representing more than fifty percent (50%) of the combined voting power of the outstanding voting securities of the Person resulting from such merger or consolidation or, if the surviving company is a subsidiary, the ultimate parent thereof; or (4) the Corporation ceases to be the sole managing member of Black Rock Coffee Holdings, LLC; provided, however, that a "Change of Control" shall not be deemed to have occurred by virtue of the consummation of any transaction or series of related transactions immediately following which (a) the beneficial owners of the Class A Common Stock, Class B Common Stock, Class C Common Stock, Preferred Stock and/or any other class or classes or series of capital stock of the Corporation immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in and Voting Control over, and own substantially all of the shares of, an entity which owns all or substantially all of the assets of the Corporation immediately following such transaction or series of transactions or (b) in the case of the foregoing clauses (1) or (3), the Founders and the Cynosure Related Parties are the

"beneficial owner" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of shares of Class A Common Stock, Class B Common Stock, Class C Common Stock, Preferred Stock and/or any other class or classes or series of capital stock of the Corporation (if any) representing in the aggregate more than fifty percent (50%) of the voting power of all of the outstanding shares of capital stock of the Corporation entitled to vote (or, in the case of a transaction described in the foregoing clause (3), more than fifty percent (50%) of the combined voting power of the then outstanding voting securities of the Person resulting from such merger of consolidation or, if the surviving company is a subsidiary, the ultimate parent thereof).

12.3 "***Code***" means Internal Revenue Code of 1986, as amended.

12.4 "***Common Unit***" means a common unit of Black Rock Coffee Holdings, LLC with the rights, privileges, preferences and powers set forth in the LLC Agreement.

12.5 "***Cynosure***" means The Cynosure Group and its Affiliates.

12.6 "***Cynosure Director***" means the Director Cynosure is entitled to nominate to the Board pursuant to this Restated Certificate.

12.7 "***Director***" means a director serving on the Board.

12.8 "***Disability***" means, with respect to a Founder (as defined below), the permanent and total disability of such Founder such that such Founder is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death within twelve (12) months or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months, in each case, as determined by a licensed medical practitioner jointly selected by a majority of the disinterested members of the Board and the Founder; provided that, if such Founder is incapable of selecting a licensed physician, then such Founder's spouse shall make the selection on behalf of such Founder, or in the absence or incapacity of such Founder's spouse, such Founder's adult children by majority vote shall make the selection on behalf of such Founder. In the event that (i) a dispute exists as to whether a Founder has suffered a Disability or (ii) neither such Founder's spouse nor his adult children, as applicable, are able to select a licensed physician on behalf of such Founder, no Disability of such Founder shall be deemed to have occurred unless and until an affirmative ruling regarding such Disability has been made by a court of competent jurisdiction, and such ruling has become final and nonappealable.

12.9 "***Estate Planning Vehicle***" means, with respect to any shareholder (or former shareholder) that is a natural person, (a) a trust which is at all times controlled by such shareholder (or former shareholder) under which a distribution of such shareholder's (or former shareholder's) capital stock may be made only to beneficiaries who are such shareholder (or former shareholder), his or her spouse, his or her parents or his or her lineal descendants, (b) a charitable remainder trust which is at all times controlled by such shareholder (or former shareholder), the income from which will be paid to such shareholder (or former shareholder)

during his or her life, (c) a corporation, the sole assets of which are capital stock and equity securities of the Corporation and Black Rock Coffee Holdings, LLC, and at all times the majority and controlling shareholder of which is only such shareholder (or former shareholder) and the remaining shareholders of which are either such shareholder (or former shareholder) or his or her spouse, his or her parents or his or her lineal descendants and (d) a partnership or limited liability company, the sole assets of which are capital stock and equity securities of the Corporation and Black Rock Coffee Holdings, LLC, and at all times the general partner or managing or majority member of which is only such shareholder (or former shareholder), and the remaining partners or members of which are either such shareholder (or former shareholder) or his or her spouse, his or her parents or his or her lineal descendants.

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

12.11 "***Founders***" means Viking Cake BR, LLC, a Delaware limited liability company, and any of its successors, subsidiaries or affiliated entities that hold Common Units ("***Viking Cake***"), Viking Cake Fuel, LLC, a Delaware limited liability company, and any of its successors, subsidiaries or affiliated entities that hold Common Units, Jeffrey R. Hernandez Revocable Trust, Jeffrey R. Hernandez 2021 Trust, Tiffany S. Hernandez 2021 Trust, Daniel and Tanya Brand Living Trust, Daniel J. Brand 2021 Trust, Tanya N. Brand 2021 Trust, Juliet A. Spellmeyer Revocable Trust, Jacob V. Spellmeyer 2021 Trust, Juliet A. Spellmeyer 2021 Trust, Nicole Pereboom, Bryan D. Pereboom 2021 Trust, and Nicole Pereboom 2021 Trust, and each of their Permitted Transferees, excluding, for the avoidance of doubt, the Corporation and any of its subsidiaries.

12.12 "***Immediate Family***" means any child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, son-in-law, daughter-in-law, and shall include adoptive relationships.

12.13 "***Independent Directors***" means the Directors designated as independent Directors in accordance with the listing standards of any national stock exchange on which the Corporation's equity securities are listed for trading that are generally applicable to companies with common equity securities listed thereon.

12.14 "***Individual Founders***" means each of Daniel Brand, Jeffrey Hernandez, Bryan Pereboom and Jacob Spellmeyer.

12.15 "***IPO***" means the sale of shares of Class A Common Stock to the public in a firm-commitment underwritten initial public offering, pursuant to an effective registration statement under the Securities Act.

12.16 ***"Permitted Transfer***" means, with respect to shares of Class B Common Stock and Class C Common Stock, a Transfer of such shares of Class B Common Stock or Class C Common Stock by the holder thereof to (A) the Corporation or any of its subsidiaries, (B) an Affiliate of such holder, (C) by a holder that is a natural person for estate-planning purposes to an Estate Planning Vehicle of such holder, or (D) to a Qualified

Shareholder in each case so long as such holder also Transfers an equal number of such holder's Common Units to such Permitted Transferee in accordance with the terms of the LLC Agreement.

12.17 "***Permitted Transferee***" means a transferee of shares of Class B Common Stock or Class C Common Stock (or rights or interests therein), as applicable, received in a Transfer that constitutes a Permitted Transfer.

12.18 "***Person***" means any individual, corporation, partnership, limited liability company, unincorporated association or other entity.

12.19 "***Qualified Shareholder***" means (i) in the case of a Transfer of Class B Common Stock, the registered holder of any shares of Class B Common Stock, and (ii) in the case of a Transfer of Class C Common Stock, the registered holder of any shares of Class C Common Stock.

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

12.21 "***Transfer***" (and, with a correlative meaning, "***Transferring***") of a share of Class B Common Stock or Class C Common Stock means, directly or indirectly, any sale, assignment, transfer, conveyance, hypothecation or other transfer or disposition of such share or any legal or beneficial interest in such share, whether or not for value and whether voluntary or involuntary or by operation of law (including by merger, consolidation or otherwise), or the transfer of, or entering into a binding agreement with respect to the transfer of, Voting Control over such share by proxy or otherwise; provided, however, that the following shall not be considered a Transfer:

(i) the granting of a revocable proxy to officers or Directors of the Corporation at the request of the Board in connection with (i) actions to be taken at an annual or special meeting of shareholders, or (ii) any other action of the shareholders permitted by this Certificate of Incorporation;

(ii) entering into a voting trust, agreement or arrangement (with or without granting a proxy) solely with shareholders who are holders of Class B Common Stock or Class C Common Stock, which voting trust, agreement or arrangement (A) is disclosed either in a Schedule 13D filed with the Securities and Exchange Commission or in writing to the Secretary of the Corporation, (B) either has a term not exceeding one year or is terminable by the holder of the shares subject thereto at any time, and (C) does not involve any payment of cash, securities, property or other consideration to the holder of the shares subject thereto other than (if applicable) the mutual promise to vote shares in a designated manner;

(iii) the pledge of shares of Class B Common Stock or Class C Common Stock by a shareholders that creates a mere security interest in such shares pursuant to a bona fide loan or indebtedness transaction for so long as such shareholder continues to exercise Voting Control over such pledged shares; provided, however, that a foreclosure on such shares or other similar action by the pledgee shall constitute a "Transfer" unless such foreclosure or similar action qualifies as a "Permitted Transfer" at such time;

(iv) the fact that the spouse of any holder of Class B Common Stock or Class C Common Stock possesses or obtains an interest in such holder's shares of Class B Common Stock or Class C Common Stock arising solely by reason of the application of the community property laws of any jurisdiction, so long as no other event or circumstance shall exist or have occurred that constitutes a "Transfer" that is not a "Permitted Transfer";

(v) any entry into a trading plan pursuant to Rule 10b5-1 under the Exchange Act with a broker or other nominee; provided, that a sale of such shares of Class B Common Stock or Class C Common Stock pursuant to such plan shall constitute a "Transfer" at the time of such sale;

(vi) entering into a support, voting, tender or similar agreement, arrangement or understanding (with or without granting a proxy) in connection with a Change of Control or liquidation, dissolution or winding up of the affairs of the Corporation or other proposal, or consummating the actions or transactions contemplated therein (including, without limitation, tendering shares of Class B Common Stock or Class C Common Stock or voting such shares in connection therewith or such other proposal, the consummation of such event or such other proposal or the Transfer of shares of Class B Common Stock or Class C Common Stock or any legal or beneficial interest in shares of Class B Common Stock or Class C Common Stock in connection with such event or such other proposal), provided that it was approved by a majority of the Independent Directors then in office; and

(vii) any issuance or reissuance by the Corporation of a share of Class B Common Stock or Class C Common Stock, or any redemption, purchase or acquisition by the Corporation of a share of Class B Common Stock or Class C Common Stock.

12.22 "***Voting Control***" means, with respect to a share of capital stock or other security, the power (whether exclusive or shared) to vote or direct the voting of such security, including by proxy, voting agreement or otherwise.

B. Preferred Stock.

Shares of Preferred Stock may be issued from time to time in one or more series, each of such series to have such terms as stated or expressed herein and in the resolution or resolutions providing for the creation and issuance of such series adopted by the Board as hereinafter provided. Any shares of Preferred Stock which may be redeemed, purchased or acquired by the Corporation may be reissued except as otherwise provided by law.

In accordance with Section 21.155 of the TBOC, authority is hereby expressly granted to the Board from time to time to issue the Preferred Stock in one or more series, to establish the number of shares to be included in each such series and to determine and fix the voting powers, full or limited, or no voting powers, and such designations, preferences and relative, participating, optional or other special rights of each such series and such qualifications, limitations or restrictions thereof, as shall be stated and expressed in such resolution or resolutions adopted by the Board providing for the establishment and issuance of such series of Preferred Stock, all to the fullest extent now or hereafter permitted by the TBOC. The Board is also expressly authorized to increase or decrease (but not below the number of shares of such series issued as of the time of such decrease) the number of shares of any series of Preferred

Stock established by the Board pursuant to Section 21.155 of the TBOC. Without limiting the generality of the foregoing, the resolution or resolutions providing for the designation and issuance of any series of Preferred Stock may provide that such series shall be superior or rank equally or be junior to any other series of Preferred Stock to the extent permitted by law and this Restated Certificate (including any certificate of designation filed with respect to any series of Preferred Stock (a "***Certificate of Designation***")). Except as otherwise required by law, holders of any series of Preferred Stock shall be entitled only to such voting rights, if any, as shall expressly be granted thereto by this Restated Certificate (including any Certificate of Designation).

ARTICLE V

For the management of the business and for the conduct of the affairs of the Corporation it is further provided that:

A. General Powers. The business and affairs of the Corporation will be managed by or under the direction of the Board.

B . Number of Directors. As of the Effective Time, the number of Directors constituting the initial Board is nine (9). Subject to the rights of the holders of any series of Preferred Stock to elect Directors, the number of Directors that constitutes the entire Board shall be fixed solely in the manner set forth in the Bylaws of the Corporation; provided that so long as Cynosure has the right to nominate Directors to the Board pursuant to Part H of Article V, (i) the number of Directors shall never be less than the aggregate number of Directors that Cynosure shall be entitled to nominate from time to time pursuant thereto and (ii) the size of the Board shall not be increased to be greater than nine (9) without the approval of the Cynosure Director, in addition to any other vote required by law. Each Director will be entitled to one vote on each matter presented to the Board.

C . Classified Board; Initial Directors. Directors of the Corporation, other than those who may be elected by the holders of any series of Preferred Stock established by the Board pursuant to Article X, shall be divided into three classes, with respect to the time for which they severally hold office, designated Class I, Class II, and Class III. Each class shall consist, as nearly as may be possible, of one-third of the total number of Directors constituting the full Board. If the number of Directors is changed, any newly created directorships or decrease in directorships shall be so apportioned hereafter among the classes as to make all classes as nearly equal in number as is practicable. Subject to Part G of Article V, the Board is authorized to assign each Director already in office at the Effective Time, as well as each Director elected or appointed to a newly created directorship due to an increase in the size of the Board, to Class I, Class II or Class III. The initial division of the Board following the Effective Time shall be as follows, with respect to the time and the names and addresses of the initial Directors of the Corporation are as follows:

The Class I Directors will initially consist of the following individuals, and their term shall expire at the annual meeting of shareholders to be held in 2026:

Jeffrey Hernandez	c/o Black Rock Coffee Bar, Inc,
Bryan D. Pereboom	9170 E. Bahia Drive, Suite 101
Kristina Cashman	Scottsdale, AZ 85260

The Class II Directors will initially consist of the following individuals, and their term shall expire at the annual meeting of shareholders to be held in 2027:

Richard Federico	c/o Black Rock Coffee Bar, Inc,
Andrew Braithwaite	9170 E. Bahia Drive, Suite 101
Mark Davis	Scottsdale, AZ 85260

The Class III Directors will initially consist of the following individuals, and their term shall expire at the annual meeting of shareholders to be held in 2028:

Daniel Brand	c/o Black Rock Coffee Bar, Inc,
Jacob Spellmeyer	9170 E. Bahia Drive, Suite 101
Sarah Grover	Scottsdale, AZ 85260

D. Term and Removal. Subject to the rights of the holders of any series of Preferred Stock to elect Directors, each director shall hold office until the annual meeting at which such Director's term expires and until his or her successor is duly elected and qualified, or until his or her earlier death, resignation, disqualification or removal. Except as fixed by the Board pursuant to Article V, (i) at each succeeding annual meeting of shareholders beginning in 2026, successors to the class of Directors whose terms expire at that meeting shall be elected for a three-year term and (ii) if the number of Directors is changed, any increase or decrease shall be apportioned among the classes so as to maintain the number of Directors in each class to as nearly as possible to one-third of the total number of Directors, but in no case will a decrease in the number of Directors shorten the term of any incumbent director. Subject to the rights of the holders of any series of Preferred Stock to elect Directors and in addition to any other vote required by law, the Board or any individual director may be removed from office at any time with or without cause by the affirmative vote of the holders of capital stock representing a majority of the voting power of all of the then outstanding shares of capital stock of the Corporation entitled to vote thereon, voting together as a single class; provided, however, for so long as the Board of Directors is classified as provided in Part C of Article V, no such Director may be removed without cause.

E. Vacancies and Newly Created Directorships. Subject to the rights of the holders of any series of Preferred Stock to elect Directors, and except as otherwise provided in the TBOC, any newly created directorship that results from an increase in the number of Directors or any vacancy on the Board that results from the death, disability, resignation, disqualification or removal of any director or from any other cause shall be filled solely by (i) the affirmative vote of a majority of the total number of Directors then in office, even if less than a quorum, or by a sole remaining director, or (ii) the affirmative vote of the holders of capital stock representing a

majority of the voting power of all of the then outstanding shares of capital stock of the Corporation entitled to vote generally in the election of Directors, voting together as a single class, at an annual or special meeting of shareholders called for that purpose. Notwithstanding the foregoing, for so long as Cynosure has the right to nominate for election to the Board the Cynosure Director (as defined below), any vacancy caused by the death, disability, removal or resignation of the Cynosure Director shall, at the option of Cynosure, be filled (x) solely by Cynosure by delivering a written instrument to the Corporation identifying an individual to serve as the Cynosure Director or (y) by a majority of the remaining Directors, even if less than a quorum, provided that, after giving effect to the filling of such vacancy, the number of Cynosure Directors in office does not exceed the number of Cynosure Directors that Cynosure is entitled to nominate pursuant to Part G of Article V. Any director elected to fill a newly created directorship or vacancy in accordance with this Part E of Article V shall hold office until the next annual meeting of shareholders held to elect the class of Directors to which such Director is elected and until his or her successor is duly elected and qualified or until his or her earlier death, resignation, retirement, disqualification, or removal. Notwithstanding the foregoing, except as may be permitted under the TBOC, during a period between two successive annual meetings of shareholders, the Board may not fill more than two vacancies created by an increase in the number of Directors.

F. Sponsor Board Committees Members. For so long as Cynosure has the right to nominate one (1) Cynosure Director in accordance with Part G of Article V, Cynosure shall have the right, but not the obligation, to designate the Cynosure Director to each committee of the Board; provided, however, that any such Cynosure Director designee must at all times remain eligible to serve on the applicable committee under applicable laws, stock exchange listing standards and the rules and regulations of the SEC, including any requisite independence requirements applicable at such time to any committee of the Board (subject in each case to any applicable exceptions, including those for newly public companies and for "controlled companies," and any applicable phase-in periods); provided, further, that any special committee established to evaluate any transaction in which Cynosure or the Cynosure Director has an interest which is in conflict with the interests of the Corporation, as reasonably determined by a number of Directors equal to at least one-third of the Board, shall not include any Cynosure Director.

G. Nomination Rights. The Corporation shall take all Necessary Action to cause the slate of nominees recommended by the Board for election as Directors to be consistent with the following clauses (i) through (iii):

(i) Cynosure Director. For so long as Cynosure beneficially owns, on a collective basis, at least seven and one-half percent (7.5%) of the outstanding Common Stock of the Corporation, Cynosure shall be entitled to nominate for election to the Board one (1) individual for election to the Board as a Class II Director or such other class to which Cynosure may consent. In the event that Cynosure does not nominate a Cynosure Director when it is entitled to do so pursuant to this Part G of Article V, Cynosure shall have the right to nominate a Cynosure Director at the next annual meeting of shareholders.

(ii) Advance Notice of Written Consent. For so long as Cynosure has the right to nominate the Cynosure Director in accordance with this Part G of Article V, the Corporation shall provide the Cynosure Director reasonable prior notice of material actions to be taken by the Board by written consent.

(iii) Assignment of Nomination Rights: Except for the assignment of rights to a Permitted Transferee, the nomination rights set forth in this Section G of Article V may not be assigned or delegated to any Person (by contract of otherwise).

For the purposes of this Article V, "Necessary Action" shall mean all actions (to the extent such actions are not prohibited by applicable law and are within the Corporation's control, and in the case of any action that requires a vote or other action on the part of the Board to the extent such action is consistent with fiduciary duties that the Corporation's Directors may have in such capacity) necessary to cause such result, including (1) calling meetings of shareholders or soliciting written consents of shareholders (as permitted by this Restated Certificate), (2) assisting in preparing or furnishing forms of ballots, proxies, consents or similar instruments, if applicable, in each case, with respect to shares of Common Stock, and facilitating the collection or processing of such ballots, proxies, consents or instruments, (3) executing agreements and instruments, (4) making, or causing to be made, with any government, governmental department or agency, or political subdivision thereof, all filings, registrations, or similar actions that are required to achieve such result, and (5) nominating or appointing, or taking steps to cause the nomination or appointment of, certain Persons (including to fill vacancies) and providing the highest level of support for the election or appointment of such Persons to the Board or any committee thereof, including in connection with the annual or special meeting of shareholders of the Corporation.

H. Observer Rights.

(i) For so long as Cynosure has the right to nominate one (1) Cynosure Director in accordance with Part G of Article V, Cynosure will be entitled to appoint, remove and replace from time to time one person (the "***Cynosure Observer***") to act as an observer to the Board and each committee thereof exercisable by providing written notice of such appointment, removal or replacement, as the case may be, to the Corporation and the chair of the Board in advance of any meeting that such Cynosure Observer will attend.

(ii) The Corporation shall deliver notice of each proposed action of the Board and each committee thereof (including any proposed action by written consent) and each meeting of the Board and each committee thereof (including telephonic or teleconferenced meetings) to the Cynosure Observer previously identified as appointed to attend such meeting concurrently with any notice given to the Directors. By notice given by the chairperson or the chair of any applicable committee to the Cynosure Observer, either in advance of or at any meeting, to the extent the chairperson or such chair deem it necessary in good faith, the Board or any committee thereof may meet in executive session without the presence of the Cynosure Observer.

(iii) The Cynosure Observer shall not be entitled to vote at a meeting of the Board or any committee thereof or receive compensation from the Corporation for their services as an observer.

(iv) The rights of the Cynosure Observer and the obligations of the Corporation set forth in this Part H of Article V shall be subject to the following: (i) prior to attending any meeting the Cynosure Observer shall have entered into a confidentiality agreement with the Corporation in form and substance acceptable to the Corporation; and (ii) with the approval of the Board, the Corporation may withhold any information from the Cynosure Observer or exclude the Cynosure Observer from any meeting or portion thereof, if access to such information or attendance at such meeting would reasonably be expected, based on advice of counsel, (A) to result in the loss of the Corporation's attorney-client privilege or result in non-compliance with applicable federal securities laws, (B) to contain competitively sensitive information or protect the status of a trade secret under applicable law or (C) result in a conflict of interest of disclosure of competitively sensitive information.

I . Preferred Stock Directors. Whenever the holders of any series of Preferred Stock issued by the Corporation shall have the right as provided for herein (including any Certificate of Designation), voting separately as a series or separately as a class with one or more such other series, to elect Directors, the election, term of office, removal and other features of such directorships shall be governed by the terms of this Restated Certificate (including any Certificate of Designation). Notwithstanding anything to the contrary in this Part I of Article V, during the period when the holders of any series of Preferred Stock issued by the Corporation shall have the right to elect additional Directors, the number of Directors to be elected by the holders of any such series of Preferred Stock shall be in addition to the number fixed pursuant to Part B of Article V, and the total number of Directors constituting the entire Board shall be automatically increased by such number of Directors to be elected by the holders of any such series of Preferred Stock and each such additional director shall serve until such Director's successor shall have been duly elected and qualified, or until such director's right to hold such office terminates pursuant to said provisions, whichever occurs earlier, subject to his or her earlier death, resignation, disqualification, or removal. Except as otherwise provided in the Certificate of Designation(s) in respect of any series of Preferred Stock, whenever the holders of any series of Preferred Stock having such right to elect additional Directors are divested of such right pursuant to the provisions of this Restated Certificate (including any Certificate of Designation), the terms of office of all such additional Directors elected by the holders of such series of Preferred Stock, or elected to fill any vacancies resulting from the death, resignation, disqualification or removal of such additional Directors, shall forthwith terminate (in which case each such director thereupon shall cease to be qualified as, and shall cease to be, a director) and the total authorized number of Directors of the Corporation shall automatically be reduced accordingly.

ARTICLE VI

A . Limitation of Personal Liability. To the fullest extent permitted by the TBOC, a director of the Corporation will not be personally liable to the Corporation or its shareholders for monetary damages for an act or omission in the director's capacity as a director, except for liability for (i) any breach of the director's duty of loyalty to the Corporation or its shareholders, (ii) acts or omissions not in good faith that constitute a breach of duty to the Corporation or involve intentional misconduct or a knowing violation of law, (iii) any transaction from which the director derived any improper benefit, regardless of whether the benefit resulted from an action taken within the scope of such person's duties or (iv) an act or omission for which the liability of the director is expressly provided for by an applicable statute. If the TBOC is amended hereafter to authorize the further limitation of the personal liability of Directors, then the limitation on personal liability provided in this Article VI will, without the necessity of further action by the Corporation or the Board, be modified to provide such limitation to the fullest extent permitted by the TBOC as so amended.

B . Indemnification. To the fullest extent permitted by the TBOC, as the same now exists or may hereafter be amended, substituted, or replaced, the Corporation is authorized to indemnify, and provide advancement of expenses to, its Directors, officers, employees and agents (and any other persons to which the TBOC permits the Corporation to provide indemnification) through provisions in the Bylaws of the Corporation, agreements with such Directors, officers, employees, agents or other persons, the vote of shareholders or disinterested Directors or otherwise.

C . Amendments to Article VI. Any amendment, repeal or modification of the foregoing provisions of this Article VI will not adversely affect any right or protection of a director, officer, employee, agent, or other person existing at the time of, or increase the liability of any director, officer, employee, agent or other person of the Corporation with respect to, any acts or omissions of such director, officer, employee, agent or other person occurring prior to, such amendment, repeal or modification.

ARTICLE VII

Meetings of shareholders may be held within or without the State of Texas, as the Bylaws of the Corporation may provide. To the extent permitted by the TBOC, the books of the Corporation may be kept outside the State of Texas at such place or places as may be designated from time to time by the Board or in the Bylaws of the Corporation.

ARTICLE VIII

A. Consent of Shareholders in Lieu of Meeting Prior to the Sunset Date, any action required or permitted by the TBOC to be taken by the shareholders may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by the holders of the outstanding capital stock of the Corporation representing not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were

present and voted. From and after the Sunset Date, any action required or permitted by the TBOC to be taken at any annual or special meeting of shareholders must be taken at an annual or special meeting of shareholders, and shall not be taken by consent of shareholders in lieu of a meeting; *provided, however*, that any action required or permitted to be taken by the holders of any series of Preferred Stock, voting separately as a series, may be taken without a meeting, without prior notice and without a vote, to the extent expressly so provided by the applicable Certificate of Designations. Any such action taken by written consent pursuant to this Part A of Article VIII shall be delivered to the Corporation at its principal office.

B. Special Meetings. Except as otherwise expressly provided by the terms of any series of Preferred Stock permitting the holders of such series of Preferred Stock to call a special meeting of the holders of such series, special meetings of the shareholders of the Corporation may be called, for any purpose or purposes, at any time only by or at the direction of (i) the Board, (ii) the chair of the Board, (iii) the President, (iv) the Chief Executive Officer, or (v) prior to the occurrence of the Sunset Date, the Secretary of the Corporation at the request of the holders of a majority of the voting power of all of the then outstanding shares of Class C Common Stock entitled to vote at such meeting, provided that such holders represent at least 10% of all of the then outstanding shares of capital stock of the Corporation entitled to vote at such meeting, and shall not be called by any other Person or Persons.

C. Advance Notice. Advance notice of shareholder nominations for the election of Directors and of other business proposed to be brought by shareholders before any meeting of shareholders of the Corporation shall be given in the manner provided in the Bylaws of the Corporation.

ARTICLE IX

Unless the Corporation consents in writing to the selection of an alternative forum, (i) the Business Court in the First Business Court Division of the State of Texas (the "***Business Court***") located in Dallas, Texas (or, in the event that the Business Court is not then accepting filings or determines that it lacks jurisdiction, the United States District Court for the Northern District of Texas (the "***Federal Court***") or, if the Federal Court lacks jurisdiction, the state district courts of Dallas County, Texas) shall be the sole and exclusive forum for any shareholder (including a beneficial owner) to bring (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim of breach of fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's shareholders, including a claim alleging the aiding and abetting of such a breach of fiduciary duty, (c) any action asserting a claim against the Corporation, its Directors, officers or employees arising pursuant to any provision of the TBOC, this Restated Certificate or the Bylaws of the Corporation (in each case, as they may be amended from time to time), (d) any action asserting a claim against the Corporation, its Directors, officers or employees governed by the internal affairs doctrine or (e) any action asserting an "internal entity claim" as that term is defined in Section 2.115 of the TBOC; and (ii) subject to the preceding provisions of this Article IX, the Federal Court shall be the exclusive forum for the resolution of any complaint asserting a cause or causes of action arising under the Securities Act or the Exchange Act, including all causes of

action asserted against any defendant to such complaint. If any action, the subject matter of which is within the scope of this Article IX, is filed in a court other than, in the case of clause (i), the courts located in the State of Texas, and in the case of clause (ii), the Federal Court (a "***Foreign Action***") in the name of any shareholder, such shareholder shall be deemed to have consented to (x) the personal jurisdiction of the state and federal courts in the State of Texas in connection with any action brought in any such court to enforce the provisions of this Article IX and (y) having service of process made upon such shareholder in any such action by service upon such shareholder's counsel in the Foreign Action as agent for such shareholder.

To the fullest extent permitted by law, any Person purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article IX. This Article IX is intended to benefit and may be enforced by the Corporation, its officers and Directors, the underwriters of, or financial advisors in connection with, any offering giving rise to such complaint, and any other professional or entity whose profession gives authority to a statement made by that Person and who has prepared or certified any part of the documents underlying the offering.

ARTICLE X

The shareholders do not have statutory preemptive rights.

ARTICLE XI

A . Amendment of the Certificate of Formation. The Corporation reserves the right to amend, alter, change, adopt or repeal any provision contained in this Restated Certificate, in the manner now or hereafter prescribed by this Restated Certificate and the TBOC, and all rights conferred upon shareholders herein are granted subject to this reservation; provided, however, that, notwithstanding any other provision of this Restated Certificate or any provision of law that might otherwise permit a lesser vote or no vote, but in addition to any other vote required by law or by this Restated Certificate, the affirmative vote of the holders of (a) prior to the Sunset Date, at least a majority of the voting power of all of the outstanding shares of capital stock of the Corporation entitled to vote thereon, voting together as a single class, and (b) from and after the Sunset Date, at least 66 2/3% of the voting power of all of the then outstanding shares of capital stock of the Corporation entitled to vote thereon, voting together as a single class, with any shares of a class or series that does not otherwise have a right to vote under this Certificate of Formation being treated as having no votes in the vote as a single class to the greatest extent permitted by applicable law, shall be required to amend or repeal, or adopt any provision of this Restated Certificate inconsistent with Articles IV, V, VI, VIII, IX, X, this Article XI and Article XII; provided, however, (i) for so long as any shares of Class B Common Stock or Class C Common Stock remain outstanding, the Corporation shall not, without the prior affirmative vote of the holders of at least 66 2/3% of the voting power of the then outstanding shares of Class B Common Stock or Class C Common Stock, as applicable, each voting as a separate series, in addition to any other vote required by law or this Restated Certificate, directly or indirectly, amend, alter, change, repeal or adopt any provision inconsistent with Part A of Article IV or this proviso of this Part A of Article XI; (ii) any amendment (including by merger, consolidation or otherwise) to this Certificate of Formation that gives holders of the Class B Common Stock or

Class C Common Stock (A) any rights to receive dividends (other than as set forth in the last sentence of Section 3 of Part A of Article IV) or any other kind of distribution, (B) any right to convert into or be exchanged for shares of Class A Common Stock or (C) any other economic rights (except for payments in cash in lieu of receipt of fractional shares of stock) shall, in addition to the vote of the holders of shares of any class or series of capital stock of the Corporation required by law or by this Certificate of Formation, also require the affirmative vote of the holders of a majority of the outstanding shares of Class A Common Stock voting separately as a series.

B. Amendment of Bylaws. Except as otherwise provided in this Restated Certificate or the Bylaws of the Corporation, in furtherance and not in limitation of the powers conferred upon it by the TBOC, the Board is expressly authorized to adopt, amend, alter or repeal any or all of the Bylaws of the Corporation. The shareholders may not adopt, amend, alter or repeal the Bylaws of the Corporation; *provided*, *however*, that prior to the occurrence of the date when the holders of Common Units (other than the Corporation) hold less than a majority of the voting power of the then outstanding shares of capital stock of the Corporation, in addition to any other vote required by law, shareholders may adopt, amend, alter or repeal the Bylaws of the Corporation with approval of the holders of at least 66 2/3% of the voting power of the then outstanding shares of capital stock of the Corporation entitled to vote thereon, voting together as a single class.

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

ARTICLE XII

The right to a jury trial concerning any "internal entity claim" as that term is defined in Section 2.115 of the TBOC, to the fullest extent permitted by the TBOC and applicable law, shall be waived. Without limiting the foregoing, to the fullest extent permitted by the TBOC and applicable law, any Person purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article XII.

ARTICLE XIII

A. Corporate Opportunity.

1. To the fullest extent permitted by the laws of the State of Texas and in accordance with Section 2.101(21) of the TBOC, (i) the Corporation hereby renounces all interest and expectancy that it otherwise would be entitled to have in, and all rights to be offered an opportunity to participate in, any business opportunity that from time to time may be presented to any of the current Directors or their respective Affiliates (other than the Corporation and its subsidiaries), and any of their respective principals, members, directors, partners, stockholders, officers, employees or other representatives (other than any such Person who is also an employee of the Corporation or its subsidiaries), or any stockholder who is not employed by the Corporation or its subsidiaries (each such Person, an "Exempt Person"); (ii) no Exempt Person will have any duty to refrain from (1) engaging in a corporate opportunity in the same or similar lines of business in which the Corporation or its subsidiaries from time to time is engaged or proposes to engage or (2) otherwise competing, directly or indirectly, with the Corporation or any of its subsidiaries; and (iii) if any Exempt Person acquires knowledge of a potential transaction or other business opportunity which may be a corporate opportunity both for such Exempt Person or any of his or her respective Affiliates, on the one hand, and for the Corporation or its subsidiaries, on the other hand, such Exempt Person shall have no duty to communicate or offer such transaction or business opportunity to the Corporation or its subsidiaries and such Exempt Person may take any and all such transactions or opportunities for itself or offer such transactions or opportunities to any other Person. Notwithstanding the foregoing, the preceding sentence of this Section 1 of Part A of Article XIII shall not apply to any potential transaction or business opportunity that is expressly offered to a Director, executive officer or employee of the Corporation or its subsidiaries, solely in his or her capacity as a Director, executive officer or employee of the Corporation or its subsidiaries.

2. To the fullest extent permitted by the laws of the State of Texas, no potential transaction or business opportunity may be deemed to be a corporate opportunity of the Corporation or its subsidiaries unless (i) the Corporation or its subsidiaries would be permitted to undertake such transaction or opportunity in accordance with this Certificate of Incorporation, (ii) the Corporation or its subsidiaries at such time have sufficient financial resources to undertake such transaction or opportunity, (iii) the Corporation or its subsidiaries have an interest or expectancy in such transaction or opportunity and (iv) such transaction or opportunity would be in the same or similar line of business in which the Corporation or its subsidiaries are then engaged or a line of business that is reasonably related to, or a reasonable extension of, such line of business.

B . Liability. To the fullest extent permitted by law, no shareholder and no Director will be liable to the Corporation or its subsidiaries or shareholders for breach of any duty solely by reason of any activities or omissions of the types referred to in this Article XIII, except to the extent such actions or omissions are in breach of this Article XIII.

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Exhibit 3.4

AMENDED AND RESTATED BYLAWS
OF
BLACK ROCK COFFEE BAR, INC.
(AS OF _____, 2025)

ARTICLE I
OFFICES

Section 1.1. Registered Office. The address of the registered office of Black Rock Coffee Bar, Inc. (the "***Corporation***") in the State of Texas, and the name of its registered agent at such address, shall be as set forth in the Corporation's certificate of formation, as the same may be amended and/or restated from time to time (the "***Certificate of Formation***").

Section 1.2. Additional Offices. The Corporation may, in addition to its registered office in the State of Texas, have such other offices and places of business, both within and outside the State of Texas, as the Board of Directors of the Corporation (the "***Board***") may from time to time determine or as the business and affairs of the Corporation may require.

ARTICLE II
MEETINGS OF SHAREHOLDERS

Section 2.1. Place of Meetings. Meetings of shareholders shall be held at any place within or outside the State of Texas, designated by the Board. The Board may, in its sole discretion, determine that a meeting of shareholders shall not be held at any place, but may instead be held solely by means of remote communication pursuant to Section 9.5(a) of these Bylaws. In the absence of any such designation or determination, shareholders meetings shall be held at the Corporation's principal executive office.

Section 2.2. Annual Meetings. The Board shall designate the date and time of the annual meeting of shareholders. At the annual meeting of shareholders, directors shall be elected and other business properly brought before the meeting in accordance with Section 2.8 of these Bylaws may be transacted. The Board may postpone, adjourn, reschedule or cancel (to the extent permitted under the Texas Business Organizations Code (the "***TBOC***")) any previously scheduled annual meeting of shareholders (for any reason or no reason).

Section 2.3. Special Meetings.

(a) Subject to the rights of the holders of any outstanding series of the preferred stock of the Corporation ("***Preferred Stock***"), and to the requirements of applicable law, special meetings of shareholders may be called only by such persons and only in such manner as set forth in the Certificate of Formation. Other than procedural matters, no business may be transacted at any special meeting of shareholders other than the business specified in the notice of such meeting. The Board may postpone, adjourn, reschedule or cancel (to the extent permitted under the TBOC) any previously scheduled special meeting of shareholders (for any reason or no reason).

(b) A special meeting requested by one or more shareholders holding the requisite percentage specified in the Certificate of Formation (the "***Requisite Percentage***") pursuant to the Certificate of Formation (a "***Shareholder Requested Meeting***") shall be called by the Secretary only if the shareholders requesting such meeting provide the information set forth in Section 2.3(c) of these Bylaws below and otherwise comply with this Section 2.3, as determined by the Board. For purposes of these Bylaws, any determination to be made by the Board may be made by the Board, a committee of the Board or any officer of the Corporation designated by the Board or a committee of the Board, and any such determination shall be final and binding on the Corporation, its shareholders and any other person so long as made in good faith (without any further requirements).

(c) In order for a Shareholder Requested Meeting to be called by the Secretary pursuant to Section 2.3(b) of these Bylaws, one or more written requests for a special meeting (individually or collectively, a "***Special Meeting Request***") signed and dated by the shareholder(s) that Own(s) (as defined below) the Requisite

Percentage (or its or their respective duly authorized agent) must be delivered to the Secretary at the principal executive office of the Corporation and must be accompanied by:

(i) in the case of any Shareholder Requested Meeting at which director nominations are proposed to be presented, the information and documentation required by Section 3.4 of these Bylaws, including any updates or supplements thereto required pursuant to Section 3.4 of these Bylaws, if applicable;

(ii) in the case of any Shareholder Requested Meeting at which any business other than director nominations is proposed to be presented, the information and documentation required by Section 2.8(a)(ii) of these Bylaws (as though such provision were applicable to special meetings), as well as any updates or supplements thereto required pursuant to Section 2.8(a)(ii) of these Bylaws, if applicable; and

(i) as to each shareholder of the Corporation signing such request, or if such shareholder is a nominee or custodian, the beneficial owner(s) on whose behalf such request is signed, an affidavit by each such person (A) stating the class or series and number of shares of capital stock of the Corporation that he, she, or it Owns as of the date such request was signed; and (B) agreeing to (1) update and supplement such affidavit as of the record date for the Shareholder Requested Meeting (and such update and supplement shall be delivered to the Secretary at the principal executive office of the Corporation not later than five (5) Business Days (as defined below) after the record date for such Shareholder Requested Meeting) and as of the date that is ten (10) Business Days prior to the date of the Shareholder Requested Meeting (and such update and supplement shall be delivered to the Secretary at the principal executive office of the Corporation not later than seven (7) Business Days prior to the date of such Shareholder Requested Meeting) and (2) notify the Corporation promptly (and in any event within forty-eight (48) hours) in writing to the Secretary at the principal executive office of the Corporation of any disposition after the record date for such Shareholder Requested Meeting, but prior to the date of the Shareholder Requested Meeting. For purposes of these Bylaws, "***Business Day***" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of Texas are authorized or obligated by law or executive order to close.

(d) One or more written requests for a special meeting delivered to the Secretary shall constitute a valid Special Meeting Request only if each such written request satisfies the requirements of this Section 2.3 and has been dated and delivered to the Secretary within sixty (60) days of the earliest dated of such requests. Any requesting shareholder may revoke his, her, or its Special Meeting Request at any time by written revocation delivered to the Secretary at the principal executive office of the Corporation; provided, however, that if following such revocation, the unrevoked valid Special Meeting Requests represent in the aggregate less than the Requisite Percentage, there shall be no requirement to hold a Shareholder Requested Meeting. Except as otherwise provided by applicable law or except to the extent previously determined by the Board in connection with a Special Meeting Request, the chair of the Shareholder Requested Meeting shall have the power and duty (i) to determine whether any business proposed to be brought before the meeting was made in accordance with the procedures set forth in this Section 2.3 and applicable law and (ii) if any proposed business was not made or proposed in compliance with this Section 2.3 and applicable law, to declare that such proposed business shall not be transacted.

(e) If none of the shareholders who submitted the Special Meeting Request, or their qualified representatives, appears at the Shareholder Requested Meeting and presents the matters to be presented for consideration that were specified in the Special Meeting Request, the Corporation need not present such matters for a vote at such meeting (notwithstanding that ballots or proxies in respect of such matter may have been received by the Corporation). For purposes of these Bylaws, to be considered a qualified representative of a shareholder, (i) a person must be a duly authorized officer, manager, or partner of such shareholder or must be authorized by a writing executed by such shareholder stating that such person is authorized to act for such shareholder as proxy at the meeting of shareholders; and (ii) prior to the presentation of such matters at the meeting of shareholders, such person must produce a valid government-issued photo identification, as well as either (A) proof that he, she, or it is a duly

authorized officer, manager, or partner of such shareholder or (B) such writing (or a reliable reproduction or electronic transmission of the writing).

(f) For purposes of these Bylaws, a shareholder or beneficial owner shall be deemed to "***Own***" only those outstanding shares of the Corporation's capital stock as to which such person possesses both: (i) the full voting and investment rights pertaining to such shares and (ii) the full economic interest in (including the opportunity for profit from and the risk of loss on) such shares; provided that the number of shares calculated in accordance with clauses (i) and (ii) shall not include any shares (A) purchased by such person or any of its Affiliates (as defined below) in any transaction that has not been settled or closed; (B) sold short by such person or any of its Affiliates; (C) borrowed by such person or any of its Affiliates for any purpose or purchased by such person or any of its Affiliates pursuant to an agreement to resell or subject to any other obligation to resell to another person; or (D) subject to any option, warrant, forward contract, swap, contract of sale, or other derivative or similar agreement entered into by such person or any of its Affiliates, whether any such instrument or agreement is to be settled with shares or with cash based on the notional amount or value of shares of outstanding capital stock of the Corporation, in any such case which instrument or agreement has, or is intended to have, or if exercised would have the purpose or effect of (1) reducing in any manner, to any extent, or at any time in the future, such person's or any of its Affiliates' full right to vote or direct the voting of any such shares, or (2) hedging, offsetting or altering to any degree any gain or loss arising from the full economic ownership of such shares by such person or any of its Affiliates. For purposes of these Bylaws, a shareholder or beneficial owner shall Own shares held in the name of a nominee or other intermediary so long as the person retains the right to instruct how the shares are voted with respect to the election of directors and possesses the full economic interest in the shares. For purposes of these Bylaws, a person shall be deemed to continue to Own shares during any period in which the person has delegated any voting power by means of a proxy, power of attorney, or other instrument or arrangement that is revocable at any time by the person. For purposes of these Bylaws, a person shall also be deemed to continue to Own shares during any period in which the person has loaned such shares provided that the person has the power to recall such loaned shares on no more than five (5) Business Days' notice, the person recalls the loaned shares no later than five (5) Business Days after being notified that the Shareholder Requested Meeting will be held, and the person holds the recalled shares through the date of the Shareholder Requested Meeting. The determination of the extent to which a shareholder or beneficial owner "Owns" any shares of capital stock of the Corporation for these purposes shall be made by the Board. The terms "Owned," "Owning" and "Ownership" and other variations of the word "Own" shall have correlative meanings in these Bylaws. For purposes of these Bylaws, the term "***Affiliates***" shall have the meaning given in Rule 12b-2 under the Exchange Act (as defined below).

Section 2.4. Notices. Written notice of each shareholders meeting stating the place, if any, date, and time of the meeting, and the means of remote communication, if any, by which shareholders and proxy holders may be deemed to be present in person and vote at such meeting and the record date for determining the shareholders entitled to vote at the meeting, if such date is different from the record date for determining shareholders entitled to notice of the meeting, shall be given in the manner permitted by Section 9.3 of these Bylaws to each shareholder entitled to vote thereat as of the record date for determining the shareholders entitled to notice of the meeting, by the Corporation not less than ten (10) nor more than sixty (60) days before the date of the meeting unless otherwise required by Section 21.353 of the TBOC. If said notice is for a special meeting of shareholders, it shall in addition state the purpose or purposes for which the meeting is called, and the business transacted at such meeting shall be limited to the matters so stated in the Corporation's notice of meeting (or any supplement thereto). Any meeting of shareholders as to which notice has been given may be postponed, and any meeting of shareholders as to which notice has been given may be cancelled (to the extent permitted by the TBOC), by the Board upon public announcement (as defined in Section 2.8(c) of these Bylaws) given before the date previously scheduled for such meeting.

Section 2.5. Quorum. Except as otherwise provided by applicable law, the Certificate of Formation or these Bylaws, the presence, in person or by proxy, at a shareholders meeting of the holders of shares of outstanding capital stock of the Corporation representing a majority of the voting power of all outstanding shares of capital stock of the Corporation entitled to vote at such meeting and not less than one-third of the outstanding shares of the Corporation entitled to vote at such meeting shall constitute a quorum for the transaction of business at such meeting, except that when specified business is to be voted on by a class or series of stock voting as a class, the

holders of shares representing a majority of the voting power of the outstanding shares of such class or series entitled to vote at such meeting and not less than one-third of the outstanding shares of such class or series entitled to vote at such meeting shall constitute a quorum of such class or series for the transaction of such business. If a quorum shall not be present or represented by proxy at any meeting of the shareholders of the Corporation, the chair of the meeting may adjourn the meeting from time to time in the manner provided in Section 2.7 of these Bylaws until a quorum shall attend in person or be represented by proxy. At such adjourned meeting at which a quorum is present or represented, any business may be transacted that might have been transacted at the original meeting. The shareholders present at a duly convened meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough shareholders to leave less than a quorum. Shares of its own stock belonging to the Corporation or to another corporation, if a majority of the voting power of the shares entitled to vote in the election of directors of such other corporation is held, directly or indirectly, by the Corporation, shall neither be entitled to vote nor be counted for quorum purposes; provided, however, that the foregoing shall not limit the right of the Corporation or any such other corporation to vote shares held by it in a fiduciary capacity.

Section 2.6. Voting of Shares.

(a) Voting Lists. The Corporation shall prepare, no later than the eleventh (11th) day before each meeting of shareholders, a complete list of the shareholders entitled to vote at the meeting or at any adjournment of the meeting (provided, however, that if the record date for determining the shareholders entitled to vote is less than eleven (11) days before the date of the meeting, the list shall reflect the shareholders entitled to vote as of the eleventh (11th) day before the meeting date), arranged in alphabetical order, and showing the address of each shareholder, the type of shares held by each shareholder, the number of shares held by each shareholder and the number of votes to which each shareholder is entitled. The Corporation shall not be required to include electronic mail addresses or other electronic contact information on such list. Subject to the last sentence of this Section 2.6(a), such list shall be open to the examination of any shareholder, for any purpose germane to the meeting for a period of at least ten (10) days before the meeting date: (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the Corporation's principal executive office. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to shareholders of the Corporation. Such list shall presumptively determine the identity of the shareholders entitled to vote at the meeting and the number and class or series of shares held by each of them. Failure to comply with the foregoing requirements of this Section 2.6(a) shall not affect the validity of any action taken at a meeting of the shareholders of the Corporation. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the shareholders entitled to examine the list of shareholders required by this Section 2.6(a) or to vote in person or by proxy at any meeting of shareholders.

(b) Manner of Voting. At any shareholders meeting, every shareholder entitled to vote may vote in person or by proxy. If authorized by the Board, the voting by shareholders or proxy holders at any meeting conducted by remote communication may be effected by a ballot submitted by electronic transmission (as defined in Section 9.3 of these Bylaws), provided that any such electronic transmission must either set forth or be submitted with information from which the Corporation can determine that the electronic transmission was authorized by the shareholder or proxy holder. The Board, in its discretion, or the chair of the meeting of shareholders, in such person's discretion, may require that any votes cast at such meeting shall be cast by written ballot.

(c) Proxies. Each shareholder entitled to vote at a meeting of shareholders may authorize another person or persons to act for such shareholder by proxy authorized by an instrument in writing or by a transmission permitted by law, including Rule 14a-19 promulgated under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"), filed in accordance with the procedure established for the meeting, provided that no such proxy shall be valid after eleven (11) months after the date of its execution, unless the proxy provides for a longer period. The revocability of a proxy that states on its face that it is irrevocable shall be governed by the provisions of Section 21.369 of the TBOC. A proxy may be in the form of an electronic transmission that sets forth or is submitted with information from which it can be determined that the transmission was authorized by the shareholder. Any shareholder directly or indirectly soliciting proxies from other shareholders must use a proxy card color other than white, which shall be reserved for the exclusive use by the Board.

(d) Required Vote. Except as may be otherwise provided by law or in the Certificate of Formation, each shareholder shall be entitled to one vote for each share of capital stock held by such shareholder as of the applicable record date that has voting power upon the matter in question. Subject to the rights of the holders of any series of Preferred Stock, voting separately by class or series, to elect directors pursuant to the terms of any series of Preferred Stock, at all meetings of shareholders at which a quorum is present, the election of directors shall be determined by a plurality of the votes cast by the shareholders present in person or represented by proxy at the meeting and entitled to vote thereon. All other matters presented to the shareholders at a meeting at which a quorum is present shall be determined by the vote of a majority of the votes cast for or against by the shareholders present in person or represented by proxy at the meeting and entitled to vote thereon, unless the matter is one upon which, by a provision of applicable law, the Certificate of Formation, these Bylaws or applicable stock exchange rules, a different vote is required, in which case such provision shall govern and control the decision of such matter.

(e) Inspectors of Election. The Board may, and shall if required by law, in advance of any meeting of shareholders, appoint one or more persons as inspectors of election, who may be employees of the Corporation or otherwise serve the Corporation in other capacities, to act at such meeting of shareholders or any adjournment thereof and to make a written report thereof. The Board may appoint one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspectors of election or alternates are appointed by the Board, the chair of the meeting may appoint one or more inspectors to act at the meeting. If applicable, each inspector, before discharging his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability. If applicable, the inspectors shall ascertain and report the number of outstanding shares and the voting power of each; determine the number of shares present in person or represented by proxy at the meeting and the validity of proxies and ballots; count all votes and ballots and report the results; determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors; and certify their determination of the number of shares represented at the meeting and their count of all votes and ballots. No person who is a candidate for an office at an election may serve as an inspector at such election. Any report of an inspector shall be in writing and signed by the inspector or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors.

Section 2.7. Adjournments. Any meeting of shareholders, annual or special, may be adjourned by the chair of the meeting, from time to time, whether or not there is a quorum, to reconvene at the same or some other place. Unless these Bylaws otherwise require, notice need not be given of any such adjourned meeting if the date, time, and place, if any, thereof, and the means of remote communication, if any, by which shareholders and proxy holders may be deemed to be present in person and vote at such adjourned meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting the shareholders, or the holders of any class or series of stock entitled to vote separately as a class, as the case may be, may transact any business that might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, notice of the adjourned meeting shall be given to each shareholder of record entitled to vote at the meeting. If after the adjournment a new record date for shareholders entitled to vote is fixed for the adjourned meeting, the Board shall fix a new record date for notice of such adjourned meeting in accordance with Section 9.2 of these Bylaws, and shall give notice of the adjourned meeting to each shareholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting. To the extent permitted by the TBOC, shareholders shall not be entitled to adjourn a meeting of shareholders, whether or not a quorum is present.

Section 2.8. Advance Notice for Business.

(a) Annual Meetings of Shareholders. No business may be transacted at an annual meeting of shareholders, other than business that is either (i) specified in the Corporation's notice of meeting (or any supplement thereto) given by or at the direction of the Board, (ii) otherwise properly brought before the annual meeting by or at the direction of the Board or (iii) otherwise properly brought before the annual meeting by any shareholder of the Corporation (x) who is a shareholder of record entitled to vote at such annual meeting on the date of the giving of the notice provided for in this Section 2.8(a), on the record date for the determination of shareholders entitled to vote at such annual meeting and on the date of the annual meeting and (y) who complies with the notice procedures set forth in this Section 2.8(a). Notwithstanding anything in this Section 2.8(a) to the

contrary, only persons nominated for election as a director to fill any term of a directorship that expires on the date of the annual meeting pursuant toSection 3.4 of these Bylaws will be considered for election at such meeting.

(i) In addition to any other applicable requirements, for business (other than director nominations) to be properly brought before an annual meeting by a shareholder, such shareholder must have given timely notice thereof in proper written form to the Secretary and such business must otherwise be a proper matter for shareholder action. Subject to Section 2.8(a)(iii) of these Bylaws , a shareholder's notice to the Secretary with respect to such business, to be timely, must be received by the Secretary at the principal executive office of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day nor later than the close of business on the ninetieth (90th) day before the anniversary date of the immediately preceding annual meeting of shareholders, which, in the case of the first annual meeting of shareholders following the closing of the Corporation's initial underwritten public offering of Class A common stock, the date of the preceding year's annual meeting shall be deemed to be [✦], 2025; provided, however, that in the event that the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date (or if there has been no prior annual meeting), notice by the shareholder to be timely must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day before the meeting and not later than the later of (x) the close of business on the ninetieth (90th) day before the meeting and (y) the close of business on the tenth (10th) day following the day on which public announcement of the date of the annual meeting is first made by the Corporation. The public announcement of an adjournment, recess, rescheduling or postponement of an annual meeting shall not commence a new time period (or extend any time period) for the giving of a shareholder's notice as described in this Section 2.8(a).

(ii) To be in proper written form, a shareholder's notice to the Secretary with respect to any business (other than director nominations) to bring before any annual meeting of shareholders must set forth as to each such matter such shareholder proposes to bring before the annual meeting (A) a brief description of the business desired to be brought before the annual meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event such business includes a proposal to amend these Bylaws, the language of the proposed amendment) and the reasons for conducting such business at the annual meeting, (B) the name and record address of such shareholder and the name and address of the beneficial owner, if any, on whose behalf the proposal is made, (C) the class or series and number of shares of capital stock of the Corporation that are owned beneficially and of record by such shareholder and by the beneficial owner, if any, on whose behalf the proposal is made, (D) a description of all agreements, arrangements or understandings (whether written or oral) between or among such shareholder and the beneficial owner, if any, on whose behalf the proposal is made and any other person or persons (including their names and addresses) in connection with the proposal of such business by such shareholder, (E) any material interest, direct or indirect, of such shareholder and the beneficial owner, if any, on whose behalf the proposal is made in such business, other than an interest arising from the ownership of Corporation securities where such shareholder or such beneficial owner receives no extra or special benefit not shared on a *pro rata* basis by all other holders of the same class or series, and (F) a representation that such shareholder (or a qualified representative of such shareholder) intends to appear in person or by proxy at the annual meeting to bring such business before the meeting. As to the shareholder giving the notice and each beneficial owner, if any, on whose behalf the proposal is made (including any Affiliate or Associate (as defined below)), such shareholder's notice must set forth: (I) the name and address of the shareholder proposing such business as they appear on the Corporation's books as of the date of the notice and the name and address of such beneficial owner, if any; (II) the class or series and number of shares of the Corporation that are, directly or indirectly, owned beneficially or of record (within the meaning of Rule 13d-3 under the Exchange Act) by such shareholder and such beneficial owner, if any (except that any such person shall in all events be deemed to beneficially own any shares of any class or series of the Corporation as to which such person has a right to acquire beneficial ownership at any time in the future); (III) a description of any agreement, arrangement, understanding, or relationship with respect to the proposal between or among such shareholder or such beneficial owner and any of their respective Affiliates or Associates; (IV) a description of any proxy, contract, agreement, arrangement, understanding, or relationship pursuant to which such shareholder and such beneficial owner, if any, has a right to vote any

shares of any security of the Corporation; (V) a description of any agreement, arrangement, understanding, or relationship (including any hedging transactions and any derivative or short positions, profit interests, options, warrants, convertible securities, stock appreciation or similar rights, and borrowed or loaned shares (a "***Derivative Instrument***")) directly or indirectly owned beneficially by such shareholder and such beneficial owner, if any, whether or not such instrument or right shall be subject to settlement in underlying shares of capital stock of the Corporation, the effect or intent of which is to mitigate loss to, manage risk, or benefit from share price changes for, or increase or decrease the voting power of, such shareholder or such beneficial owner, with respect to securities of the Corporation; (VI) any proportionate interest in shares of the Corporation or Derivative Instruments held, directly or indirectly, by a general or limited partnership in which such shareholder or beneficial owner, if any, is a general partner or, directly or indirectly, beneficially owns an interest in a general partner; (VII) any performance-related fees (other than an asset-based fee) that such shareholder or beneficial owner, if any, is entitled to based on any increase or decrease in the value of shares of the Corporation or Derivative Instruments, if any, as of the date of such notice, including, without limitation, any such interests held by members of such shareholder's or beneficial owner's immediate family sharing the same household; (VIII) any rights to distributions or dividends on the shares of the Corporation owned beneficially by such shareholder or beneficial owner, if any, that are separated or separable from the underlying shares of the Corporation; (IX) a representation as to whether such shareholder or such beneficial owner, if any, intends or is part of a group that intends to (1) deliver a proxy statement and form of proxy to the Corporation's shareholders or (2) otherwise solicit proxies or votes from shareholders in support of such proposal; and (X) any other information relating to such shareholder and such beneficial owner, if any, required to be disclosed in a proxy statement required to be made in connection with a contested solicitation of proxies for the proposal pursuant to and in accordance with Section 14 of the Exchange Act and the rules and regulations promulgated thereunder. For purposes of these Bylaws, the term "***Associates***" shall have the meaning given in Rule 12b-2 under the Exchange Act. A shareholder providing notice of any business proposed to be brought before a meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 2.8 shall be true and correct in all material respects as of the record date for the meeting and as of the date that is ten (10) Business Days prior to the meeting or any adjournment, recess, rescheduling, or postponement thereof. Such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive office of the Corporation (i) not later than five (5) Business Days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and (ii) not later than seven (7) Business Days prior to the date for the meeting or any adjournment, recess, rescheduling, or postponement thereof (in the case of the update and supplement required to be made as of ten (10) Business Days prior to the meeting or any adjournment, recess, rescheduling, or postponement thereof).

(iii) The foregoing notice requirements of this Section 2.8(a) shall be deemed satisfied by a shareholder as to any proposal (other than director nominations) if the shareholder has notified the Corporation of such shareholder's intention to present such proposal at an annual meeting in compliance with Rule 14a-8 (or any successor thereof) of the Exchange Act, and such shareholder has complied with the requirements of such Rule for inclusion of such proposal in a proxy statement prepared by the Corporation to solicit proxies for such annual meeting. If the Board or the chair of the annual meeting determines that any shareholder proposal was not made in accordance with the provisions of this Section 2.8(a) or that the information provided in a shareholder's notice does not satisfy the information requirements of this Section 2.8(a), such proposal shall not be presented for action at the annual meeting. Further, the Board may, in its discretion, exclude from any proxy materials sent to shareholders any matters that may properly be excluded under the Exchange Act, Securities and Exchange Commission rules, or other applicable laws. Notwithstanding the foregoing provisions of this Section 2.8(a), if the shareholder (or a qualified representative of the shareholder) does not appear at the annual meeting of shareholders of the Corporation to present the proposed business, such proposed business shall not be transacted, notwithstanding that proxies in respect of such matter may have been received by the Corporation.

(iv) In addition to the provisions of this Section 2.8(a), a shareholder shall also comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the

matters set forth herein. Nothing in this Section 2.8(a) shall be deemed to affect any rights of shareholders to request inclusion of proposals in the Corporation's proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(b) Special Meetings of Shareholders. Other than procedural matters, only such business shall be conducted at a special meeting of shareholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board may be made at a special meeting of shareholders at which directors are to be elected pursuant to the Corporation's notice of meeting only pursuant to Section 3.4 of these Bylaws.

(c) Public Announcement. For purposes of these Bylaws, "***public announcement***" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press or other national news service or in a document publicly filed or furnished by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act (or any successor thereto) or by such other means as is reasonably designed to inform the public or shareholders of the Corporation in general of such information, including, without limitation, posting on the Company's investor relations website.

Section 2.9. Conduct of Meetings. The chair of each annual and special meeting of shareholders shall be the Chair of the Board or, in the absence (or inability or refusal to act) of the Chair of the Board, such other person as shall be appointed by the Board. The date and time of the opening and the closing of the polls for each matter upon which the shareholders will vote at a meeting shall be determined and announced at the meeting by the chair of the meeting, and after the polls close, no ballots, proxies or votes or any revocations or changes thereto may be accepted. The Board may adopt by resolution such rules and regulations for the conduct of the meeting of shareholders as it shall deem appropriate. Except to the extent inconsistent with these Bylaws or such rules and regulations as adopted by the Board, the chair of any meeting of shareholders shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chair, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board or prescribed by the chair of the meeting, may include, without limitation, the following: (a) the establishment of an agenda or order of business for the meeting; (b) rules and procedures for maintaining order at the meeting and the safety of those present (including, without limitation, rules and procedures regarding the manner of voting, conduct of discussion or removal of disruptive persons from the meeting); (c) limitations on attendance at or participation in the meeting to shareholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as the chair of the meeting shall determine; (d) restrictions on entry to the meeting after the time fixed for the commencement thereof; (e) limitations on the time allotted to questions or comments by participants or to the number of questions or comments by an individual participant; and (f) restrictions on the use of cellphones, audio or video recording devices or other electronic devices at the meeting. Unless and to the extent determined by the Board or the chair of the meeting, meetings of shareholders shall not be required to be held in accordance with the rules of parliamentary procedure. The chair of the meeting may, if the facts warrant, determine and declare to the meeting that a matter, nomination or other business was not properly brought before the meeting. If the chair of the meeting should so determine, the chair of the meeting shall so declare to the meeting, and any such matter, nomination or other business declared not to be properly brought before the meeting shall not be transacted or considered. The secretary of each annual and special meeting of shareholders shall be the Secretary or, in the absence (or inability or refusal to act) of the Secretary, an Assistant Secretary. In the absence (or inability or refusal to act) of the Secretary and all Assistant Secretaries, the chair of the meeting may appoint any person to act as secretary of the meeting.

Section 2.10. Shareholder Action by Written Consent. Shareholders may not take action by written consent without a meeting except as may be permitted by the Certificate of Formation.

ARTICLE III
DIRECTORS

Section 3.1. Powers. The business and affairs of the Corporation shall be managed by or under the direction of the Board, subject to any limitation imposed by applicable law, the Certificate of Formation, or these Bylaws.

Section 3.2. Number of Directors. Subject to the Certificate of Formation, the total number of directors constituting the Board shall be determined from time to time by resolution of the Board. The Board shall be classified in the manner provided in the Certificate of Formation. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

Section 3.3. Chair and Vice Chair of the Board. The Chair of the Board, if any, will preside at all meetings of the Board and of the shareholders at which the Chair will be present. The Chair of the Board will have and may exercise such powers as are, from time to time, assigned to the Chair by the Board and as may be provided by law. The Vice Chair of the Board, if any, will have and may exercise such powers as are, from time to time, assigned to such person by the Board and as may be provided by law.

Section 3.4. Advance Notice for Nomination of Directors.

(a) Subject in all respects to the provisions of the Certificate of Formation, only persons who are nominated in accordance with the following procedures shall be eligible for election as directors of the Corporation, except as may be otherwise provided by the terms of one or more series of Preferred Stock with respect to the rights of holders of one or more series of Preferred Stock to elect directors. Nominations of persons for election to the Board at any annual meeting of shareholders, or at any special meeting of shareholders called for the purpose of electing directors as set forth in the Corporation's notice of such special meeting, may be made (i) by or at the direction of the Board or (ii) by any shareholder of the Corporation (x) who is a shareholder of record entitled to vote in the election of directors on the date of the giving of the notice provided for in this Section 3.4, on the record date for the determination of shareholders entitled to vote at such meeting and at the time of such meeting and (y) who complies with the notice procedures and other requirements set forth in this Section 3.4 and with applicable law.

(b) In addition to any other applicable requirements, for a nomination to be made by a shareholder, such shareholder must have given timely notice thereof in proper written form to the Secretary. To be timely, a shareholder's notice to the Secretary must be received by the Secretary at the principal executive office of the Corporation (i) in the case of an annual meeting, not earlier than the close of business on the one hundred twentieth (120th) day nor later than the close of business on the ninetieth (90th) day before the anniversary date of the immediately preceding annual meeting of shareholders; provided, however, that in the event that the annual meeting is more than thirty (30) days before or more than sixty (60) days after such anniversary date (or if there has been no prior annual meeting), notice by the shareholder to be timely must be so received not earlier than the close of business on the one hundred twentieth (120th) day before the meeting and not later than the later of (x) the close of business on the ninetieth (90th) day before the meeting and (y) the close of business on the tenth (10th) day following the day on which public announcement of the date of the annual meeting was first made by the Corporation; and (ii) in the case of a special meeting of shareholders called for the purpose of electing directors, not later than the close of business on the tenth (10th) day following the day on which public announcement of the date of the special meeting is first made by the Corporation. In no event shall the public announcement of an adjournment, recess, rescheduling or postponement of an annual meeting or special meeting commence a new time period (or extend any time period) for the giving of a shareholder's notice as described in this Section 3.4.

(c) Notwithstanding anything in paragraph (b) to the contrary, in the event that the number of directors to be elected to the Board at an annual meeting is greater than the number of directors whose terms expire on the date of the annual meeting and there is no public announcement by the Corporation naming all of the nominees for the additional directors to be elected or specifying the size of the increased Board before the close of business on the ninetieth (90th) day prior to the anniversary date of the immediately preceding annual meeting of

shareholders, a shareholder's notice required by this Section 3.4 shall also be considered timely, but only with respect to nominees for the additional directorships created by such increase that are to be filled by election at such annual meeting, if it shall be received by the Secretary at the principal executive office of the Corporation not later than the close of business on the tenth (10th) day following the date on which such public announcement was first made by the Corporation.

(d) To be in proper written form, a shareholder's notice to the Secretary must (i) set forth as to each person whom the shareholder proposes to nominate for election as a director (A) the name, age, business address and residence address of the person, (B) the principal occupation or employment of the person, (C) the class or series and number of shares of capital stock of the Corporation that are owned beneficially or of record by the person, (D) any other information relating to the person that would be required to be disclosed in a proxy statement required to be made in connection with solicitations of proxies in an election contest pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder and (E) a complete and accurate description of all direct and indirect compensation and other material monetary agreements, arrangements, and understandings (whether written or oral) during the past three (3) years, and any other material relationships between or among such shareholder and beneficial owner, if any, and their respective Affiliates and Associates, on the one hand, and each proposed nominee, and his or her respective Affiliates and Associates, on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Rule 404 promulgated under Regulation S-K of the Securities Act of 1933 if the shareholder making the nomination and any beneficial owner on whose behalf the nomination is made, if any, or any Affiliate or Associate thereof, were the "registrant" for purposes of such rule and the nominee were a director or executive officer of such registrant; and (ii) be accompanied by (A) a written consent of each proposed nominee to being named as a nominee and to serve as a director if elected and (B) a completed signed questionnaire and written representation and agreement, as required by Section 3.4(h) of these Bylaws. The Corporation may require any proposed nominee to furnish such other information as the Corporation may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation and that the Corporation believes could be material to a reasonable shareholder's understanding of the independence (both from management and from the shareholder and beneficial owner, if any) and qualifications of such proposed nominee. As to the shareholder giving the notice and each beneficial owner, if any, on whose behalf the nomination is made (including any Affiliate or Associate), such shareholder's notice must set forth: (I) the information required by Section 2.8(a)(ii)(I) through (II) and (IV) through (VIII) of these Bylaws, (II) a description of all arrangements or understandings relating to the nomination to be made by such shareholder among such shareholder, the beneficial owner, if any, on whose behalf the nomination is made, and any of their respective Affiliates or Associates, each proposed nominee and any other person or persons (including their names), (III) a representation that such shareholder (or a qualified representative of such shareholder) intends to appear in person or by proxy at the meeting to nominate the persons named in its notice and a representation that such beneficial owner, if any, is the beneficial owner of stock of the Corporation and (IV) any other information relating to such shareholder and the beneficial owner, if any, on whose behalf the nomination is made that would be required to be disclosed in a proxy statement required to be made in connection with solicitations of proxies in an election contest pursuant to Section 14 of the Exchange Act and the rules and regulations promulgated thereunder. A shareholder providing notice of any nomination proposed to be brought before a meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 3.4(d) shall be true and correct in all material respects as of the record date for the meeting and as of the date that is ten (10) Business Days prior to the meeting or any adjournment, recess, rescheduling, or postponement thereof. Such update and supplement shall be delivered to, or mailed and received by, the Secretary at the principal executive office of the Corporation (i) not later than five (5) Business Days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date) and (ii) not later than seven (7) Business Days prior to the date for the meeting or any adjournment, recess, rescheduling, or postponement thereof (in the case of the update and supplement required to be made as of ten (10) Business Days prior to the meeting or any adjournment, recess, rescheduling, or postponement thereof).

(e) If the Board or the chair of the meeting of shareholders determines that any nomination was not made in accordance with the provisions of this Section 3.4, or that the information provided in a shareholder's notice does not satisfy the information requirements of this Section 3.4, then such nomination shall not be considered at the meeting in question. Notwithstanding the foregoing provisions of this Section 3.4, if the shareholder (or a qualified

representative of the shareholder) does not appear at the meeting of shareholders of the Corporation to present the nomination, such nomination shall be disregarded, notwithstanding that proxies in respect of such nomination may have been received by the Corporation.

(f) In addition to the provisions of this Section 3.4, a shareholder shall also comply with all of the applicable requirements of state law and of the Exchange Act and the rules and regulations thereunder related to the submission of director nominations and related solicitation of proxies. Nothing in this Section 3.4 shall be deemed to affect any rights of the holders of Preferred Stock to elect directors pursuant to the Certificate of Formation.

(g) These Bylaws shall not be deemed to require inclusion in the Corporation's proxy statement of nominations or proposals of shareholders which the Corporation is not otherwise required to include in its proxy statement.

(h) To be eligible to be a nominee for election or reelection as a director of the Corporation pursuant to this Section 3.4, a proposed nominee must deliver (in accordance with the time periods prescribed for delivery of notice under these Bylaws and applicable law) to the Secretary at the principal executive office of the Corporation (i) a written questionnaire (in the form provided by the Secretary upon written request by a stockholder of record) with respect to the background and qualification of such person and the background of any other person or entity on whose behalf the nomination is being made and (ii) a written representation and agreement (in the form provided by the Secretary upon written request by a stockholder of record) that such person (A) is not and will not become a party to (I) any agreement, arrangement, or understanding (whether written or oral) with, and has not given any commitment or assurance to, any person or entity as to how such person, if elected as a director of the Corporation, will act or vote in such capacity on any issue or question (a "***Voting Commitment***") that has not been disclosed to the Corporation or (II) any Voting Commitment that could limit or interfere with such person's ability to comply, if elected as a director of the Corporation, with such person's fiduciary duties under applicable law; (B) is not and will not become a party to any agreement, arrangement, or understanding (whether written or oral) with any person or entity other than the Corporation with respect to any direct or indirect compensation, reimbursement, or indemnification in connection with such person's nomination, candidacy, service, or action as a director of the Corporation that has not been disclosed to the Corporation; and (C) would be in compliance, if elected as a director of the Corporation, and will comply with all applicable law, applicable stock exchange rules, the Corporation's Code of Business Conduct and Ethics, and any other policies and guidelines of the Corporation applicable to members of the Board and any applicable Board committee(s).

(i) Notwithstanding anything herein to the contrary, if (A) any shareholder providing notice pursuant to this Section 3.4 or each beneficial owner, if any, on whose behalf the nomination is made (including any Affiliate or Associate) provides notice pursuant to Rule 14a-19(b) under the Exchange Act with respect to any proposed nominee and (B) (I) such person subsequently either (1) notifies the Corporation that such person no longer intends to solicit proxies in support of the election or reelection of such proposed nominee in accordance with Rule 14a-19(b) under the Exchange Act or (2) fails to comply with the requirements of Rule 14a-19(a)(2) or Rule 14a-19(a)(3) under the Exchange Act (or fails to timely provide reasonable evidence sufficient to satisfy the Corporation that such person has met the requirements of Rule 14a-19(a)(3) under the Exchange Act in accordance with the following sentence) and (II) no other shareholder that has provided notice pursuant to this Section 3.4 or any beneficial owner, if any, on whose behalf the nomination was made (including any Affiliate or Associate) has provided notice pursuant to Rule 14a-19(b) under the Exchange Act with respect to such proposed nominee (x) to the Corporation's knowledge based on information provided pursuant to Rule 14a-19 under the Exchange Act or these Bylaws, still intends to solicit proxies in support of the election or reelection of such proposed nominee in accordance with Rule 14a-19(b) under the Exchange Act and (y) has complied with the requirements of Rule 14a-19(a)(2) and Rule 14a-19(a)(3) under the Exchange Act and the requirements set forth in the following sentence, then the nomination of such proposed nominee shall be disregarded and no vote on the election of such proposed nominee shall occur (notwithstanding that proxies in respect of such vote may have been received by the Corporation). Upon request by the Corporation, if any shareholder providing notice pursuant to this Section 3.4 or each beneficial owner, if any, on whose behalf the nomination is made (including any Affiliate or Associate) provides notice pursuant to Rule 14a-19(b) under the Exchange Act, such person shall deliver to the Secretary, no

later than five (5) Business Days prior to the applicable meeting date, reasonable evidence that the requirements of Rule 14a-19(a)(3) under the Exchange Act have been satisfied.

(j) Notwithstanding anything to the contrary contained in these Bylaws, for as long as any stockholder has a right to designate or nominate a director pursuant to the Certificate of Formation, the procedure for any such nomination shall be governed by the Certificate of Formation and such party shall not be subject to the notice procedures and information requirements with respect to such stockholder set forth in these bylaws for the nomination of any person to serve as a director at any annual meeting or special meeting of stockholders.

Section 3.5. Compensation. Unless otherwise restricted by the Certificate of Formation or these Bylaws, the Board shall have the authority to fix the compensation of directors, including for service on a committee of the Board, and may be paid either a fixed sum for attendance at each meeting of the Board or other compensation as director. The directors may be reimbursed their expenses, if any, for attendance at each meeting of the Board. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members or chairs of committees of the Board may be allowed reimbursement of expenses and additional compensation for service on or chairing the committee.

Section 3.6. Resignation; Vacancies. Any director, committee member or officer may resign by giving notice thereof in writing or by electronic transmission to the Corporation. The resignation shall take effect at the time it is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party. Unless otherwise provided in the Certificate of Formation or these Bylaws, when one or more directors resign from the Board, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective. Each director, including a director elected to fill a vacancy or newly created directorship, shall hold office until the expiration of the term for which elected and until such director's successor is elected and qualified or until such director's earlier death, resignation or removal.

Unless otherwise provided in the Certificate of Formation or these Bylaws or permitted in the specific case by resolution of the Board, and subject to the rights of holders of Preferred Stock, vacancies and newly created directorships resulting from any increase in the authorized number of directors elected by all of the shareholders having the right to vote as a single class may be filled by a majority of the directors then in office, although less than a quorum, or by a sole remaining director, and not by shareholders. If the directors are divided into classes, a person so chosen to fill a vacancy or newly created directorship shall hold office until the next election of the class for which such director shall have been chosen and until his or her successor shall have been duly elected and qualified.

ARTICLE IV
BOARD MEETINGS

Section 4.1. Regular Meetings. Regularly scheduled, periodic meetings of the Board may be held without notice at such times, dates and places (within or without the State of Texas) as shall from time to time be determined by the Board.

Section 4.2. Special Meetings. Special meetings of the Board (a) may be called by the Chair of the Board and (b) shall be called by the Chair of the Board or Secretary on the written request of at least a majority of directors then in office, or the sole director, as the case may be, and shall be held at such time, date and place (within or without the State of Texas) as may be determined by the person calling the meeting or, if called upon the request of directors or the sole director, as specified in such written request. Notice of each special meeting of the Board shall be given, as provided in Section 9.3 of these Bylaws, to each director (i) at least twenty four (24) hours before the meeting if such notice is oral notice given personally or by telephone or written notice given by hand delivery or by means of a form of electronic transmission and delivery; (ii) at least two (2) days before the meeting if such

notice is sent by a nationally recognized overnight delivery service; and (iii) at least five (5) days before the meeting if such notice is sent through the United States mail. If the Secretary shall fail or refuse to give such notice, then the notice may be given by the officer who called the meeting or the directors who requested the meeting. Any and all business that may be transacted at a regular meeting of the Board may be transacted at a special meeting. Except as may be otherwise expressly provided by applicable law, the Certificate of Formation, or these Bylaws, neither the business to be transacted at, nor the purpose of, any special meeting need be specified in the notice or waiver of notice of such meeting. A special meeting may be held at any time without notice if all the directors are present or if those not present waive notice of the meeting in accordance with Section 9.4 of these Bylaws.

Section 4.3. Quorum; Required Vote. A majority of the Board shall constitute a quorum for the transaction of business at any meeting of the Board, and the act of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board, except as may be otherwise specifically provided by applicable law, the Certificate of Formation or these Bylaws. If a quorum shall not be present at any meeting, a majority of the directors present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. Notwithstanding the foregoing, for so long as Cynosure has the right to nominate a director for election to the Board pursuant to the Certificate of Formation, to the extent permitted by applicable law, (a) any proposed transaction outside of the ordinary course of business that would be required to be disclosed by the Corporation pursuant to Item 404 of Regulation S-K of the Securities Act of 1933, as amended, shall require, in addition to any other approval required by law, the Restated Certificate or these Bylaws, the approval of a majority of the members of the Audit Committee of the Board then in effect (the "***Audit Committee***"), or if the Audit Committee is not composed entirely of Independent Directors (as defined in the Certificate of Formation), a majority of the members of an independent committee of the Board, then in office and (b) the following actions shall require, in addition to any other approval required by law, the Restated Certificate or these Bylaws, approval of 66-2/3% of the members of the Board eligible to vote on the matter (with any fractional number of Directors resulting from application of such percentage rounded up to the nearest whole number): (i) the incurrence, assumption or guarantee of any indebtedness outside of the ordinary course of business resulting in a Net Debt Leverage Ratio exceeding 2.0; (ii) the termination of the Chief Executive Officer of the Company; or (iii) material changes to the compensation of any director. "***Net Debt Leverage Ratio***" means at any date of determination, the ratio of (a) an amount equal to the total Indebtedness (as such term is defined in that certain Credit Agreement dated as of September [ ], 2025 among Black Rock Coffee Holdings, LLC, the other loan parties party thereto, the lenders party thereto, and JPMorgan Chase Bank, N.A., as Administrative Agent) of the Corporation and its subsidiaries as of such date, less cash and cash equivalents of the Corporation and its subsidiaries on such date, to (b) the Adjusted EBTIDA in connection with the initial public offering of the Corporation's Class A Common Stock) of Black Rock Coffee Holdings, LLC and its subsidiaries, consolidated, on such date. " ***Adjusted EBITDA***" means net loss adjusted to exclude interest expense, net, income tax expense, and depreciation and amortization, further adjusted to exclude certain items that we do not consider indicative of our ongoing operating performance, including transaction costs associated with this offering, capital restructuring costs, litigation costs, net, point-of-sale system transition costs and other non-core costs, consistent with how Adjusted EBITDA is calculated for purposes of the Company's Registration Statement on Form S-1 (File No. 333-289685).

Section 4.4. Consent In Lieu of Meeting Unless otherwise restricted by the Certificate of Formation or these Bylaws, any action required or permitted to be taken at any meeting of the Board or any committee thereof may be taken without a meeting if all members of the Board or committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing or writings or electronic transmission or transmissions (or paper reproductions thereof) are filed with the minutes of proceedings of the Board or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 4.5. Organization. The chair of each meeting of the Board shall be the Chair of the Board or, in the absence (or inability or refusal to act) of the Chair of the Board, a chair elected from the directors present. The Secretary shall act as secretary of all meetings of the Board. In the absence (or inability or refusal to act) of the Secretary, an Assistant Secretary shall perform the duties of the Secretary at such meeting. In the absence (or inability or refusal to act) of the Secretary and all Assistant Secretaries, the chair of the meeting may appoint any person to act as secretary of the meeting.

ARTICLE V
COMMITTEES OF DIRECTORS

Section 5.1. Establishment. Unless otherwise provided in the Certificate of Formation, the Board may by resolution designate one or more committees, each committee to consist of one or more of the directors of the Corporation. Each committee shall keep regular minutes of its meetings and report the same to the Board when required by the resolution designating such committee. The Board shall have the power at any time to fill vacancies in, to change the membership of, or to dissolve any such committee.

Section 5.2. Available Powers. Any committee established pursuant to Section 5.1 of these Bylaws, to the extent permitted by applicable law and by resolution of the Board, shall have and may exercise all of the powers and authority of the Board in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers that may require it.

Section 5.3. Alternate Members. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of such committee. In the absence or disqualification of a member of the committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in place of any such absent or disqualified member.

Section 5.4. Procedures. Unless the Board otherwise provides, the time, date, place, if any, and notice of meetings of a committee shall be determined by such committee. At meetings of a committee, a majority of the number of members of the committee (but not including any alternate member, unless such alternate member has replaced any absent or disqualified member at the time of, or in connection with, such meeting) shall constitute a quorum for the transaction of business. The act of a majority of the members present at any meeting at which a quorum is present shall be the act of the committee, except as otherwise specifically provided by applicable law, the Certificate of Formation, these Bylaws or the Board. If a quorum is not present at a meeting of a committee, the members present may adjourn the meeting from time to time, without notice other than an announcement at the meeting, until a quorum is present. Unless the Board otherwise provides and except as provided in these Bylaws, each committee designated by the Board may make, alter, amend and repeal rules for the conduct of its business. In the absence of such rules each committee shall conduct its business in the same manner as the Board is authorized to conduct its business pursuant to Article III and Article IV of these Bylaws.

Section 5.5. Subcommittees. Unless otherwise provided in the Certificate of Formation, these Bylaws or the resolutions of the Board designating the committee, a committee may create one or more subcommittees, each subcommittee to consist of one or more members of the committee, and delegate to a subcommittee any or all of the powers and authority of the committee.

ARTICLE VI
OFFICERS

Section 6.1. Officers. The officers of the Corporation elected by the Board shall be a Chief Executive Officer, a President, a Secretary and such other officers (including without limitation, a Chair of the Board, a Vice Chair of the Board, Vice Presidents, Assistant Secretaries, a Treasurer and Assistant Treasurers) as the Board from time to time may determine, subject to the terms of Section 4.3 hereof. Officers elected by the Board shall each have such powers and duties as generally pertain to their respective offices, subject to the specific provisions of this Article VI. Such officers shall also have such powers and duties as from time to time may be conferred by the Board. The Chief Executive Officer may also appoint such other officers (including without limitation one or more Vice Presidents) as may be necessary or desirable for the conduct of the business of the Corporation. Such other officers shall have such powers and duties and shall hold their offices for such terms as may be provided in these

Bylaws or as may be prescribed by the Board or, if such officer has been appointed by the Chief Executive Officer, as may be prescribed by the Chief Executive Officer.

(a) Chief Executive Officer. The Chief Executive Officer will, subject to the control of the Board, have general and active management of the business of the Corporation and will see that all orders and resolutions of the Board are carried into effect. All other officers, officials, employees and agents will report directly or indirectly to the Chief Executive Officer. The Chief Executive Officer, President or any Vice President will execute bonds, mortgages and other contracts on behalf of the Corporation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof will be expressly delegated by the Board to some other officer or agent of the Corporation.

(b) President. In the absence or disability of the Chief Executive Officer, the President will perform all the duties of the Chief Executive Officer. When acting as the Chief Executive Officer, the President will have all the powers of, and be subject to all the restrictions upon, the Chief Executive Officer. The President will have, subject to the supervision, direction and control of the Board and the Chief Executive Officer, the general powers and duties of supervision, direction and management of the affairs and business of the Corporation customarily and usually associated with the position of President. The President will have such other powers and perform such other duties as from time to time may be prescribed by the Board, these Bylaws, the Chief Executive Officer or the Chair.

(c) Vice Presidents. Each Vice President will perform other duties as the Board, the Chief Executive Officer or the President may assign.

(d) Secretary. The Secretary will attend all meetings of the Board and of the shareholders, and will record all votes and the minutes of all proceedings and will perform like duties for the standing committees when required. The Secretary will give or cause to be given notice of all meetings of the Board and of the shareholders, will have all such further powers and duties as are customarily and usually associated with the position of Secretary, and will perform other duties as may be prescribed by the Board, the Chief Executive Officer or the President. .

(e) Assistant Secretaries. Each Assistant Secretary may, in the absence or disability of the Secretary, or at his or her request or the request of the Chief Executive Officer or the President, perform the duties and exercise the powers of the Secretary, and will perform other duties as the Board, the Chief Executive Officer, the President, or the Secretary may assign. In the absence of the Secretary or an Assistant Secretary, the minutes of all meetings of the Board and of the shareholders will be recorded by the person designated by the Chief Executive Officer, the President or by the Board.

(f) Treasurer.

(i) The Treasurer will have the custody of the corporate funds and securities, will keep full and accurate accounts of receipts and disbursements of the Corporation, will deposit all moneys and other valuable effects in the name and to the credit of the Corporation in the depositories designated by the Board, and in general will have all such further powers and duties as are customarily and usually associated with the position of Treasurer and such other duties as the Board, the Chief Executive Officer, or the President may assign from time to time.

(ii) Each Assistant Treasurer may, in the absence or disability of the Treasurer, or at his or her request or the request of the Chief Executive Officer or the President, perform the duties and exercise the powers of the Treasurer, and will perform other duties as the Board, the Chief Executive Officer, the President, or the Treasurer may assign.

Section 6.2. Removal; Vacancies; Resignation. Subject to the terms of Section 4.3 hereof, any officer may be removed, with or without cause, at any time by the Board or, for the avoidance of doubt, any duly authorized committee or subcommittee thereof, or by any officer who has been conferred such power of removal. Any officer appointed by the Chief Executive Officer may also be removed, with or without cause, by the Chief Executive Officer unless the Board otherwise provides. Any vacancy occurring in any elected office of the

Corporation may be filled by the Board. Any vacancy occurring in any office appointed by the Chief Executive Officer may be filled by the Chief Executive Officer unless the Board then determines that such office shall thereupon be elected by the Board, in which case the Board shall elect such officer.

Any officer may resign at any time by giving notice, in writing or by electronic transmission, to the Corporation. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice. Unless otherwise specified in the notice of resignation, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Corporation under any contract to which the officer is a party.

Section 6.3. Multiple Officeholders. Any number of offices may be held by the same person.

Section 6.4. Representation of Shares of Other Corporations. Unless otherwise provided in the Certificate of Formation, and except with respect to Black Rock Coffee Holdings, LLC, the Chair of the Board, the Chief Executive Officer, or the President of the Corporation, or any other person authorized by the Board, the Chief Executive Officer or the President, is authorized to vote, represent and exercise on behalf of the Corporation all rights incident to any and all shares or voting securities of any other corporation or other person standing in the name of the Corporation. All rights, obligations, decisions, determinations, votes or approvals of the Corporation, as the manager or as a member of Black Rock Coffee Holdings, LLC, under the Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC or under the Delaware Limited Liability Company Act shall be exercised by the Board or its designee. The authority granted herein may be exercised either by such person directly or by any other person authorized to do so by proxy or power of attorney duly executed by such person having the authority.

ARTICLE VII
SHARES

Section 7.1. Uncertificated Shares. The shares of the Corporation will be uncertificated,provided, that any holder of uncertificated shares, upon written request to the transfer agent or registrar of the Corporation, will be entitled to a certificate for shares of the Corporation so held in which case the Corporation will issue a certificate for such shares to such holder. Any certificates representing shares of the Corporation shall be in such form as shall be approved by the Board and will be signed by the Chief Executive Officer, the President or a Vice President of the Corporation and either the Secretary or an Assistant Secretary of the Corporation. The signature of any such officer on any such share certificate may be by electronic transmission. In case any officer who has signed or whose electronic signature has been placed on any such share certificate will have ceased to be such officer before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer at the date of its issuance. Within a reasonable time after the issuance or transfer of uncertificated shares, the Corporation will send to the registered owner of the uncertificated shares a written notice that sets forth all of the information required by Section 3.205 of the TBOC. Except as otherwise expressly provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing shares, if any, of the same class and series will be identical. No requirement of the TBOC with respect to matters to be set forth on certificates representing shares of the Corporation will apply to or affect certificates outstanding when the requirement first becomes applicable to the certificates; but the requirements will apply to all certificates thereafter issued whether in connection with an original issue of shares, a transfer of shares, or otherwise.

Section 7.2. Multiple Classes and/or Series of Stock The Corporation shall (a) cause the powers, designations, preferences and relative, participating, optional or other special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences and/or rights to be set forth in full or summarized on the face or back of any certificate that the Corporation issues to represent shares of such class or series of stock or (b) in the case of uncertificated shares, within a reasonable time after the issuance or transfer of such shares, send to the registered owner thereof a written notice containing the information required to be set forth on certificates as specified in clause (a) above; provided, however, that, except as otherwise provided by applicable law, in lieu of the foregoing requirements, there may be set forth on the face or back of such certificate or, in the case of uncertificated shares, on such written notice a statement that the Corporation will furnish without charge to each shareholder who so requests the powers, designations, preferences and relative, participating, optional or other

special rights of each class of stock or series thereof and the qualifications, limitations or restrictions of such preferences or rights.

Section 7.3. Signatures. Each certificate representing capital stock of the Corporation shall be signed by or in the name of the Corporation by (a) the Chair of the Board, the Chief Executive Officer, the President or a Vice President and (b) the Treasurer, an Assistant Treasurer, the Secretary or an Assistant Secretary of the Corporation. Any or all the signatures on the certificate may be by electronic transmission. In case any officer, transfer agent or registrar who has signed or whose electronic signature has been placed upon a certificate shall have ceased to be such officer, transfer agent or registrar before such certificate is issued, such certificate may be issued by the Corporation with the same effect as if such person were such officer, transfer agent or registrar on the date of issue.

Section 7.4. Consideration and Payment for Shares.

(a) Subject to applicable law and the Certificate of Formation, shares of stock with our without par value may be issued for such consideration, having in the case of shares with par value a value not less than the par value thereof, and to such persons, as determined from time to time by the Board. The consideration may consist of any tangible or intangible benefit to the Corporation including cash, promissory notes, services performed, contracts for services to be performed, securities of the Corporation or any other organization or any other property of any kind or nature, or any combination thereof.

(b) Subject to applicable law and the Certificate of Formation, shares may not be issued until the full amount of the consideration has been paid.

Section 7.5. Lost, Destroyed or Wrongfully Taken Certificates

(a) If an owner of a certificate representing shares claims that such certificate has been lost, stolen or destroyed, the Corporation shall issue a new certificate representing such shares or such shares in uncertificated form if the owner notifies the Corporation or its transfer agent that such certificate has been lost, stolen or destroyed, provides an affidavit of that fact acceptable to the Corporation and executes an agreement acceptable to the Corporation (and, if required by the Corporation, posts a bond in such amount as the Corporation may determine is reasonably necessary) to indemnify the Corporation from any loss incurred by it in connection with such certificate.

(b) If a certificate representing shares has been lost, apparently destroyed or stolen, and the owner fails to notify the Corporation of that fact within a reasonable time after the owner has notice of such loss, apparent destruction or stealing and the Corporation registers a transfer of such shares before receiving notification, the owner shall be precluded from asserting against the Corporation any claim for registering such transfer or a claim to a new certificate representing such shares or such shares in uncertificated form.

Section 7.6. Transfer of Shares. Shares of the Corporation will be transferable in the manner prescribed by law, in the Certificate of Formation, these Bylaws or an agreement between the Corporation and one or more shareholders. Transfers of shares will be made on the books of the Corporation only by the holder of record thereof or by such other person as may under law be authorized to endorse such shares for transfer or by such shareholder's attorney lawfully constituted in writing. Except as otherwise provided by law, upon surrender to the Corporation or its transfer agent of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment, or authority to transfer, the Corporation will issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction upon its books. No transfer of shares will be valid as against the Corporation for any purpose until it will have been entered in the share transfer records of the Corporation by an entry showing from and to what person those shares were transferred.

Section 7.7. Registered Shareholders. Before due presentment for registration of transfer of a certificate representing shares of the Corporation or of an instruction requesting registration of transfer of uncertificated shares, the Corporation may treat the registered owner as the person exclusively entitled to inspect for any proper purpose the stock ledger and the other books and records of the Corporation, vote such shares, receive

distributions or dividends or notifications with respect to such shares and otherwise exercise all the rights and powers of the owner of such shares, except that a person who is the beneficial owner of such shares (if held in a voting trust or by a nominee on behalf of such person) may, upon providing documentary evidence of beneficial ownership of such shares and satisfying such other conditions as are provided under applicable law, may also so inspect the books and records of the Corporation.

Section 7.8. Regulations. The Board shall have power and authority to make such additional rules and regulations, subject to any applicable requirement of law, as the Board may deem necessary and appropriate with respect to the issue, transfer or registration of transfer of shares of stock or certificates representing shares. The Board may appoint one or more transfer agents or registrars and may require for the validity thereof that certificates representing shares bear the signature of any transfer agent or registrar so appointed.

ARTICLE VIII
INDEMNIFICATION

Section 8.1. Right to Indemnification. To the fullest extent permitted by applicable law, as the same exists or may hereafter be amended, the Corporation shall indemnify and hold harmless each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a "***proceeding***"), by reason of the fact that he or she is or was a director or officer of the Corporation or, while a director or officer of the Corporation, is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust, other enterprise or nonprofit entity, including service with respect to an employee benefit plan (hereinafter an "***Indemnitee***"), whether the basis of such proceeding is alleged action in an official capacity as a director, officer, employee or agent, or in any other capacity while serving as a director, officer, employee or agent, against all liability and loss suffered and expenses (including, without limitation, attorneys' fees, judgments, fines, ERISA excise taxes and penalties and amounts paid in settlement) reasonably incurred by such Indemnitee in connection with such proceeding; provided, however, that, except as provided in Section 8.3 of these Bylaws with respect to proceedings to enforce rights to indemnification, the Corporation shall indemnify an Indemnitee in connection with a proceeding (or part thereof) initiated by such Indemnitee only if such proceeding (or part thereof) was authorized by the Board.

Section 8.2. Right to Advancement of Expenses. In addition to the right to indemnification conferred in Section 8.1 of these Bylaws, an Indemnitee shall also have the right to be paid by the Corporation to the fullest extent not prohibited by applicable law the expenses (including, without limitation, attorneys' fees) incurred in defending or otherwise participating in any such proceeding in advance of its final disposition (hereinafter an "***advancement of expenses***"); provided, however, that, if the TBOC requires, an advancement of expenses incurred by an Indemnitee in his or her capacity as a director or officer of the Corporation (and not in any other capacity in which service was or is rendered by such Indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon the Corporation's receipt of an undertaking (hereinafter an "***undertaking***"), by or on behalf of such Indemnitee, to repay all amounts so advanced if it shall ultimately be determined that such Indemnitee is not entitled to be indemnified under this Article VIII or otherwise and a written affirmation by such Indemnitee of the Indemnitee's good faith belief that such Indemnitee has met the standard of conduct necessary for indemnification under Chapter 8 of the TBOC.

Section 8.3. Right of Indemnitee to Bring Suit. If a claim under Section 8.1 or Section 8.2 of these Bylaws is not paid in full by the Corporation within sixty (60) days after a written claim therefor has been received by the Corporation, except in the case of a claim for an advancement of expenses, in which case the applicable period shall be twenty (20) days, the Indemnitee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Indemnitee shall also be entitled to be paid the expense of prosecuting or defending such suit. In (a) any suit brought by the Indemnitee to enforce a right to indemnification hereunder (but not in a suit brought by an Indemnitee to enforce a right to an advancement of expenses) it shall be a defense that, and (b) in any suit brought by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the Corporation shall be entitled to

recover such expenses upon a final judicial decision from which there is no further right to appeal (hereinafter a "***final adjudication***") that, the Indemnitee has not met any applicable standard for indemnification set forth in the TBOC. Neither the failure of the Corporation (including its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its shareholders) to have made a determination prior to the commencement of such suit that indemnification of the Indemnitee is proper in the circumstances because the Indemnitee has met the applicable standard of conduct set forth in the TBOC, nor an actual determination by the Corporation (including a determination by its directors who are not parties to such action, a committee of such directors, independent legal counsel, or its shareholders) that the Indemnitee has not met such applicable standard of conduct, shall create a presumption that the Indemnitee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnitee, shall be a defense to such suit. In any suit brought by the Indemnitee to enforce a right to indemnification or to an advancement of expenses hereunder, or by the Corporation to recover an advancement of expenses pursuant to the terms of an undertaking, the burden of proving that the Indemnitee is not entitled to be indemnified, or to such advancement of expenses, under this Article VIII or otherwise shall be on the Corporation.

Section 8.4. Non-Exclusivity of Rights. The rights provided to any Indemnitee pursuant to this Article VIII shall not be exclusive of any other right, which such Indemnitee may have or hereafter acquire under applicable law, the Certificate of Formation, these Bylaws, an agreement, a vote of shareholders or disinterested directors, or otherwise.

Section 8.5. Insurance. The Corporation may maintain insurance, at its expense, to protect itself and/or any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the TBOC.

Section 8.6. Indemnification of Other Persons. This Article VIII shall not limit the right of the Corporation to the extent and in the manner authorized or permitted by law to indemnify and to advance expenses to persons other than Indemnitees. Without limiting the foregoing, the Corporation may, to the extent authorized from time to time by the Board and to the extent permitted by the TBOC, grant rights to indemnification and to the advancement of expenses to any employee or agent of the Corporation and to any other person who is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan, to the fullest extent of the provisions of this Article VIII with respect to the indemnification and advancement of expenses of Indemnitees under this Article VIII.

Section 8.7. Amendments. Any repeal or amendment of this Article VIII by the Board or the shareholders of the Corporation or by changes in applicable law, or the adoption of any other provision of these Bylaws inconsistent with this Article VIII, will, to the extent permitted by applicable law, be prospective only (except to the extent such amendment or change in applicable law permits the Corporation to provide broader indemnification rights to Indemnitees on a retroactive basis than permitted prior thereto), and will not in any way diminish or adversely affect any right or protection existing hereunder in respect of any act or omission occurring prior to such repeal or amendment or adoption of such inconsistent provision; provided, however, that amendments or repeals of this Article VIII shall require the affirmative vote of the shareholders holding at least 66 2/3% of the voting power of all outstanding shares of capital stock of the Corporation.

Section 8.8. Certain Definitions. For purposes of this Article VIII, (a) references to "***other enterprise***" shall include any employee benefit plan; (b) references to "***fines***" shall include any excise taxes assessed on a person with respect to an employee benefit plan; (c) references to "***serving at the request of the Corporation***" shall include any service that imposes duties on, or involves services by, a person with respect to any employee benefit plan, its participants, or beneficiaries; and (d) a person who acted in good faith and in a manner such person reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner not opposed to the best interest of the Corporation for purposes of Section 21.401 of the TBOC.

Section 8.9. Contract Rights. The rights provided to Indemnitees pursuant to this Article VIII shall be contract rights and such rights shall continue as to an Indemnitee who has ceased to be a director, officer, agent or employee and shall inure to the benefit of the Indemnitee's heirs, executors and administrators.

Section 8.10. Severability. If any provision or provisions of this Article VIII shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Article VIII shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Article VIII (including, without limitation, each such portion of this Article VIII containing any such provision held to be invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested by the provision held invalid, illegal or unenforceable.

ARTICLE IX
MISCELLANEOUS

Section 9.1. Place of Meetings. If the place of any meeting of shareholders, the Board or committee of the Board for which notice is required under these Bylaws is not designated in the notice of such meeting, such meeting shall be held at the principal executive office of the Corporation; provided, however, if the Board has, in its sole discretion, determined that a meeting shall not be held at any place, but instead shall be held by means of remote communication pursuant to Section 9.5 of these Bylaws , then such meeting shall not be held at any place.

Section 9.2. Fixing Record Dates.

(a) In order that the Corporation may determine the shareholders entitled to notice of any meeting of shareholders or any adjournment thereof, the Board may fix a record date, which shall not precede the date upon which the resolution fixing the record date is adopted by the Board, and which record date shall not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If the Board so fixes a date, such date shall also be the record date for determining the shareholders entitled to vote at such meeting unless the Board determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board, the record date for determining shareholders entitled to notice of and to vote at a meeting of shareholders shall be at the close of business on the Business Day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the Business Day next preceding the day on which the meeting is held. A determination of shareholders of record entitled to notice of or to vote at a meeting of shareholders shall apply to any adjournment of the meeting; provided, however, that the Board may fix a new record date for the adjourned meeting, and in such case shall also fix as the record date for shareholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of shareholders entitled to vote in accordance with the foregoing provisions of this Section 9.2(a) of these Bylaws at the adjourned meeting.

(b) In order that the Corporation may determine the shareholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the shareholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining shareholders for any such purpose shall be at the close of business on the day on which the Board adopts the resolution relating thereto.

Section 9.3. Means of Giving Notice.

(a) Notice to Directors. Whenever under applicable law, the Certificate of Formation or these Bylaws notice is required to be given to any director, such notice shall be given either (i) in writing and sent by mail, or by a nationally recognized delivery service, (ii) by means of electronic mail or other form of electronic transmission, or (iii) by oral notice given personally or by telephone. A notice to a director will be deemed given as follows: (i) if given by hand delivery, orally, or by telephone, when actually received by the director, (ii) if sent through the United States mail, when deposited in the United States mail, with postage and fees thereon prepaid, addressed to the

director at the director's address appearing on the records of the Corporation, (iii) if sent for next day delivery by a nationally recognized overnight delivery service, when deposited with such service, with fees thereon prepaid, addressed to the director at the director's address appearing on the records of the Corporation, (iv) if sent by electronic mail, when sent to the electronic mail address for such director appearing on the records of the Corporation, or (v) if sent by any other form of electronic transmission, when sent to the address, location or number (as applicable) for such director appearing on the records of the Corporation.

(b) Notice to Shareholders. Whenever under applicable law, the Certificate of Formation or these Bylaws notice is required to be given to any shareholder, such notice may be given (i) in writing and sent either by hand delivery, through the United States mail, or by a nationally recognized overnight delivery service for next day delivery, or (ii) by means of a form of electronic transmission consented to by the shareholder, to the extent permitted by the TBOC. A notice to a shareholder shall be deemed given as follows: (i) if given by hand delivery, when actually received by the shareholder, (ii) if sent through the United States mail, when deposited in the United States mail, with postage and fees thereon prepaid, addressed to the shareholder at the shareholder's address appearing on the stock ledger of the Corporation, (iii) if sent for next day delivery by a nationally recognized overnight delivery service, when deposited with such service, with fees thereon prepaid, addressed to the shareholder at the shareholder's address appearing on the stock ledger of the Corporation, and (iv) if given by a form of electronic transmission consented to by the shareholder to whom the notice is given and otherwise meeting the requirements set forth above, (A) if by electronic mail, when directed to an electronic mail address at which the shareholder has consented to receive notice, (B) if by a posting on an electronic network together with separate notice to the shareholder of such specified posting, upon the later of (1) such posting and (2) the giving of such separate notice, and (C) if by any other form of electronic transmission, when directed to the shareholder. A shareholder may revoke such shareholder's consent to receiving notice by means of electronic communication by giving written notice of such revocation to the Corporation. Any such consent shall be deemed revoked if (1) the Corporation is unable to deliver by electronic transmission two consecutive notices given by the Corporation in accordance with such consent and (2) such inability becomes known to the Secretary or an Assistant Secretary or to the Corporation's transfer agent, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

(c) Electronic Transmission. "***Electronic transmission***" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process.

(d) Notice to Shareholders Sharing Same Address. To the extent permitted under the TBOC, without limiting the manner by which notice otherwise may be given effectively by the Corporation to shareholders, any notice to shareholders given by the Corporation under any provision of the TBOC, the Certificate of Formation or these Bylaws shall be effective if given by a single written notice to shareholders who share an address if consented to by the shareholders at that address to whom such notice is given. A shareholder may revoke such shareholder's consent by delivering written notice of such revocation to the Corporation. Any shareholder who fails to object in writing to the Corporation within sixty (60) days of having been given written notice by the Corporation of its intention to send such a single written notice shall be deemed to have consented to receiving such single written notice.

(e) Exceptions to Notice Requirements. Whenever notice is required to be given by the Corporation, under any provision of the TBOC, the Certificate of Formation or these Bylaws, to any shareholder to whom (1) notice of two consecutive annual meetings of shareholders and all notices of shareholder meetings or of the taking of action by written consent of shareholders without a meeting to such shareholder during the period between such two consecutive annual meetings, or (2) all, and at least two payments (if sent by first-class mail) of distributions or interest on securities during a 12-month period, have been mailed by first class mail addressed to such shareholder at such shareholder's address as shown on the ownership records of the Corporation and have been returned undeliverable, the giving of such notice to such shareholder shall not be required. To the extent permitted by the TBOC, notice of a meeting is not required to be given to a shareholder entitled to notice under the any provision of the TBOC, the Certificate of Formation or these Bylaws if the person entitled to notice of the meeting is considered

a lost securityholder under the Exchange Act and the regulations adopted under the Exchange Act. Any action or meeting that shall be taken or held without notice to any such shareholder shall have the same force and effect as if such notice had been duly given to any such shareholder. If any such shareholder shall deliver to the Corporation a written notice setting forth such shareholder's then current address, the requirement that notice be given to such shareholder shall be reinstated. In the event that the action taken by the Corporation is such as to require the filing of a certificate or other document with the Secretary of State of Texas or otherwise, the certificate or other document need not state that notice was not given to persons to whom notice was not required to be given pursuant to the TBOC.

Section 9.4. Waiver of Notice. Whenever any notice is required to be given under applicable law, the Certificate of Formation, or these Bylaws, a written waiver of such notice, signed by the person or persons entitled to said notice, or a waiver by electronic transmission by the person entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent to such required notice. All such waivers shall be kept with the books of the Corporation. Attendance at a meeting shall constitute a waiver of notice of such meeting, except where a person attends for the express purpose of objecting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

Section 9.5. Meeting Attendance via Remote Communication Equipment.

(a) Shareholder Meetings. If authorized by the Board in its sole discretion, and subject to such guidelines and procedures as the Board may adopt, shareholders entitled to vote at such meeting and proxy holders not physically present at a meeting of shareholders may, by means of remote communication:

(i) participate in a meeting of shareholders; and

(ii) be deemed present in person and vote at a meeting of shareholders, whether such meeting is to be held at a designated place or solely by means of remote communication provided that (A) the Corporation shall implement reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a shareholder or proxy holder, (B) the Corporation shall implement reasonable measures to provide such shareholders and proxy holders a reasonable opportunity to participate in the meeting and, if entitled to vote, to vote on matters submitted to the applicable shareholders, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with such proceedings, and (C) if any shareholder or proxy holder votes or takes other action at the meeting by means of remote communication, a record of such votes or other action shall be maintained by the Corporation.

(b) Board Meetings. Unless otherwise restricted by applicable law, the Certificate of Formation or these Bylaws, members of the Board or any committee thereof may participate in a meeting of the Board or any committee thereof by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other. Such participation in a meeting shall constitute presence in person at the meeting, except where a person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting was not lawfully called or convened.

Section 9.6. Distributions and Dividends. The Board may from time to time declare, and the Corporation may pay, distributions or dividends (payable in cash, property or shares of the Corporation's capital stock) on the Corporation's outstanding shares of capital stock, subject to applicable law and the Certificate of Formation.

Section 9.7. Reserves. The Board may set apart out of the funds of the Corporation available for distributions or dividends a reserve or reserves for any proper purpose and may abolish any such reserve.

Section 9.8. Contracts and Negotiable Instruments. Except as otherwise provided by applicable law, the Certificate of Formation or these Bylaws, any contract, bond, deed, lease, mortgage or other instrument may be executed and delivered in the name and on behalf of the Corporation by such officer or officers or other employee

or employees of the Corporation as the Board may from time to time authorize. Such authority may be general or confined to specific instances as the Board may determine. Unless so authorized or ratified by the Board or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

Section 9.9. Fiscal Year. The fiscal year of the Corporation shall be fixed by the Board.

Section 9.10. Seal. The Board may adopt a corporate seal, which shall be in such form as the Board determines. The seal may be used by causing it or a facsimile thereof to be impressed, affixed or otherwise reproduced.

Section 9.11. Books and Records. The books and records of the Corporation may be kept within or outside the State of Texas at such place or places as may from time to time be designated by the Board.

Section 9.12. Amendments. The Board shall have the power to adopt, amend, alter or repeal these Bylaws. Notwithstanding the foregoing, for so long as Cynosure has the right to nominate the Cynosure Director for election to the Board pursuant to the Certificate of Formation, the Cynosure Director's consent shall be required for any amendment of these Bylaws by the Board that would have a disproportionately adverse impact on the rights or interests of Cynosure relative to all holders of Common Stock or Class B Common Stock, as applicable. The affirmative vote of a majority of the Board shall be required to adopt, amend, alter or repeal these Bylaws. Except as otherwise provided in the Certificate of Formation, these Bylaws may not be adopted, amended, altered or repealed by the shareholders.

Exhibit 4.1



NUMBER

SHARES

BLACK ROCK COFFEE BAR, INC.

INCORPORATED UNDER THE LAWS OF THE STATE OF TEXAS

SEE REVERSE SIDE
FOR CERTAIN DEFINITIONS

CUSIP 092244 10 2

This Certifies That

is the owner of

FULLY PAID AND NON-ASSESSABLE SHARES OF THE CLASS A COMMON STOCK WITH A PAR VALUE OF $0.00001 EACH OF

BLACK ROCK COFFEE BAR, INC.

transferable on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this certificate properly endorsed. This certificate is not valid until countersigned and registered by the Transfer Agent and Registrar.

IN WITNESS WHEREOF, the said Corporation has caused this certificate to be signed by facsimile signatures of its duly authorized officers.

Dated:

[SIGNATURE TO COME]

[TITLE TO COME]

BLACK ROCK COFFEE BAR, INC. CORPORATE SEAL TEXAS

[SIGNATURE TO COME]

[TITLE TO COME]

COUNTERSIGNED AND REGISTERED:
EQUINITI TRUST COMPANY, LLC

BY

AUTHORIZED SIGNATURE

TRANSFER AGENT
AND REGISTRAR

AMERICAN FINANCIAL PRINTING, INCORPORATED – MINNEAPOLIS

BLACK ROCK COFFEE BAR, INC.

THE BOARD OF THIS CORPORATION HAS THE AUTHORITY TO CREATE AND DETERMINE THE RELATIVE RIGHTS AND PREFERENCES OF CLASSES OR SERIES OF SHARES OF CAPITAL STOCK OTHER THAN COMMON STOCK. THIS CORPORATION WILL FURNISH TO ANY SHAREHOLDER UPON WRITTEN REQUEST SENT TO ITS PRINCIPAL EXECUTIVE OFFICES, AND WITHOUT CHARGE, A FULL STATEMENT OF THE BOARD'S AUTHORITY TO CREATE AND DETERMINE THE RELATIVE RIGHTS AND PREFERENCES OF CLASSES OR SERIES OF SHARES OF CAPITAL STOCK AS WELL AS THE DESIGNATIONS, PREFERENCES, LIMITATIONS AND RELATIVE RIGHTS OF THE SHARES OF EACH CLASS OR SERIES THEN OUTSTANDING OR AUTHORIZED TO BE ISSUED.

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	– as tenants in common	UNIF GIFT MIN ACT –	_____ Custodian _____ (Cust) (Minor)
TEN ENT	– as tenants by the entireties		under Uniform Gifts to Minors
JT TEN	– as joint tenants with right of survivorship and not as tenants in common		Act _____ (State)

Additional abbreviations may also be used though not in the above list.

For value received, _____ hereby sell, assign, and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE.

_____

PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE.

_____

_____

_____*Shares of the capital stock represented by the within Certificate, and do hereby irrevocably constitute and appoint*_____

_____*Attorney to transfer the said stock on the books of the within-named Corporation with full power of substitution in the premises.*

Dated _____

NOTICE: _____
THE SIGNATURE(S) TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME(S) AS WRITTEN UPON THE FACE OF THE CERTIFICATE IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

SIGNATURE(S) GUARANTEED: _____
THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (BANKS, STOCKBROKERS), SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM), PURSUANT TO SEC RULE 17Ad-15.

Exhibit 5.1

LATHAM & WATKINS LLP

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September 2, 2025

Black Rock Coffee Bar, Inc.
9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260

Re: Registration Statement on Form S-1 (File No. 333-289685)
Up to 16,911,764 shares of Class A common stock, $0.00001 par value per share

To the addressee set forth above:

We have acted as special counsel to Black Rock Coffee Bar, Inc., a Texas corporation (the "***Company***"), in connection with the proposed issuance of up to 16,911,764 shares of Class A common stock, $0.00001 par value per share (the "***Shares***"). The Shares are included in a registration statement on Form S–1 under the Securities Act of 1933, as amended (the "***Act***"), initially filed with the Securities and Exchange Commission (the "***Commission***") on August 18, 2025 (Registration No. 333–289685) (as amended, the "***Registration Statement***"). The term "Shares" shall include any additional shares of Class A common stock registered by the Company pursuant to Rule 462(b) under the Act in connection with the offering contemplated by the Registration Statement. This opinion is being furnished in connection with the requirements of Item 601(b)(5) of Regulation S-K under the Act, and no opinion is expressed herein as to any matter pertaining to the contents of the Registration Statement or related Prospectus, other than as expressly stated herein with respect to the issue of the Shares.

As such counsel, we have examined such matters of fact and questions of law as we have considered appropriate for purposes of this letter. With your consent, we have relied upon certificates and other assurances of officers of the Company and others as to factual matters without having independently verified such factual matters. We are opining herein as to the Business Organizations Code of the State of Texas, and we express no opinion with respect to any other laws.

Subject to the foregoing and the other matters set forth herein, it is our opinion that, as of the date hereof, upon effectiveness of the amended and restated certificate of formation of the Company, in the form most recently filed as an exhibit to the Registration Statement, with the Secretary of the State of Texas, and when the Shares shall have been duly registered on the

books of the transfer agent and registrar therefor in the name or on behalf of the purchasers and have been issued by the Company against payment therefor (not less than par value) in the circumstances contemplated by the form of underwriting agreement most recently filed as an exhibit to the Registration Statement, the issue and sale of the Shares will have been duly authorized by all necessary corporate action of the Company, and the Shares will be validly issued, fully paid and nonassessable. In rendering the foregoing opinion, we have assumed that the Company will comply with all applicable notice requirements regarding uncertificated shares provided in the Business Organizations Code of the State of Texas.

This opinion is for your benefit in connection with the Registration Statement and may be relied upon by you and by persons entitled to rely upon it pursuant to the applicable provisions of the Act. We consent to your filing this opinion as an exhibit to the Registration Statement and to the reference to our firm in the Prospectus under the heading "Legal Matters." We further consent to the incorporation by reference of this letter and consent into any registration statement filed pursuant to Rule 462(b) with respect to the Shares. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission thereunder.

Sincerely,

/s/ Latham & Watkins LLP

$100,000,000 SENIOR CREDIT FACILITY

CREDIT AGREEMENT

dated as of April 29, 2022

by and among

BLACK ROCK COFFEE HOLDINGS, LLC,
as Holdings and Borrower Representative,

BLACK ROCK COFFEE BAR, LLC,
BLACK ROCK STORE OPERATIONS LLC
BLACK ROCK DEVELOPMENT, LLC
BLACK ROCK ROASTING, LLC,
BRSO 67TH, LLC and
BR CASTLE ROCK LLC,
as Borrowers

BRSO PNW XX, LLC,
as Guarantor

THE OTHER CREDIT PARTIES PARTY HERETO FROM TIME TO TIME,
as Credit Parties

THE LENDERS PARTY HERETO FROM TIME TO TIME,

and

RCS AGENT, LLC,
as Administrative Agent

RCS SBIC FUND II, L.P.,
as Joint Lead Arranger and Co-Bookrunner

TCW ASSET MANAGEMENT COMPANY LLC,
as Collateral Agent, Joint Lead Arranger and Co-Bookrunner

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CREDIT AGREEMENT

This **CREDIT AGREEMENT** (including all exhibits and schedules hereto, as the same may be amended, modified, extended, refinanced and/or restated from time to time, this "**Agreement**") is entered into as of April 29, 2022, by and among (a) **BLACK ROCK COFFEE HOLDINGS, LLC**, a Delaware limited liability company ("**Holdings**"), (b) **BLACK ROCK COFFEE BAR, LLC**, an Oregon limited liability company ("**BRCB**"), **BLACK ROCK STORE OPERATIONS LLC**, an Oregon limited liability company ("**BRSO**"); **BLACK ROCK DEVELOPMENT, LLC**, an Oregon limited liability company ("**BRD**"), **BLACK ROCK ROASTING, LLC**, an Oregon limited liability company ("**BRR**"), **BRSO 67th, LLC**, an Arizona limited liability company ("**BRSO 67th**") and **BR CASTLE ROCK LLC**, a Colorado limited liability company ("**BRCR"**, and together with BRCB, BRSO, BRD, BRR and BRSO 67th, and each other Person which joins this Agreement as a Borrower by execution of a Joinder in form and substance reasonably acceptable to the Agent (as hereinafter defined), collectively and jointly and severally, the "**Borrowers**", and each individually, a "**Borrower**"), (c) **BRSO PNW XX, LLC**, a Washington limited liability company ("**BRSO PNW**") as a "Guarantor", (d) each other Person party hereto from time to time that is designated as a "Credit Party", (e) the several financial institutions and other lenders from time to time party hereto (collectively, the "**Lenders**" and each individually, a "**Lender**"), and (f) **RCS AGENT, LLC** (in its individual capacity, "**RCS**"), as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "**Administrative Agent**") for the Lenders, and **TCW Asset Management Company LLC** in its individual capacity, ("**TCW**"), as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent") for the Lenders. The Administrative Agent and the Collateral Agent are sometimes referred to herein collectively as the "Agents", or each individually as an "Agent". The term "Agent", when used herein and not preceded by "Administrative" or "Collateral", means either Agent, and the term "Agents" means both Agents.

W I T N E S S E T H:

WHEREAS, Holdings and the Borrowers have requested, and the Lenders have agreed to make available to the Borrowers, a term loan facility, and a delayed draw term loan facility, in each case, upon and subject to the terms and conditions set forth in this Agreement;

WHEREAS, the Borrowers desire to secure all of their Obligations under the Loan Documents by granting to Collateral Agent, for the benefit of the Secured Parties, a security interest in and lien upon substantially all of their Property (except as otherwise provided herein or in the other Loan Documents);

WHEREAS, Holdings directly owns all of the Stock and Stock Equivalents of the BRCB, BRSO, BRD, BRSO PNW and BRR, and BRSO owns a majority of the Stock and Stock Equivalents of BRSO 67th and BRCR, and Holdings is willing to guaranty all of the Obligations and to pledge to Collateral Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents it owns in BRCB, BRSO, BRD and BRR, and BRSO is willing to pledge to the Collateral Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents it owns in BRSO PNW, BRSO 67th and BRCR, and substantially all of its other

Property (except as otherwise provided herein or in the Loan Documents) to secure the Obligations; and

WHEREAS, subject to the terms hereof, each other Guarantor is willing to guaranty all of the Obligations of the Borrowers and to grant to Collateral Agent, for the benefit of the Secured Parties, a security interest in and lien upon substantially all of its Property (except as otherwise provided in the Loan Documents) to secure the Obligations, including, in the case of BRSO, a pledge to the Collateral Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents it owns in BRSO PNW, BRSO 67th and BRCR.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties hereto agree as follows:

ARTICLE I

THE CREDITS

1.1 Amounts and Terms of Commitments.

(a) The Term Loan A Commitments. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Lender with a Term Loan Commitment, severally and not jointly, agrees to make term loans to the Borrowers (each such loan, a "**Term Loan A**") on the Closing Date in the amount of such Lender's Term Loan Commitment as in effect on the Closing Date. Amounts borrowed as a Term Loan A which are repaid or prepaid may not be reborrowed.

(b) Delayed Draw Term Loans. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Lender with a Delayed Draw Term Commitment, severally, and not jointly, agrees to make Delayed Draw Term Loans to the Borrowers (each such loan, a "**Delayed Draw Term Loan**") during the Delayed Draw Availability Period, in a principal amount not to exceed its Delayed Draw Term Loan Commitment. Once funded, Delayed Draw Term Loans shall be added to the outstanding principal amount of, and should become part of, the outstanding Term Loan A. Amounts paid or prepaid in respect of the Delayed Draw Term Loans may not be reborrowed.

(c) [Reserved].

1.2 Evidence of Loans; Notes. The Term Loans made by each Term Lender are evidenced by this Agreement and, if requested by such Lender, a Term Note payable to such Lender in an amount equal to the unpaid balance of the applicable Term Loans held by such Lender.

1.3 Interest.

(a) Subject to Sections 1.3(c) and 1.3(d), each Loan shall bear interest on the outstanding principal amount thereof from the date when made at a rate per annum equal to the Adjusted Term SOFR Rate or the Base Rate, as the case may be, plus, in each instance, the Applicable Margin. Each determination of an interest rate by Administrative Agent shall be conclusive and binding on the Borrowers and the Lenders in the absence of manifest error. All computations of fees and interest (other than interest accruing on Base Rate Loans (unless calculated in accordance with clause (c) of the definition of "Base Rate")) payable under this Agreement shall be made on the basis of a 360-day year and actual days elapsed. All computations of interest accruing on Base Rate Loans payable under this Agreement shall be made on the basis of a 365-day year (366 days in the case of a leap year) and actual days elapsed. Interest and fees shall accrue during each period during which interest or such fees are computed from the first day thereof to, but excluding, the last day thereof.

(b) Interest on each Loan shall be paid in arrears on each Interest Payment Date, provided, that interest on each Loan shall be paid, in cash, in an amount equal to the Cash Interest Portion of such Loan plus the Applicable Margin, and paid-in-kind and capitalized in accordance with the definition of PIK Amount. Interest shall also be paid in the manner set forth in the preceding sentence on the date of any payment or prepayment of the Term Loans in full.

(c) At the election of Administrative Agent or the Collateral Agent or Required Lenders, while any Event of Default exists (or automatically while any Event of Default under Section 7.1(a), 7.1(f) or 7.1(g) exists), the Borrowers shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the Loans and other Obligations, as applicable, at a rate per annum which is determined by adding two percent (2.0%) per annum to the Applicable Margin then in effect for such Loans or such other Obligations (plus the Term SOFR Rate or Base Rate, as the case may be). All such interest shall be payable on demand of either Agent or the Required Lenders.

(d) Anything herein to the contrary notwithstanding, the obligations of the Borrowers hereunder shall be subject to the limitation that payments of interest shall not be required, for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by the respective Lender would be contrary to the provisions of any law applicable to such Lender limiting the highest rate of interest which may be lawfully contracted for, charged or received by such Lender, and in such event the Borrowers shall pay such Lender interest at the highest rate permitted by applicable law ("**Maximum Lawful Rate**"); provided, however, that if at any time thereafter the rate of interest payable hereunder is less than the Maximum Lawful Rate, the Borrowers shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by Administrative Agent, on behalf of Lenders, is equal to the total interest that would have been received

had the interest payable hereunder been (but for the operation of this paragraph) the interest rate payable since the Closing Date as otherwise provided in this Agreement.

1.4 Loan Accounts.

(a) Administrative Agent, on behalf of the Lenders, shall record on its books and records the amount of each Loan made, the interest rate applicable thereto, all payments of principal and interest thereon and the principal balance thereof from time to time outstanding. Such record shall, subject to Sections 1.4(b) through (d), absent manifest error, be conclusive evidence of the amount of the Loans made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so, or any failure to deliver such loan statement shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder (and under any Note) to pay any amount owing with respect to the Loans or provide the basis for any claim against Administrative Agent.

(b) Administrative Agent, acting as a non-fiduciary agent on behalf of the Borrowers and solely with respect to the actions described in this Section 1.4(b), shall establish and maintain at one of its offices (A) a record of ownership (the "**Register**") in which Administrative Agent agrees to register by book entry the interests (including any rights to receive payment hereunder) of Administrative Agent, each Lender in the Term Loans, each of their obligations under this Agreement to participate in each Term Loan, and any assignment of any such interest, obligation or right and (B) accounts in the Register in accordance with its usual practice in which it shall record (1) the names and addresses of the Lenders (and each change thereto pursuant to Sections 9.9 and 9.22), (2) the Commitments of each Lender, (3) the amount (and stated interest) of each Loan and for Term SOFR Rate Loans, the Interest Period applicable thereto, (4) the amount of any principal or interest due and payable or paid, and (5) any other payment received by any Agent from the Borrowers and its application to the Obligations.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Loans (including any Notes evidencing such Loans) are registered obligations, the right, title and interest of the Lenders and their assignees in and to such Loans, shall be transferable only upon notation of such transfer in the Register and no assignment thereof shall be effective until recorded therein. This Section 1.4 and Section 9.9 shall be construed so that the Loans are at all times maintained in "registered form" under Section 5f.103-1(e) of the United States Treasury Regulations and within the meaning of Sections 163(f), 871(h)(2) and 881(e)(2) of the Code.

(d) The Credit Parties, Agents and the Lenders shall treat each Person whose name is recorded in the Register as a Lender, for all purposes of this Agreement. Information contained in the Register with respect to any Lender shall be available for access by the Borrower Representative, Agents, and each Lender during normal business hours and from time to time upon reasonable prior written notice. No Lender shall, in such capacity, have access to or be otherwise permitted to review any information in the

Register other than information with respect to such Lender unless otherwise agreed by the Agents.

1.5 Procedure for Borrowings.

(a) The Borrowing of the Term Loan on the Closing Date shall be made upon the Borrower Representative's irrevocable (subject to Section 10.5 hereof) written (which may be delivered by facsimile, electronic mail or E-Fax) notice delivered to the Administrative Agent substantially in the form of a Notice of Borrowing or in a writing in any other form acceptable to Administrative Agent, which notice must be received by Administrative Agent prior to 2:00 p.m., one (1) Business Day prior to the Closing Date. Such Notice of Borrowing shall specify:

(i) the amount of the Borrowing;

(ii) the requested Borrowing date, which shall be a Business Day;

(iii) whether the Borrowing is to be comprised of Tern SOFR Loans or Base Rate Loans;

(iv) if the Borrowing is to be Term SOFR Rate Loans, the Interest Period applicable to such Loans;

(v) the Borrowers' wire instructions.

(b) The Borrowing of each Delayed Draw Term Loan during the Delayed Draw Availability Period shall be made upon the Borrower Representative's irrevocable (subject to Section 10.5 hereof) written (which may be delivered by facsimile, electronic mail or E-Fax) notice delivered to the Administrative Agent substantially in the form of a Notice of Borrowing or in a writing in any other form acceptable to Administrative Agent, which notice must be received by Administrative Agent prior to 2:00 p.m., at least ten (10) Business Days' prior to the requested Borrowing date. Such Notice of Borrowing shall specify:

(i) the amount of the Delayed Draw Term Loan Borrowing (which shall be at least $1,000,000 or such lesser amount as may equal the then unfunded Delayed Draw Term Loan Commitment);

(ii) the requested Borrowing date, which shall be a Business Day;

(iii) whether the Borrowing is to be comprised of Tern SOFR Loans or Base Rate Loans;

(iv) if the Borrowing is to be Term SOFR Rate Loans, the Interest Period applicable to such Loans;

(v) the Borrowers' wire instructions.

In addition, each Notice of Borrowing relating to a Delayed Draw Term Loan shall be accompanied by a certificate of a Responsible Officer of the Borrower Representative certifying that, as of the date of such certificate and, pro forma, as of the requested Borrowing Date, the Pro Forma Compliance Conditions are satisfied, and setting forth in reasonable detail the calculations demonstrating such compliance. The principal amount of each Delayed Draw Term Loan shall automatically be added to the then outstanding principal amount of and become part of the Term Loan for all purposes of this Agreement including accrual of interest and determining the Term Loan Amortization Amount on each Interest Payment Date following such funding.

(c) Upon receipt of a Notice of Borrowing pursuant to clause (a) or (b) above, Administrative Agent will promptly notify each applicable Lender of such Notice of Borrowing and of the amount of such Lender's Commitment Percentage of the Borrowing.

(d) Each Lender with a Commitment shall make its Loan available to the Administrative Agent not later than 12:00 p.m. on the applicable Borrowing date, by wire transfer of same day funds in Dollars, at the Administrative Agent's office or account. Upon satisfaction or waiver of the conditions precedent specified herein, including Section 2.1 and Section 2.2, and receipt of all requested Loan funds, the Administrative Agent shall make the proceeds of such Loans available to the Borrowers on the applicable Borrowing date by causing an amount of same day funds in Dollars equal to the proceeds of all such Loans received by the Administrative Agent from Lenders to be wired to the account of the Borrowers as may be designated in writing to the Administrative Agent by the Borrowers in the applicable Notice of Borrowing.

1.6 Conversion and Continuation Elections.

(a) The Borrower Representative shall have the option to (i) request that any Loan be made as a Term SOFR Rate Loan, (ii) convert at any time all or any part of outstanding Loans from Base Rate Loans to Term SOFR Rate Loans, (iii) convert any Term SOFR Rate Loan to a Base Rate Loan, subject to Section 10.4 if such conversion is made prior to the expiration of the Interest Period applicable thereto, or (iv) continue all or any portion of any Loan as a Term SOFR Rate Loan upon the expiration of the applicable Interest Period. Any Loan or group of Loans having the same proposed Interest Period to be made or continued as, or converted into, a Term SOFR Rate Loan must be in a minimum amount of $100,000 (or, if less, the aggregate outstanding amount of such Loan or Loans). Any such election must be made by Borrower Representative by 2:00 p.m. (x) on the date that is three (3) Business Days prior to (1) the date of any proposed Loan which is to bear interest at Term SOFR, (2) the end of each Interest Period with respect to any Term SOFR Rate Loans to be continued as such, or (3) one (1) day prior to the date on which the Borrower Representative wishes to convert any Base Rate Loan to a Term SOFR Rate Loan for an Interest Period designated by the Borrower Representative in such election, and (y) on the date that is one (1) Business Day prior to the date on which the Borrower Representative wishes to convert any Term SOFR Rate Loan to a Base Rate Loan. If no Notice of Conversion/Continuation is received with

respect to a Term SOFR Rate Loan by 2:00 p.m. on the date that is three (3) Business Day prior to the end of the Interest Period with respect thereto, that Term SOFR Rate Loan shall automatically be continued as a Term SOFR Rate Loan with a one month Interest Period. If a Notice of Conversion/Continuation is received with respect to a Term SOFR Rate Loan by a 2:00 p.m. on the date that is three (3) Business Days prior to the end of the Interest Period with respect thereto, but fails to specify an Interest Period with respect thereto, the Borrower Representative will be deemed to have selected a one month Interest Period. The Borrower Representative must make such election by notice to Administrative Agent in writing, including by hand delivery, overnight courier, mail, facsimile or Electronic Transmission, which notice may be given pursuant to irrevocable written notice (a "**Notice of Conversion/Continuation**") substantially in the form of Exhibit 1.6 or in a writing in any other form reasonably acceptable to Administrative Agent. No Loan shall be made, converted into or continued as a Term SOFR Rate Loan, if an Event of Default has occurred and is continuing and Required Lenders have determined not to make, convert or continue any Loan as a Term SOFR Rate Loan as a result thereof; provided that the Borrower Representative shall not be required to convert then existing Term SOFR Rate Loans to Base Rate Loans prior to the expiration of the applicable Interest Period(s) thereto solely because of the occurrence and continuance of an Event of Default.

(b) Upon receipt of a Notice of Conversion/Continuation, Administrative Agent will promptly notify each Lender thereof. In addition, Administrative Agent will, with reasonable promptness, notify the Borrower Representative and the Lenders of each determination of Term SOFR; provided that any failure to do so shall not relieve the Borrowers of any liability hereunder or provide the basis for any claim against any Agent. All conversions and continuations shall be made pro rata according to the respective outstanding principal amounts of the Loans held by each Lender with respect to which the notice was given.

(c) Notwithstanding any other provision contained in this Agreement, after giving effect to any Borrowing, or to any continuation or conversion of any Loans, there shall not be more than five (5) different Interest Periods in effect; provided that, after the establishment of any Class of Loans pursuant to an Extension, such number of Interest Periods shall increase by two (2) Interest Periods for each applicable Class so established.

1.7 Optional Prepayments and Reductions in Delayed Draw Term Loan Commitments.

(a) Optional Prepayments Generally. The Borrowers may at any time upon at least two (2) Business Days' (or such shorter period as is acceptable to Administrative Agent) prior written notice by the Borrower Representative to Administrative Agent by 2:00 p.m. on such day, prepay the Loans in whole or in part in an amount greater than or equal to $100,000 in each instance, together with any Applicable Prepayment Premium and amounts, if any, due under in Section 10.4. Optional partial prepayments shall be applied to Term Loans as specified by the Borrower Representative; provided that any

optional partial prepayments of the Term Loans shall be applied to the outstanding installments thereof in direct order of maturity ratably across each Class of Term Loans then outstanding. Any prepayment in full of the Term Loan in connection with the payment in full of all Obligations (other than Contingent Indemnity Obligations) pursuant to a refinancing with a third-party lender during the period from the Closing Date through the second anniversary of the Closing Date (the "**Prepayment Period**") will be accompanied by the Applicable Prepayment Premium.

(b) Reductions in Delayed Draw Term Loan Commitments. The Borrowers may at any time, upon at least three (3) Business Days' (or such shorter period as is acceptable to Administrative Agent) prior written notice by the Borrower Representative to Administrative Agent by 2:00 p.m. on such day, terminate or permanently reduce the aggregate Delayed Draw Term Loan Commitment, without premium or penalty; provided that such reductions shall be in an amount greater than or equal to $1,000,000 (or a lesser amount if the Aggregate Delayed Draw Term Loan Commitments then outstanding is less than $1,000,000). All reductions of the Aggregate Delayed Draw Term Loan Commitment shall be allocated pro rata among all Lenders with a Delayed Draw Term Loan Commitment.

(c) Applicable Prepayment Premium. Any voluntary or mandatory prepayment of the Term Loan during the period from the Closing Date through the second anniversary of the Closing Date (the "**Prepayment Period**") shall be accompanied by the Applicable Prepayment Premium.

(d) Notices. Notice of prepayment or commitment reduction pursuant to clauses (a) or (b) above shall not thereafter be revocable by the Borrower Representative and Administrative Agent will promptly notify each Lender thereof and of such Lender's Commitment Percentage of such prepayment or reduction; provided, however, that a notice of prepayment or commitment reduction may state that such notice is conditioned upon the effectiveness of other credit facilities, the incurrence of other Indebtedness, the consummation of another transaction (such as a change of control) or the occurrence of another specified event, in which case such notice may be revoked by Borrower Representative (by written notice to Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. The payment amount specified in a notice of prepayment shall be due and payable on the date specified therein. Together with each prepayment under this Section 1.7, the Borrowers shall pay any amounts required to be paid pursuant to Section 10.4.

1.8 Mandatory Prepayments of Loans and Commitment Reductions.

(a) Scheduled Term Loan Payments. The principal amount of the Term Loans (including, for avoidance of doubt, funded Delayed Draw Term Loans) shall be paid in installments on the last Business Day of each Fiscal Quarter (commencing with the second full Fiscal Quarter following the Closing Date and on the Term Loan Maturity Date in an amount equal to the then-applicable Term Loan Amortization Amount.

The Borrowers shall repay to the Administrative Agent for the ratable account of the appropriate Term Lenders an amount equal to the entire remaining outstanding principal balance of the Term Loan on the Term Loan Maturity Date. The Borrowers shall repay to the Administrative Agent for the ratable account of the appropriate Lenders of Extended Term Loans on each date set forth in the applicable Extension, such amount of such Extended Term Loan as agreed in such Extension.

(b) [Reserved].

(c) Asset Dispositions; Events of Loss. If a Credit Party or any Subsidiary of a Credit Party shall at any time or from time to time:

(i) make a Disposition (except for a Disposition permitted under Section 5.2(a), (c), (d), (e), (f), (h), (i), (j), (k), (l), (o), (p), (s) or (t)); or

(ii) suffer an Event of Loss;

(iii) receives any Extraordinary Receipt, other than in connection with the Las Vegas Franchisee Group Litigation, which is governed by Section 1.8(c)(iv) below;

and the aggregate amount of the Net Proceeds received by the Credit Parties and their Subsidiaries in connection with such Disposition, Event of Loss or Extraordinary Receipt and all other Dispositions and Events of Loss (for the avoidance of doubt, other than business interruption insurance or workers' compensation) occurring during the Fiscal Year exceeds $500,000, then promptly upon receipt by a Credit Party and/or such Subsidiary of the Net Proceeds of such Disposition, Event of Loss or Extraordinary Receipt, the Borrowers shall deliver, or cause to be delivered, an amount equal to such excess Net Proceeds to Administrative Agent for distribution to the Lenders as a prepayment of the Loans, which prepayment shall be applied in accordance with Section 1.8(f) hereof. Notwithstanding the foregoing and provided no Event of Default has occurred and is continuing at the time of such Disposition, Event of Loss or Extraordinary Receipt, such prepayment shall not be required to the extent a Credit Party or such Subsidiary reinvests the Net Proceeds of such Disposition, Event of Loss or Extraordinary Receipt in assets of a kind then used or usable in the business of the Credit Parties, within one (1) year after the date of such Disposition or Event of Loss, or enters into a binding commitment thereof within said one (1) year period and subsequently makes such reinvestment within ninety (90) days thereafter; or

(iv) upon receipt of any Net Proceeds by any Credit Party in connection with the Las Vegas Franchise Group Litigation at any time prior to the date upon which the Delayed Draw Term Loan Commitment has been reduced to zero, the Borrowers may (i) make an optional prepayment in the amount of up to 100% of such Net Proceeds in accordance with Section 1.7 hereof and/or (ii)

retain all or a portion of such Net Proceeds (in an amount not to exceed the amount of the Delayed Draw Term Loan Commitment at such time) for general working capital purposes, provided that the Delayed Draw Term Loan Commitment shall be reduced (without the notice required by Section 1.7(b)) by the amount of any such retained Net Proceeds under this clause (ii). For avoidance of doubt, all Net Proceeds of the Las Vegas Franchise Group Litigation shall be subject to mandatory prepayment once the Delayed Draw Term Loan Commitment is reduced to zero.

(d) Incurrence of Debt; Equity Contributions. Upon receipt by any Credit Party or any Subsidiary of any Credit Party of the Net Issuance Proceeds of (i) the incurrence of Indebtedness (other than Net Issuance Proceeds from the incurrence of Indebtedness permitted hereunder) or (ii) if Pro Forma Compliance Conditions are not satisfied, any Equity Contribution including any Equity Contribution received in connection with the issuance of Stock which does not constitute Disqualified Stock in accordance with clause (i) of the definition of Equity Recap Transactions to the extent required to cause compliance with the Pro Forma Compliance Conditions, and thereafter excluding any remaining Net Issuance Proceeds which are for an Equity Recap Distribution, provided, that prior to such Equity Recap Distribution, the Borrowers shall deliver, or cause to be delivered, to Administrative Agent an amount equal to such Net Issuance Proceeds for application to the Loans in accordance with Section 1.8(f).

(e) Excess Cash Flow. Within thirty (30) days after the annual financial statements and corresponding Compliance Certificate are required to be delivered pursuant to Section 4.1(a) and Section 4.2(b) hereof (each an "**ECF Payment Date**"), commencing with such annual financial statements for the Fiscal Year ending December 31, 2022, the Borrowers shall deliver to Administrative Agent, for distribution to the Lenders, an amount equal to 50% of Excess Cash Flow for the applicable Excess Cash Flow Reference Period, less the aggregate amount of voluntary prepayments of the Term Loans made during such Excess Cash Flow Reference Period, for application to the Loans in accordance with the provisions of Section 1.8(f) hereof; provided that the percentage referenced above shall be reduced to 25% of such Excess Cash Flow if the Total Net Leverage Ratio as of the last day of the applicable Fiscal Year is less than 2.50 to 1.00. Excess Cash Flow shall be calculated in the manner set forth in the Compliance Certificate.

(f) Application of Prepayments. Subject to Section 1.10(c) and except as may otherwise be set forth in any Extension, any prepayments pursuant to Section 1.8(c), 1.8(d), or 1.8(e) shall be applied to prepay all remaining installments (including the final installment thereof to be made at maturity) of the Term Loans (including, for the avoidance of doubt and without limitation, each funded Delayed Draw Term Loan) pro rata against all such scheduled installments based upon the respective amounts thereof ratably across each Class of Term Loans then outstanding. Amounts prepaid shall be applied first to any Base Rate Loans then outstanding and then to outstanding SOFR Rate Loans with the shortest Interest Periods remaining. Together with each prepayment

under this Section 1.8, the Borrowers shall pay any amounts required pursuant to Section 10.4 hereof. Notwithstanding the foregoing, prepayments required pursuant to Section 1.8(c) and (d) attributable to Foreign Subsidiaries shall be limited to the extent such prepayments with respect to the repatriation of cash in connection therewith would (i) be prohibited or delayed by applicable law in the relevant foreign jurisdictions; provided that the Borrower Representative and its Subsidiaries shall take all commercially reasonable actions available under local law to permit such repatriation, (ii) conflict with the fiduciary duties of such Foreign Subsidiary's directors, or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer, director, employee, manager, member or management of such Foreign Subsidiary or (iii) result in adverse tax consequences as determined by the Borrower Representative in good faith; and provided further that, once the repatriation of the relevant Net Proceeds or Net Issuance Proceeds, as applicable, would no longer be limited as described above, such amounts will promptly be applied in accordance with this Section 1.8. The non-application of any prepayment amounts as a direct consequence of the foregoing provisions will not, for the avoidance of doubt, constitute a Default or Event of Default and such amounts shall be available for working capital and general corporate purposes of the Borrowers and their Subsidiaries so long as not required to be prepaid in accordance with the foregoing.

(g) No Implied Consent. Provisions contained in this Section 1.8 for the application of proceeds of certain transactions shall not be deemed to constitute consent of the Lenders to transactions that are not otherwise permitted by the terms hereof or the other Loan Documents.

(h) Declining Lenders. Upon the occurrence of any mandatory prepayment event set forth in Section 1.8(e), (d) or (e), the Borrower Representative shall provide the Administrative Agent with three (3) Business Days' prior written notice (received by 2:00 p.m. on such day) of the prepayment required hereunder, including the date and amount of such prepayment. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's pro rata share of such mandatory prepayment Notwithstanding any other provisions in this Section 1.8, any Lender may choose not to accept, in whole or in part, its pro rata share of mandatory prepayments of the Loans under Section 1.8(c), (d)(i) or (e), by providing written notice (each, a "**Rejection Notice**") to the Administrative Agent no later than 2:00 p.m., one (1) Business Day prior to the date of such prepayment as set forth in the applicable notice of prepayment; provided that, if a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above, such failure will be deemed an acceptance by such Lender of its pro rata share of such mandatory prepayment. Any amount of a mandatory prepayment of the Loans under Section 1.8(e), (d)(i) or (e) not accepted by the Lenders shall (i) first, be offered to non-declining Lenders in accordance with their Commitment Percentages until all remaining Lenders are declining Lenders, and (ii) any remaining amounts shall be retained by the Borrowers and to be used as permitted hereunder.

(i) Bank Product Obligations Unaffected. Any repayment or prepayment made pursuant to this Section 1.8 shall not affect the Borrowers' obligation to continue to make payments under any Bank Product, which shall remain in full force and effect notwithstanding such repayment or prepayment, subject to the terms of such Bank Product.

1.9 Fees.

(a) Fees. The Borrowers shall pay to Administrative Agent (for the ratable benefit of the Lenders) on the Closing Date those fees in the amounts at the times set forth in a letter agreement among the Borrower Representative (on behalf of the Borrowers) and Agents dated as of the Closing Date (as amended, amended and restated, modified and/or supplemented from time to time in accordance with its terms, the "**Fee Letter**").

(b) Delayed Draw Term Loan Commitment Fee. The Borrowers shall pay to Agent a fee, on the last Business Day of each Fiscal Quarter (the "**Delayed Draw Term Loan Commitment Fee**"), for the account of each Lender having a Delayed Draw Commitment, in an amount equal to:

(i) the average daily balance of the Delayed Draw Term Loan Commitment of each Delayed Draw Term Lender during the preceding Fiscal Quarter,

(ii) multiplied by one percent (1.00%) per annum.

The Delayed Draw Term Loan Commitment Fee provided in this Section 1.9(b) shall accrue at all times during the period from and after the Closing Date through the last day of the Delayed Draw Availability Period.

(c) [Reserved].

(d) All fees payable pursuant to this Section 1.9 shall be calculated on a 360-day year and actual days elapsed and applied in accordance with Section 1.10(a).

1.10 Payments by the Borrowers.

(a) All payments (including prepayments) to be made by each Credit Party on account of principal, interest, fees and other amounts required hereunder shall be made without set-off, recoupment, counterclaim or deduction of any kind, except as set forth in Article X, shall, except as otherwise expressly provided herein, be made to Administrative Agent (for the ratable account of the Persons entitled thereto) to the Administrative Agent's account specified by the Administrative Agent pursuant to a written notice delivered to the Borrower Representative (or such other account as Administrative Agent may from time to time specify in accordance with Section 9.2), and shall be made in Dollars and by wire transfer in immediately available funds (which shall

be the exclusive means of payment hereunder), no later than 2:00 p.m. on the date due. Any payment which is received by Administrative Agent later than 2:00 p.m. may in Administrative Agent's discretion be deemed to have been received on the immediately succeeding Business Day and any applicable interest or fee shall continue to accrue; provided that, for the avoidance of doubt, any payment which is received by the Administrative Agent later than 2:00 p.m. on the applicable due date shall not constitute a Default or an Event of Default hereunder so long as such payment is received by the Administrative Agent prior to 4:00 p.m. on such due date. Upon the occurrence and during the continuance of an Event of Default, the Borrowers and each other Credit Party hereby irrevocably waives the right to direct the application of any and all payments in respect of any Obligation and any proceeds of Collateral, provided that such payments and proceeds are applied in accordance with Section 1.10(c).

(b) Subject to the provisions set forth in the definition of "Interest Period" herein, if any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be excluded in the computation, and if applicable, payment, of interest or fees, as the case may be, on such next succeeding Business Day; provided that such extension of time shall be included in the next succeeding computation and payment of interest and fees; provided further that if the scheduled payment date is the maturity date of any Loan such extension of time shall include such interest and fees, which shall be payable on such next succeeding Business Day.

(c) During the continuance of an Event of Default, Administrative Agent may, and shall upon the direction of the Collateral Agent or the Required Lenders, apply any and all payments received by Administrative Agent in respect of any Obligation in accordance with clauses *first* through *sixth* below (but excluding any provision for payment set forth therein in respect of any Secured Obligations under or in respect of any Secured Rate Contracts or Bank Products or with respect to Secured Swap Providers or Bank Product Providers). Notwithstanding any provision herein to the contrary, all payments made by Credit Parties to Administrative Agent after any or all of the Obligations have been accelerated (so long as such acceleration has not been rescinded), including proceeds of Collateral, shall be applied in accordance with clauses first through sixth below (including, for the avoidance of doubt, any provision for payment set forth therein in respect of any Secured Obligations under or in respect of any Secured Rate Contracts or Bank Products or with respect to Secured Swap Providers or Bank Product Providers):

first, to payment of costs and expenses of each Agent (including Collateral Agent Advances, if any) and Attorney Costs payable or reimbursable by the Credit Parties under the Loan Documents;

second, to payment of costs and expenses of the Lenders payable or reimbursable by the Credit Parties under the Loan Documents;

third, to payment of all accrued unpaid interest on the Secured Obligations and fees owed to either Agent (in their capacities as Administrative Agent or Collateral Agent, as the case may be), Lenders, Secured Swap Providers and Bank Product Providers;

fourth, to payment of principal of the Obligations then due and payable and any Secured Obligations under any Secured Rate Contract or Bank Product;

fifth, to payment of any other amounts owing constituting Secured Obligations; and

sixth, any remainder, after all of the Secured Obligations have been paid in full, to the Borrowers or as the Borrower Representative shall direct, or as otherwise required by Requirement of Law.

In carrying out the foregoing, (i) amounts received to each category shall be applied in the numerical order provided until exhausted prior to the application to the immediately succeeding category, (ii) each of the Lenders or other Persons entitled to payment shall receive an amount equal to its pro rata share of amounts available to be applied pursuant to clauses second, third and fourth above and (iii) no payments by a Guarantor and no proceeds of Collateral of a Guarantor shall be applied to Excluded Rate Contract Obligations of such Guarantor. Notwithstanding the foregoing terms of this Section 1.10, only Collateral proceeds and payments under the Guaranty and Security Agreement (as opposed to ordinary course principal, interest and fee payments hereunder) shall be applied to obligations under any Bank Product or Secured Rate Contract or with respect to Bank Product Providers or Secured Swap Providers. The Administrative Agent shall have no obligation to calculate the amount to be distributed with respect to any Bank Product Debt, but may rely upon written notice of the amount (setting forth a reasonably detailed calculation) from the applicable Bank Product Provider. In the absence of such notice, the Administrative Agent may assume the amount to be distributed is the Bank Product Amount last reported to the Administrative Agent.

1.11 Payments by the Lenders to Agent; Settlement.

(a) Administrative Agent may, on behalf of Lenders, disburse funds to the Borrowers for Loans requested prior to receipt of such funds from the Lenders. Each Lender shall reimburse Administrative Agent on demand for all funds disbursed on its behalf by Administrative Agent, or if Administrative Agent so requests, each Lender will remit to Administrative Agent its Commitment Percentage of any Loan before Administrative Agent disburses same to the Borrowers. If Administrative Agent elects to require that each Lender make funds available to Administrative Agent prior to disbursement by Administrative Agent to the Borrowers, Administrative Agent shall advise each Lender by telephone, Electronic Transmission or fax of the amount of such Lender's Commitment Percentage of the Loan requested by the Borrower Representative no later than the Business Day prior to the scheduled Borrowing date applicable thereto, and each such Lender shall pay Administrative Agent such Lender's Commitment Percentage of such requested Loan, in same day funds, by wire transfer to Administrative Agent's account designated by the Administrative Agent in writing to the Lenders from time to time, no later than 3:00 p.m. on such scheduled Borrowing date. Nothing in this

Section 1.11(a) or elsewhere in this Agreement or the other Loan Documents, including the remaining provisions of Section 1.11, shall be deemed to require Administrative Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its Commitments hereunder or to prejudice any rights that Administrative Agent any Lender or the Borrowers may have against any Lender as a result of any default by such Lender hereunder.

(b) [Reserved].

(c) [Reserved].

(d) Return of Payments.

(i) If Administrative Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Administrative Agent from the Borrowers and such related payment is not received by Administrative Agent, then Administrative Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind.

(ii) If Administrative Agent determines at any time that any amount received by Administrative Agent under this Agreement or any other Loan Document must be returned to any Credit Party or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Loan Document, Administrative Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Administrative Agent on demand any portion of such amount that Administrative Agent has distributed to such Lender, together with interest at such rate, if any, as Administrative Agent is required to pay to the Borrowers or such other Person, without setoff, counterclaim or deduction of any kind, and Administrative Agent will be entitled to set-off against future distributions to such Lender any such amounts (with interest) that are not repaid on demand.

(e) Non-Funding Lenders.

(i) Responsibility. The failure of any Non-Funding Lender to make any Loan, or to fund any purchase of any participation to be made or funded by it, or to make any payment required by it under any Loan Document on the date specified therefor shall not relieve any other Lender of its obligations to make such loan, fund the purchase of any such participation, or make any other such required payment on such date, and neither Agent nor, other than as expressly set forth herein, any other Lender shall be responsible for the failure of any Non-Funding Lender to make a loan, fund the purchase of a participation or make any other required payment under any Loan Document.

(ii) [Reserved].

(iii) Voting Rights. Notwithstanding anything set forth herein to the contrary, including Section 9.1, a Non-Funding Lender or Impacted Lender shall not have any voting or consent rights under or with respect to any Loan Document or constitute a "Lender" or a "Term Lender" (or be, or have its Loans and Commitments, included in the determination of "Required Lenders" or "Lenders directly affected" pursuant to Section 9.1) for any voting or consent rights under or with respect to any Loan Document, provided that (A) the Commitment of a Non-Funding Lender or Impacted Lender may not be increased, extended or reinstated, (B) the principal of a Non-Funding Lender's or Impacted Lender's Loans may not be reduced or forgiven, and (C) the interest rate applicable to Obligations owing to a Non-Funding Lender or Impacted Lender may not be reduced (other than resulting from a waiver of default interest otherwise applicable pursuant to Section 1.3(c) hereof, any waiver of a Default or an Event of Default having the effect of waiving such default interest), withhout the consent of such Non-Funding Lender or Impacted Lender. Moreover, for the purposes of determining Required Lenders, the Loans and Commitments held by Non-Funding Lenders or Impacted Lenders shall be excluded from the total Loans and Commitments outstanding.

(iv) Borrower Payments to a Non-Funding Lender or Impacted Lender. Administrative Agent shall be authorized to use all payments received by Administrative Agent for the benefit of any Non-Funding Lender or Impacted Lender pursuant to this Agreement to pay in full the Aggregate Excess Funding Amount to the appropriate Secured Parties entitled thereto. Administrative Agent shall be entitled to hold as cash collateral in a non-interest bearing account up to an amount equal to such Non-Funding Lender's or Impacted Lender's pro rata share, without giving effect to any reallocation pursuant to Section 1.11(e)(ii), of other funding obligations hereunder until the Facility Termination Date. Upon any such unfunded obligations owing by a Non-Funding Lender or Impacted Lender becoming due and payable, Administrative Agent shall be authorized to use such cash collateral to make such payment on behalf of such Non-Funding Lender or Impacted Lender. Any amounts owing by a Non-Funding Lender or Impacted Lender to Administrative Agent which are not paid when due shall accrue interest at the interest rate applicable during such period to Loans that are Base Rate Loans. In the event that Administrative Agent is holding cash collateral of a Non-Funding Lender or Impacted Lender that cures pursuant to clause (v) below, ceases to be a Non-Funding Lender pursuant to the definition of Non-Funding Lender or ceases to be an Impacted Lender pursuant to the definition of Impacted Lender, Administrative Agent shall return the unused portion of such cash collateral to such Lender. The " **Aggregate Excess Funding Amount**" of a Non-Funding Lender shall be the aggregate amount of (A) all unpaid obligations owing by such Lender to Administrative Agent, and other Lenders under the Loan Documents.

(v) Cure. A Lender may cure its status as a Non-Funding Lender under clause (a) of the definition of Non-Funding Lender if such Lender fully pays to Administrative Agent, on behalf of the applicable Secured Parties, the Aggregate Excess Funding Amount, plus all interest due thereon. Any such cure shall not relieve any Lender from liability for breaching its contractual obligations hereunder.

(vi) Fees. A Lender that is a Non-Funding Lender or Impacted Lender shall not earn and shall not be entitled to receive, and the Borrowers shall not be required to pay, such Lender's portion of the Delayed Draw Term Loan Commitment Fee during the time such Lender is a Non-Funding Lender or Impacted Lender.

(f) Procedures. Administrative Agent is hereby authorized by each Credit Party and each other Secured Party to establish procedures (and to amend such procedures from time to time) to facilitate administration and servicing of the Loans and other matters incidental thereto. Without limiting the generality of the foregoing, Administrative Agent is hereby authorized to establish procedures to make available or deliver, or to accept, notices, documents and similar items on, by posting to or submitting and/or completion, on E-Systems.

(g) Cashless Settlement. Notwithstanding anything to the contrary contained in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans or Commitments in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower Representative, Administrative Agent and such Lender.

1.12 Benchmark Replacement Settings.

(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 (1) 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 (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 any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the

Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders. 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 and the Collateral 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) Notices; 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 notify the Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to this Section 1,12 and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent, Collateral Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 1,12, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 1.12.

(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 Adjusted Term SOFR Rate or Term SOFR) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may modify the definition of “Interest Period” (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (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 Borrowers' receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower Representative may revoke any pending request for a SOFR Loan, or conversion to or continuation of SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower Representative 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.

1.13 Rates. The Administrative Agent and the Collateral Agent do 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 Base Rate, the Adjusted Term SOFR Rate, Term SOFR Screen Rate or Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Base Rate, the Adjusted Term SOFR Rate, Term SOFR Screen Rate, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and the Collateral Agent and their respective affiliates or other related entities may engage in transactions that affect the calculation of Base Rate, Term SOFR, the Adjusted Term SOFR Rate, Term SOFR Screen Rate, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Borrowers. The Administrative Agent and the Collateral Agent may select information sources or services in their reasonable discretion to ascertain Base Rate, Term SOFR, the Adjusted Term SOFR Rate, Term SOFR Screen Rate or any other Benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrowers, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

ARTICLE II

CONDITIONS PRECEDENT

2.1 Conditions of Initial Loans. The obligation of each Lender to make its initial Loans hereunder on the Closing Date is subject to satisfaction of the following:

(a) Loan Documents. The Agents shall have received, each in form and substance reasonably satisfactory to the Agents and the Lenders: (i) counterparts of this Agreement, executed by a duly authorized officer of each party hereto, (ii) for the account of each Lender requesting a promissory note, a duly executed Note, (iii) counterparts of the Guaranty and Security Agreement and any copyright, patent or trademark security agreement, as applicable, in each case conforming to the requirements of this Agreement and executed by duly authorized officers of the Credit Parties or other Person, as applicable, (iv) counterparts of Limited Guaranty and Pledge Agreements, duly executed by each Jeffrey Hernandez, Daniel Brand, Jake Spellmeyer and Bryan Pereboom, (v) counterparts of the Holdings Pledge Agreement duly executed by Viking Cake BR, LLC, (vi) counterparts of each of the other Loan Documents (other than the Holdings Pledge Agreements of the Holdings Pledgors other than Viking Cake BR, LLCV, such additional Holdings Pledge Agreements to be delivered post-closing in accordance with Section 4.19); (vii) counterparts of the Fee Letter, (viii) incumbency and secretary's certificates, a disbursement letter and a perfection certificate, executed by the duly authorized officers and other applicable signatories of the parties thereto, and (viii) any other instruments, certificates, or documents reasonably requested by the Agents;

(b) Consents. Agents shall have received evidence that all boards of directors, governmental, shareholder and material third party consents and approvals required in connection with the entering into of this Agreement have been obtained, except, in each case, those consents and approvals that have been duly waived.

(c) Legal Opinions. Agents shall have received an opinion of counsel from Perkins Coie LLP, and such other legal counsel, if any, as may be reasonably required by the Agents, including, with respect to opinions on the Investment Company Act and non-contravention, in-house counsel to Holdings, each addressed to the Agents and each Lender, as to matters concerning the Credit Parties and the Loan Documents.

(d) Insurance. Agents shall have received (i) evidence of all policies of insurance required to be maintained hereunder and (ii) certificates naming Collateral Agent as additional insured or lenders loss payee as agent for the Lenders, or showing lender loss payable to Collateral Agent, as appropriate, in each case of clauses (i) and (ii), in form reasonably acceptable to Collateral Agent;

(e) Minimum EBITDA; Total Net Leverage Ratio; Liquidity. Agents shall have received a certificate executed by a Responsible Officer of the Borrower Representative attaching a report from an independent third-party acceptable to the

Agents showing that Consolidated EBITDA of the Borrowers for the period of twelve (12) consecutive months ended December 31, 2021 was at least $15,200,000 (the actual amount so reported being referred to as the "Closing Date EBITDA"), and demonstrating in reasonable detail that, after giving effect to the funding of the Term Loans and Existing Debt Refinancing Transactions, and payment of all costs, fees and expenses in connection therewith, (i) the Total Net Leverage Ratio (calculated using the Closing Date EBITDA) does not exceed 4.91:1.00, and (ii) the Borrowers have Liquidity of at least $7,500,000;

(f) SBA Documents. Agents shall have received that certain SBA Matters Agreement, SBA Form 1031 (U.S. Small Business Administration Portfolio Financing Report), SBA Form 480 (U.S. Small Business Administration Size Status Declaration), and SBA Form 652 (U.S. Small Business Administration Assurance of Compliance for Nondiscrimination), in each case duly completed and executed by the applicable Credit Party;

(g) Solvency Certificate. Agents shall have received a certificate executed by a Responsible Officer of Holdings, attesting to the Solvency of the Credit Parties and their Subsidiaries on a consolidated basis, taken as a whole, after giving pro forma effect to the Related Transactions and the other transactions contemplated on the Closing Date, such certificate to be in the form attached hereto as Exhibit 2.1(g);

(h) Patriot Act; Beneficial Ownership Certification. Agents and Lenders shall have received from each Credit Party, at least three (3) Business Days prior to the Closing Date (to the extent requested by Agents or Lenders in writing at least ten (10) days prior to the Closing Date), (i) a duly executed W-9 (or other applicable tax form), (ii) a duly executed Beneficial Ownership Certification, and (iii) all other documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act;

(i) Background Checks. Administrative Agent shall have completed customary individual background searches for each Credit Party's senior management and key principals required by Administrative Agent, the results of which shall be satisfactory to Agents;

(j) Fees and Expenses. All fees and expenses required to be paid on the Closing Date pursuant to this Agreement and the Fee Letter shall have been paid;

(k) UCC and Other Searches. Agents shall have received copies of UCC, tax, litigation, judgment and bankruptcy searches with respect to the Credit Parties, and other evidence reasonably satisfactory to the Agents that subject only to termination of Liens securing the Existing Debt Agreements, the Liens securing the Secured Obligations are the only Liens upon the assets of the Credit Parties, subject only to Permitted Liens;

(l) Material Adverse Effect. In the reasonable judgment of the Agents, there shall not have occurred any event or condition which could reasonably be expected to result in a Material Adverse Effect;

(m) Required Information; Diligence. (a) The Agents shall have received the Projections and a validation of pro forma, run-rate 2021 financials and the 2022 budget from a third party acceptable to the Agents in their sole discretion, each of which shall be satisfactory to the Agents in their sole discretion, and (b) the Agents shall have completed their business (including management meetings and third-party insurance diligence, legal, and collateral due diligence with respect to the Credit Parties, with results satisfactory to the Agents;

(n) Representations and Warranties; No Defaults. The following statements shall be true on the Closing Date, both immediately before and immediately after giving effect to any Loan (or other credit extensions) made on the Closing Date, and the application of the proceeds thereof:

(i) Each representation and warranty by any Credit Party contained herein or in any other Loan Document is true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true or correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date);

(ii) No Default or Event of Default has occurred and is continuing;

(o) Officer's Closing Certificate. The Agents shall have received a certificate executed by a Responsible Officer of Holdings and the Borrowers attesting that (i) the conditions set forth in Sections 2.1(l) and 2.1(n) above are satisfied, which certificate may be combined with the certificates referenced in Sections 2.1(e) and 2.1(g) above and (ii) attached thereto is are true, correct and complete copies of the form of the Franchise Agreement used by the Credit Parties as of the Closing Date;

(p) Existing Debt Refinancing Transactions.

(i) The Credit Parties shall have delivered (i) payoff letters confirming that existing Indebtedness (outstanding immediately prior to the Closing Date) under each of the Existing Debt Agreements has been, or shall be with the proceeds of the Loans, paid in full (and/or, in the case of the Subordinated Term Loan Obligations, converted to Preferred Equity) and all commitments and liens thereunder terminated, (ii) any Lien release documentation (and authorizations to file or record such release documentation or evidence that such release documentation has been filed or recorded, as applicable) necessary to terminate

such Liens, and (iii) the A&R Holdings LLC Agreement, in form reasonably satisfactory to the Agents and Lenders; and

(ii) The Existing Debt Refinancing Transactions shall have been consummated, or shall be consummated substantially concurrently with the funding of the initial Loans on the Closing Date;

(q) Each Lender shall have received all necessary internal approvals; and

(r) Notice of Borrowing. The Administrative Agent shall have received a Notice of Borrowing with respect to the Term Loans to be advanced on the Closing Date.

For the purpose of determining satisfaction with the conditions specified in this Section 2.1, each Agent and each Lender that has signed and delivered this Agreement shall be deemed to have agreed that each condition under this Section 2.1 shall have been met and shall be deemed to be satisfied with the form thereof in each case, unless each Agent shall have received written notice from such Person specifying its objection thereto and provided the Borrower Representative a copy thereof, in each case, prior to the time such Person shall have released its signature pages hereto.

2.2 Conditions to Certain Borrowings. No Lender shall be obligated to fund any Loan following the Closing Date if as of the date thereof:

(a) the Agent shall have not received a Notice of Borrowing with respect to the Loans to be advanced in accordance with the provisions of this Agreement; and

(b) with respect to any Delayed Draw Term Loan, the Pro Forma Compliance Conditions shall not be satisfied or any Agent shall have determined, in its reasonable discretion, that a Material Adverse Effect shall have occurred and be continuing.

The request by the Borrower Representative and acceptance by the Borrowers of the proceeds of any Loan shall be deemed to constitute, as of the date thereof, (i) a representation and warranty by the Borrowers that the conditions in this Section 2.2 have been satisfied and (ii) a reaffirmation by each Credit Party of the granting and continuance of Collateral Agent's Liens, on behalf of itself and the Secured Parties, pursuant to the Collateral Documents.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

The Credit Parties, jointly and severally, represent and warrant to each Agent and each Lender that the following are, and after giving effect to the consummation of this Agreement and

the other Loan Documents, the funding of the Loans hereunder and the Related Transactions will be, true, correct and complete:

3.1 Corporate Existence and Power. Each Credit Party and each of their respective Subsidiaries:

(a) is a corporation, limited liability company or limited partnership, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, as applicable;

(b) has the requisite power and authority and all necessary governmental licenses, authorizations, Permits, consents and approvals to (i) own its assets and carry on its business and (ii) execute, deliver, and perform its obligations under, the Loan Documents to which it is a party;

(c) is duly qualified as a foreign corporation, limited liability company or limited partnership, as applicable, and licensed and, if applicable, in good standing, under the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification or license; and

(d) is in compliance with all applicable Requirements of Law;

except, in each case referred to in clause (b)(i), clause (c) or clause (d), to the extent that the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.2 Corporate Authorization; No Contravention. The execution, delivery and performance by each of the Credit Parties of this Agreement and any other Loan Document to which such Person is party, (i) have been duly authorized by all necessary corporate, limited liability company or limited partnership action, as applicable, and (ii) do not and will not:

(a) contravene the terms of any of that Person's Organization Documents;

(b) conflict with or result in any material breach or contravention of, or result in the creation of any Lien (other than Liens in favor of Collateral Agent created under the Loan Documents) under, any document evidencing any Contractual Obligation that is material to the Credit Parties to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject except in each case to the extent such could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; or

(c) violate any Requirement of Law in any respect, except to the extent such violation could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.3 Governmental Authorization. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required

in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Agreement, or any other Loan Document except (a) for recordings, filings and other perfection actions in connection with the Liens granted to Collateral Agent under the Collateral Documents, (b) those obtained or made on or prior to the Closing Date, and (c) filings required by applicable Requirements of Law in connection with the exercise of remedies by Collateral Agent.

3.4 Binding Effect. This Agreement and each other Loan Document to which any Credit Party is a party have been duly executed and delivered by such Credit Party. This Agreement and each other Loan Document to which any Credit Party is a party constitute the legal, valid and binding obligations of each such Person which is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

3.5 Litigation. Except as set forth in Schedule 3.5, there are no actions, suits, proceedings, claims or disputes pending, or to the actual knowledge of each Credit Party, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, against any Credit Party, any Subsidiary of any Credit Party or any of their respective Properties:

(a) that purport to affect or pertain in any materially adverse manner to this Agreement, any other Loan Document, or any of the transactions contemplated hereby or thereby; or

(b) that would, or that seek an injunction or other equitable relief that would, reasonably be expected to have a Material Adverse Effect.

As of the Closing Date, no Credit Party or any Subsidiary of any Credit Party has been notified that it is the subject of an audit or, to each Credit Party's knowledge, any review or investigation by any Governmental Authority (excluding the IRS and other taxing authorities) concerning the violation or possible violation of any Requirement of Law.

3.6 No Default or Event of Default. No Default or Event of Default exists or would result immediately from the incurring of any Obligations by any Credit Party or the grant or perfection of Collateral Agent's Liens on the Collateral or the consummation of the Related Transactions. No Credit Party and no Subsidiary of any Credit Party is in default under or with respect to any Contractual Obligation in any respect which, individually or together with all such defaults, could reasonably be expected to have a Material Adverse Effect.

3.7 Compliance with Laws; ERISA Compliance.

(a) Each Credit Party is in compliance with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Schedule 3.7 sets forth, as of the Closing Date, a complete and correct list of, and that separately identifies, (a) all Title IV Plans and (b) all Multiemployer Plans. Each Title IV Plan intended to qualify for tax exempt status under Section 401 of the Code has received a favorable determination letter as to its qualified status or is comprised of a master or prototype plan that has received a favorable opinion letter from the IRS. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (x) each Title IV Plan is in compliance with applicable provisions of ERISA, the Code and other Requirements of Law, (y) there are no existing or pending (or to the knowledge of any Credit Party, threatened in writing) claims (other than routine claims for benefits in the normal course), sanctions, actions or lawsuits involving any Title IV Plan or, to the knowledge of any Credit Party, any Multiemployer Plan with respect to which any Credit Party or any Subsidiary of a Credit Party has incurred or otherwise has or would be reasonably expected to have an obligation or any Liabilities, and (z) no ERISA Event has occurred or is reasonably expected to occur.

3.8 Use of Proceeds; Margin Regulations. The proceeds of the Loans are intended to be and shall be used solely for the purposes set forth in and permitted by Section 4.10, and are intended to be and shall be used in compliance with Section 5.8. No Credit Party and no Subsidiary of any Credit Party is primarily engaged in the business of purchasing or selling Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock. Proceeds of the Loans shall not be used for the purpose of purchasing or carrying Margin Stock. As of the Closing Date, except as set forth on Schedule 3.8, no Credit Party and no Subsidiary of any Credit Party owns any Margin Stock.

3.9 Ownership of Property; Liens; Principal Place of Business. (a) As of the Closing Date, the Real Estate listed in Schedule 3.9 constitutes all of the Real Estate of each Credit Party and each of their respective Subsidiaries. Each of the Credit Parties and each of their respective Subsidiaries has, subject to Permitted Liens, good record and marketable title in fee simple to, or valid leasehold interests in, all material Real Estate, and good and valid title to all material owned personal property and valid leasehold interests in all leased personal property, in each instance, necessary or material to the ordinary conduct of its respective businesses. As of the Closing Date, Schedule 3.9 also describes any purchase options, rights of first refusal or other similar contractual rights pertaining to any Real Estate. All Permits required to have been issued to enable the Real Estate to be lawfully occupied and used for all of the purposes for which it is currently occupied and used have been lawfully issued and are in full force and effect, except to the extent failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Holdings and each Borrower's principal place of business is located at 9170 E. Bahia Drive, Suite 101, Scottsdale, Arizona 85260 (the **"Principal Place of Business"**). All books and records relating to the operations of Holdings and the Borrowers are located solely at the Principal Place of Business.

3.10 Taxes. All federal income Tax returns, reports and statements and all other material Tax returns, reports and statements (collectively, the "**Tax Returns**") required to be filed by any Tax Affiliate within the past six years have been filed, and all material Taxes reflected therein or otherwise due and payable have been paid, except for those contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves are maintained on the books of the appropriate Tax Affiliate in accordance with GAAP. To the knowledge of any Credit Party, as of the Closing Date, no material Tax Return of any Credit Party is under audit or examination by any Governmental Authority and no notice of any audit or examination or any assertion in writing of any claim for material Taxes has been received by any Credit Party from any Governmental Authority.

3.11 Financial Condition.

(a) The Pro Forma Financial Statements were prepared in good faith by or on behalf of Holdings.

(b) Since December 31, 2021 there has been no Material Adverse Effect or any event or circumstance that could reasonably be expected to result in a Material Adverse Effect.

(c) The Projections represent Holdings and the Borrowers' good faith estimate of future financial performance and are based on assumptions believed by Holdings and the Borrowers to be fair and reasonable in light of then current market conditions, in each case, at the time prepared, it being acknowledged and agreed by Agents and Lenders that uncertainty is inherent in any forecasts or projections, projections as to future events or conditions are not to be viewed as facts and that the actual results during the period or periods covered by the Projections may differ materially from the projected results.

3.12 Environmental Matters. Except where any failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (a) the operations of each Credit Party and each Subsidiary of each Credit Party are and have been for the past three (3) years in compliance with all applicable Environmental Laws, including obtaining, maintaining and complying with all Permits required of any Credit Party or any Subsidiary thereof by any applicable Environmental Law, (b) no Credit Party and no Subsidiary of any Credit Party is party to, and no Real Estate currently (x) owned or (y) to the knowledge of any Credit Party, leased, subleased or operated by or for any such Person is subject to or the subject of, any Contractual Obligation or any pending (or threatened in writing) written order, investigation, suit, proceeding, audit, written claim or demand, or written notice of violation of, or potential liability under, any applicable Environmental Law, (c) no Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities has attached to any Property of any Credit Party or any Subsidiary of any Credit Party and, to the knowledge of any Credit Party, no facts, circumstances or conditions exist that would reasonably be expected to result in any such Lien attaching to any such Property, (d) no Credit Party and no Subsidiary of any Credit Party has caused a Release of Hazardous Materials at, to or from any Real Estate except in compliance with Environmental Laws, (e) to the knowledge of any Credit Party, no Release of Hazardous Materials has occurred at, to or from any Real Estate currently

owned, leased, subleased or otherwise operated by any Credit Party or any of their Subsidiaries except in compliance with Environmental Laws, and (f) no Credit Party and no Subsidiary of any Credit Party (i) is engaged in, or has knowingly permitted any current tenant to engage in, operations in violation of any Environmental Law or (ii) knows of any facts, circumstances or conditions reasonably constituting notice of a violation of any Environmental Law by such Credit Party or Subsidiary, including receipt of any information request or notice of potential responsibility under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) or similar Environmental Laws.

3.13 Regulated Entities. None of any Credit Party, any Person controlling any Credit Party, or any Subsidiary of any Credit Party, is (a) an "investment company" within the meaning of the Investment Company Act of 1940 or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any state public utilities code, or any other federal or state statute, rule or regulation limiting its ability to incur Indebtedness, pledge its assets or perform its obligations under the Loan Documents.

3.14 Solvency. Immediately after giving effect to (a) the Loans made and Letters of Credit Issued on or prior to the date this representation and warranty is made or remade, (b) the disbursement of the proceeds of such Loans to or as directed by the Borrower Representative, (c) the consummation of the Related Transactions, and (d) the payment and accrual of all transaction costs in connection with the foregoing, the Credit Parties on a consolidated basis are Solvent.

3.15 Labor Relations. There are no strikes, work stoppages, slowdowns or lockouts existing, pending (or, to the knowledge of any Credit Party, threatened in writing) against or involving any Credit Party or any Subsidiary of any Credit Party, except for those that could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Except as set forth on Schedule 3.15, as of the Closing Date, (a) there is no collective bargaining or similar agreement with any union, labor organization, works council or similar representative covering any employee of any Credit Party or any Subsidiary of any Credit Party, (b) no petition for certification or election of any such representative is existing or pending with respect to any employee of any Credit Party or any Subsidiary of any Credit Party and (c) to the knowledge of any Credit Party, no such representative has sought certification or recognition with respect to any employee of any Credit Party or any Subsidiary of any Credit Party.

3.16 Intellectual Property. Each Credit Party and each Subsidiary of each Credit Party owns, is licensed to use or otherwise has the right to use, all Intellectual Property necessary to conduct its business as currently conducted except for such Intellectual Property the failure of which to own or license could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; provided, however, that the foregoing representation and warranty in this Section 3.16 shall not constitute or be deemed or construed as any representation or warranty with respect to infringement, misappropriation, dilution or violation of any Intellectual Property (which is addressed in the following sentence). To the knowledge of each Credit Party, (a) the conduct and operations of the businesses of each Credit Party and each Subsidiary of each Credit Party does not infringe, misappropriate, dilute or violate any

Intellectual Property owned by any other Person and (b) as of the Closing Date, no other Person is contesting in writing any right, title or interest of any Credit Party or any Subsidiary of any Credit Party in any Intellectual Property, other than, in each case, as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.17 Brokers' Fees; Transaction Fees. Except as disclosed on Schedule 3.17 and except for fees payable to Agents and Lenders, none of the Credit Parties or any of their respective Subsidiaries has any obligation to any Person in respect of any finder's, broker's or investment banker's fee in connection with the transactions contemplated by this Agreement to occur on or around the Closing Date.

3.18 Insurance. Each of the Credit Parties and each of their respective Subsidiaries and their respective Properties are insured with financially sound and reputable insurance companies which are not Affiliates of the Credit Parties, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses of the similar size and character as the business of the Credit Parties and, to the extent relevant, owning similar Properties in localities where such Person operates. A true and complete listing of such insurance, including issuers, coverages and deductibles, as of the Closing Date, is listed on Schedule 3.18.

3.19 Ventures, Subsidiaries and Affiliates; Outstanding Stock. Except as set forth in Schedule 3.19, as of the Closing Date, no Credit Party and no Subsidiary of any Credit Party (a) has any Subsidiaries, or (b) is engaged in any joint venture or partnership with any other Person. All issued and outstanding Stock and Stock Equivalents of each of the Credit Parties and each of their respective Subsidiaries, that, in each case, constitute Collateral, are duly authorized and validly issued, fully paid, non-assessable (if applicable), and, with respect to the Stock and Stock Equivalents of Holdings, the Borrowers and other Subsidiaries of the Borrowers that, in each case, constitute Collateral, free and clear of all Liens other than those in favor of Collateral Agent, for the benefit of the Secured Parties, and Permitted Liens arising by operation of law. All such securities were issued in compliance with all applicable state and federal laws concerning the issuance of securities. All of the issued and outstanding Stock of each Credit Party (other than Holdings) and each Subsidiary of each Credit Party, in each case, as of the Closing Date and after giving effect to the Related Transactions, is owned by each of the Persons and in the amounts set forth in Schedule 3.19. Except as set forth in Schedule 3.19, as of the Closing Date, there are no pre-emptive or other outstanding rights to purchase, options, warrants or similar rights or agreements pursuant to which any Credit Party may be required to issue, sell, repurchase or redeem any of its Stock or Stock Equivalents or any Stock or Stock Equivalents of its Subsidiaries. Set forth in Schedule 3.19 is a true and complete organizational chart of Holdings and all of its Subsidiaries as of the Closing Date after giving effect to the Related Transactions.

3.20 Jurisdiction of Organization; Chief Executive Office. Schedule 3.20 lists each Credit Party's jurisdiction of organization, legal name and organizational identification number, if any, and the location of such Credit Party's chief executive office or sole place of business, in each case as of the Closing Date.

3.21 Deposit Accounts and Other Accounts. Schedule 3.21 lists all banks and other financial institutions, securities intermediary or commodity intermediary at which any Credit Party maintains deposit, securities, commodities or other similar accounts as of the Closing Date, and such Schedule correctly identifies the name, address and telephone number with respect to each depository or intermediary, the name in which the account is held, a description of the purpose of the account, and the complete account number therefor.

3.22 Bonding. Except as set forth in Schedule 3.22, as of the Closing Date, no Credit Party is a party to or bound by any surety bond agreement, indemnification agreement therefor or bonding requirement with respect to products or services sold by it.

3.23 Status as Senior Indebtedness. All Obligations, shall constitute "Senior Indebtedness" pursuant to (i) the Subordination Agreement, and (ii) any intercreditor or subordination agreements related to Subordinated Indebtedness (other than the Subordinated Term Loan Obligations).

3.24 Full Disclosure. None of the written statements about any Credit Party or any of its Subsidiaries, in each case, contained in any report, written statement or certificate (other than any statement which constitutes projections, forward looking statements, budgets, estimates or general market data) furnished by or on behalf of any Credit Party or any of their Subsidiaries to the Agents or any Lender in connection with the Loan Documents (excluding representations of information of a general or industry-specific nature and excluding financial projections, forecasts, budgets or other forward-looking statements), taken as a whole, contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not materially misleading as of the time when made or delivered (other than any general industry information, budgets and projections delivered to Agents and/or the Lenders in accordance with the terms hereof).

3.25 Foreign Assets Control Regulations; Anti-Money Laundering; Anti-Corruption Practices.

(a) Each Credit Party and each Subsidiary of each Credit Party is in compliance in all material respects with all U.S. economic sanctions laws, Executive Orders and implementing regulations ("**Sanctions**") as administered by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**") and the U.S. State Department. No Credit Party and no Subsidiary of a Credit Party (i) is a Person on the list of the Specially Designated Nationals and Blocked Persons (the "**SDN List**"), (ii) is a person who is otherwise the target of U.S. economic sanctions laws such that a U.S. person cannot deal or otherwise engage in business transactions with such person, (iii) is a Person organized or resident in a country or territory subject to comprehensive Sanctions (a "**Sanctioned Country**"), or (iv) is owned or controlled by (including by virtue of such Person being a director or owning voting shares or interests), or acts, directly or indirectly, for or on behalf of, any Person on the SDN List or a government of a Sanctioned Country such that the entry into, or performance under, this Agreement or any other Loan Document would be prohibited by U.S. law.

(b) Each Credit Party and each Subsidiary of each Credit Party is in compliance with all applicable laws related to terrorism or money laundering including: (i) all applicable requirements of the Currency and Foreign Transactions Reporting Act of 1970 (31 U.S.C. 5311 et. seq., (the Bank Secrecy Act)), as amended by Title III of the USA Patriot Act, (ii) the Trading with the Enemy Act, (iii) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (66 Fed. Reg. 49079), any other enabling legislation, executive order or regulations issued pursuant or relating thereto and (iv) other applicable federal or state laws relating to "know your customer" or anti-money laundering rules and regulations. No action, suit or proceeding by or before any court or Governmental Authority with respect to compliance with such anti-money laundering laws is pending or threatened in writing to the knowledge of each Credit Party and each Subsidiary of each Credit Party.

(c) Each Credit Party and each Subsidiary of each Credit Party is in compliance in all material respects with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act of 1977 ("**FCPA**") and the U.K. Bribery Act 2010 ("**Anti-Corruption Laws**"). None of the Credit Parties or any Subsidiary, nor to the knowledge of any Credit Party, any director, officer, agent, employee, or other person acting on behalf of such Credit Party or any Subsidiary, has taken any action, directly or indirectly, that would result in a violation by such Credit Party or any Subsidiary of applicable Anti-Corruption Laws. The Credit Parties and each Subsidiary will, to the extent necessary or applicable to their business, maintain policies and procedures designed to promote compliance with applicable Anti-Corruption Laws.

3.26 Leases. There is a Lease in force for each Unit Location which is ground leased or space leased by any Credit Party. No default by any party exists under any such Lease that could reasonably be expected to result in termination of such Lease, nor has any event occurred which, with the passage of time or the giving of notice, or both, would constitute such a default, except in each case, to the extent any such default could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Schedule 3.26 is a complete and correct listing of all Leases as of the Closing Date.

3.27 Store Locations; Franchised Store Locations. Part (a) of Schedule 3.27 sets forth a complete and accurate list of all Store locations owned or operation by any Credit Party or any Subsidiary of a Credit Party as of the Closing Date. Part (b) of Schedule 3.27 sets forth a complete and accurate list of all Franchised Store Locations franchised by any Franchisor to any Franchisee as of the Closing Date.

3.28 Franchise Agreements.

(a) Schedule 3.28 sets forth a complete and accurate list of all Franchise Agreements as of the Closing Date.

(b) Each Franchise Agreement is in full force and effect, except to the extent the failure of any such Franchise Agreement to remain in full force and effect, either individually or in the aggregate with all other such failures with respect to Franchise

Agreements, could not reasonably be expected to have a Material Adverse Effect, without any amendment or modification from the form delivered to the Agents on the Closing Date, except for amendments permitted hereunder and which do not materially and adversely affect the rights of the Lenders.

3.29 SBA Matters. Holdings and each other Credit Party acknowledges that certain of the Lenders are or may from time to time be or become a Small Business Investment Company (as defined in the SBIA), subject to the rules and regulations contained in and promulgated under the SBIA. As of the Closing Date, each Credit Party, together with its "affiliates" (for purposes of this paragraph only, as that term is defined in Title 13, Code of Federal Regulations, § 121.103), is a Small Business Concern (as defined in the SBIA). Neither Holdings nor any of its Subsidiaries presently engages in, and shall not hereafter engage in any activities for which a Small Business Concern is prohibited from engaging in under the SBIA, no shall any such Person use directly or indirectly the proceeds of the Loans for any purpose for which a Small Business Investment Company is prohibited from providing funds by the SBIA.

ARTICLE IV

AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date:

4.1 Financial Statements. Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, a system of accounting established and administered in accordance with sound business practices to permit the preparation of financial statements in conformity with GAAP (provided that unaudited interim financial statements shall not be required to have footnote disclosures and are subject to normal year-end adjustments). The Borrower Representative shall deliver to Administrative Agent (for delivery to each Lender) by Electronic Transmission and, solely with respect to Section 4.1(b), in customary form or otherwise in detail reasonably satisfactory to each Agent:

(a) as soon as available, but in any event not later than one hundred twenty (120) days after the end of each Fiscal Year, a copy of the audited consolidated balance sheets of Holdings and its Subsidiaries as at the end of such Fiscal Year and the related consolidated statements of income or operations, shareholders' equity and cash flows for such Fiscal Year, setting forth commencing with the audited financial statements for the 2022 Fiscal Year, in each case, in comparative form the figures for the previous Fiscal Year, and accompanied by the report of any "Big Four" independent certified public accounting firm (or any other independent certified public accounting firm reasonably acceptable to Agent) which report shall (i) state that such consolidated financial statements (solely with respect to the financial statements and not comparisons) present fairly in all material respects the financial position for the periods indicated in conformity with GAAP applied on a basis consistent with prior years ending after the Closing Date (except for such year to year inconsistencies as may arise due to a change in GAAP permitted hereunder) and (ii) be unqualified as to scope and going concern;

(b) as soon as available, but in any event not later than forty-five (45) days after the end of each Fiscal Quarter of each Fiscal Year, a copy of the unaudited consolidated balance sheet of Holdings and its Subsidiaries, and the related consolidated statements of income and cash flows as of the end of such Fiscal Quarter and for the portion of the Fiscal Year then ended, all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrowers as being complete and correct in all material respects and fairly presenting, in all material respects and in accordance with GAAP, the financial position and the results of operations of Holdings and its Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures; and

(c) as soon as available, but in any event not later than thirty (30) days after the end of each of the first two Fiscal Months of each Fiscal Quarter (other than with respect to the Fiscal Months of May, 2022 and July, 2022, in which case, not later than forty-five (45) days after the end of each such Fiscal Month), a copy of the unaudited consolidated balance sheets of Holdings and its Subsidiaries, and the related consolidated statements of income and cash flows as of the end of such Fiscal Month and for the portion of the Fiscal Year then ended, setting forth in each case in comparative form the figures for the corresponding Fiscal Month of the previous Fiscal Year and the corresponding Fiscal Month set forth in the applicable annual budget delivered to the Agents pursuant to the terms hereof and the corresponding portion of the previous Fiscal Year and the corresponding portion of the Fiscal Year as set forth in the applicable annual budget delivered pursuant to Section 4.2(d), all in reasonable detail, and all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrowers as being complete and correct in all material respects and fairly presenting, in all material respects, in accordance with GAAP, the financial position and the results of operations of Holdings and its Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures; provided that, if as of the last day of the applicable Fiscal Month, there is no principal outstanding with respect to the Loans, the Credit Parties shall not be required to deliver any financial statements pursuant to this Section 4.1(e) with respect to such Fiscal Month.

4.2 Certificates; Other Information. The Borrower Representative shall furnish to Administrative Agent (copies of which shall be delivered or otherwise made available by Administrative Agent to each Lender) by Electronic Transmission:

(a) (i) concurrently with the delivery of the financial statements referred to in Sections 4.1(a) and 4.1(b), a management discussion and analysis report, in reasonable detail, signed by the chief financial officer (or, if there is no chief financial officer, other financial officer that is a Responsible Officer of the Borrowers) of the Borrowers, describing the operations and financial condition of the Credit Parties and their Subsidiaries for the Fiscal Quarter and the portion of the Fiscal Year then ended, (ii) concurrently with the delivery of the financial statements referred to in Section 4.1(b) and 4.1(c), a report setting forth in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year and, if applicable, the corresponding

figures from the most recent projections for the current Fiscal Year delivered pursuant to Section 4.2(d) and discussing the reasons for any significant variations, (iii) in the case of the financial statements referred to in Section 4.1(c), same store sales in comparative form and (iv) in the case of the financial statements referred to in Section 4.1(b), an updated Development Overview Report;

(b) concurrently with the delivery of the financial statements referred to in Sections 4.1(a) and 4.1(b), a fully and properly completed certificate in the form of Exhibit 4.2(b) (a "**Compliance Certificate**"), certified on behalf of the Borrowers by a Responsible Officer of the Borrowers, which shall include a list of, if any, (1) changes to any Credit Party's or any of its Subsidiaries' legal name, jurisdiction of incorporation, organization or formation or organizational form, (2) Permitted Acquisition or formation of a Subsidiary or acquisitions by a Credit Party or any of its Subsidiaries of all or substantially all of the assets of, or mergers or consolidations of a Credit Party or any of its Subsidiaries with or into, a Person, (3) the occurrence of any event described in Section 1.8(c) or (d), (4) changes to any Credit Party's principal place of business or chief executive office or acquisitions by a Credit Party of fee simple title to any real property with a fair market value in excess of $1,000,000 and (5) changes, with respect to any Material Intellectual Property (as defined in the Guaranty and Security Agreement), in the information of the type required to be set forth on Schedule 5 of the Guaranty and Security Agreement on the Closing Date for such Grantor, except for changes that have been disclosed in prior Compliance Certificates delivered to Administrative Agent;

(c) promptly after the same are filed, copies of all financial statements and regular, periodic or special reports which any Credit Party or any Subsidiary of a Credit Party may make to, or file with, the Securities and Exchange Commission or any successor or similar Governmental Authority;

(d) as soon as available and in any event no later than thirty (30) days after the last day of each Fiscal Year of the Borrowers, an annual budget and projections of the Credit Parties (and their Subsidiaries) consolidated financial performance for such Fiscal Year on a month-by-month basis, including assumptions made in the build-up of the budget, along with the related consolidated statements of income, shareholders' equity and cash flows for such Fiscal Year and a calculation of the financial covenants set forth in Section 6.1 for each Fiscal Quarter contained therein (it being acknowledged and agreed by Agents and Lenders that uncertainty is inherent in any forecasts or projections, projections as to future events or conditions are not to be viewed as facts and that the actual results and financial covenants during the period or periods covered by the projections may differ materially from the projected results);

(e) promptly upon receipt thereof, copies of all final management reports submitted by the Borrowers' certified public accountants in connection with each annual audit to the extent permitted by such accountants and subject to a customary non-reliance letter;

(f) from time to time, if Collateral Agent reasonably determines that obtaining appraisals is necessary in order for Agents or any Lender to comply with applicable laws or regulations (including any appraisals required to comply with FIRREA), Collateral Agent may, or may require the Borrowers to, in either case at the Borrowers' reasonable expense (but in no event more than one time in any Fiscal Year: provided, however, that the foregoing limitation shall not apply if an Event of Default has occurred and is continuing), obtain appraisals in form and substance (it being understood that "substance" shall not include the value of the collateral being appraised, which value shall not be subject to satisfaction of Agents or any Lender) and from appraisers reasonably satisfactory to Collateral Agent stating the then current fair market value of all or any portion of the personal property of any Credit Party or any Subsidiary of any Credit Party and the fair market value or such other value as determined by Collateral Agent (for example, replacement cost for purposes of Flood Insurance) of any Real Estate of any Credit Party or any Subsidiary of any Credit Party; provided that if the Collateral Agent obtains any appraisal pursuant to this Section 4.2(f), the Collateral Agent shall, upon the request of the Borrowers, provide or otherwise make available a copy of such appraisal to the Borrowers; and

(g) [Reserved];

(h) promptly following either Agent's written request therefor, such additional business or financial information and updated perfection certificate as such Agent may from time to time reasonably request; provided that the Agents shall not request an updated perfection certificate more than one time per Fiscal Year; provided, however, that the foregoing limitation shall not apply if an Event of Default has occurred and is continuing.

4.3 Notices. The Borrowers shall promptly notify each Agent of each of the following (and, except as otherwise specifically set forth in clauses (e)(ii) and (e)(iii) below, in no event later than five (5) Business Days) after a Responsible Officer becoming aware thereof:

(a) the occurrence or existence of any Default or Event of Default;

(b) any dispute, litigation, investigation, proceeding or suspension which may exist at any time between any Credit Party or any Subsidiary of any Credit Party and any Governmental Authority which could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(c) the commencement of, or any material development in, any litigation or proceeding affecting any Credit Party or any Subsidiary of any Credit Party or its respective property (i) in which the amount of monetary damages claimed is $500,000 or more, (ii) which, if adversely determined, could reasonably be expected to have a Material Adverse Effect, or (iii) in which the relief sought is an injunction or other stay of the performance of this Agreement, or any other Loan Document;

(d) (i) the receipt by any Credit Party of any written notice of material violation of or potential liability or similar written notice under Environmental Law which could reasonably be expected to result in (A) a Material Adverse Effect or (B) monetary liability in excess of $500,000, (ii)(A) unpermitted Releases by any Credit Party on or from the Real Estate in violation of Environmental Law, (B) the existence of any condition that would reasonably be expected to result in violations by any Credit Party or any Subsidiary of a Credit Party of Environmental Law or Environmental Liabilities or (C) the commencement of, or any material change to, any action, investigation, suit, proceeding, audit, claim, demand or dispute alleging a violation by any Credit Party or any Subsidiary of a Credit Party of Environmental Law or Environmental Liability which in the case of clauses (A), (B) and (C) above, could reasonably be expected to result in (1) monetary liability in excess of $500,000 or (2) a Material Adverse Effect and (iii) the receipt by any Credit Party of written notification that any Property of any Credit Party is subject to any Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities that could reasonably be expected to result in (A) monetary liability in excess of $500,000 or (B) a Material Adverse Effect;

(e) (i) upon any filing by any Credit Party or any Subsidiary of a Credit Party, or promptly upon a Credit Party obtaining knowledge of the filing by an ERISA Affiliate, of any notice of (A) any reportable event under Section 4043 of ERISA (other than reportable events with respect to which the 30-day notice requirement has been duly waived under the applicable regulations) with respect to any Title IV Plan or (B) intent to terminate any Title IV Plan, which in the case of either clause (A) or (B) above, could reasonably be expected to result in (1) monetary liability in excess of $500,000 or (2) a Material Adverse Effect, a copy of such notice, (ii) promptly, and in any event within ten (10) days, after any officer of any Credit Party or any Subsidiary of a Credit Party knows or has reason to know that a request for a minimum funding waiver under Section 412 of the Code has been filed with respect to any Title IV Plan, a notice describing such waiver request and any action that any Credit Party proposes to take with respect thereto, together with a copy of any notice filed with the PBGC or the IRS pertaining thereto; and (iii) promptly, and in any event within ten (10) days, after any officer of any Credit Party or any Subsidiary of a Credit Party knows or has reason to know that an ERISA Event has occurred that could, either individually or in the aggregate, result in (A) monetary liability in excess of $1,500,000 or (B) a Material Adverse Effect, a notice describing such ERISA Event, together with a copy of any notices received from or filed with the PBGC, IRS or Multiemployer Plan pertaining thereto;

(f) any Material Adverse Effect subsequent to the date of the most recent audited financial statements of Holdings and its Subsidiaries delivered to Administrative Agent pursuant to this Agreement;

(g) any material change in accounting policies or financial reporting practices by any Credit Party or any Subsidiary of any Credit Party; and

(h) any labor controversy resulting in, or which would reasonably be expected to result in, any strike, work stoppage, boycott, shutdown or other labor disruption against or involving any Credit Party or any Subsidiary of any Credit Party if the same could, either individually or in the aggregate, reasonably be expected to result in (i) monetary liability in excess of $500,000 or (ii) a Material Adverse Effect.

Each notice pursuant to this Section 4.3 shall be in electronic form accompanied by a statement by a Responsible Officer of the Borrowers, setting forth reasonable details of the occurrence referred to therein, and, if applicable, stating what action the Borrowers or other Person proposes to take with respect thereto and at what time. Each notice under Section 4.3(a) shall describe with particularity any provisions of this Agreement or other Loan Document that have been breached or violated to the extent such breach or violation constitutes a Default or an Event of Default.

4.4 Preservation of Corporate Existence, Etc. Each Credit Party shall, and shall cause each of its Subsidiaries to:

(a) preserve and maintain in full force and effect its organizational existence and good standing under the laws of its jurisdiction of incorporation, organization or formation, as applicable, except as permitted by Section 5.3;

(b) preserve and maintain in full force and effect all rights, privileges, qualifications, permits, licenses and franchises necessary in the normal conduct of its business except as permitted by Sections 5.2 and 5.3 and except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(c) preserve or renew all of its registered Trademarks, Patents and Copyrights the non-preservation of which could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; and

(d) conduct its business and affairs without knowingly infringing or violating any Intellectual Property of any other Person in any material respect and comply in all material respects with the terms of its IP Licenses except in each case as could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.5 Maintenance of Property. Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, and preserve all its Property (other than abandoned Property left on leased premises following the termination of a Lease) which is necessary for the operation of the business of the Borrowers and their Subsidiaries in good working order and condition, ordinary wear and tear, casualty and condemnation excepted and shall make all reasonably necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.6 Insurance.

(a) Each Credit Party shall, and shall cause each of its Subsidiaries to, (i) maintain or cause to be maintained in full force and effect all policies of insurance of any kind with respect to the Property and businesses of the Credit Parties and such Subsidiaries with financially sound and reputable insurance companies or associations (in each case that are not Affiliates of the Borrowers) of a nature and providing such coverage as is customarily carried by businesses of the size and character of the business of the Credit Parties and (ii) cause all such insurance (other than workers' compensation insurance, directors and officers insurance and employee health and welfare insurance) relating to any Property or business of any Credit Party to name Collateral Agent as additional insured or lenders loss payee as agent for the Lenders, as appropriate. All policies of insurance on real and personal Property of the Credit Parties will contain an endorsement, in form and substance reasonably acceptable to Collateral Agent, naming Collateral Agent as lenders loss payee as agent for the Lenders (with such endorsement, or an independent instrument furnished to Collateral Agent, providing that the insurance companies will give Collateral Agent at least thirty (30) days' (or ten (10) days' in the case of non-payment) prior written notice before any such policy or policies of insurance shall be altered or canceled and that no act or default of the Credit Parties or any other Person shall affect the right of Collateral Agent to recover under such policy or policies of insurance in case of loss or damage). If any insurance proceeds are paid by check, draft or other instrument payable to any Credit Party and Collateral Agent jointly, during the occurrence and continuance of an Event of Default Agent may endorse such Credit Party's name thereon and do such other things as Collateral Agent may deem advisable to reduce the same to cash. In addition to the obligations set forth in Sections 4.6(a) and 4.13, within thirty (30) days after written notice from Collateral Agent to the Credit Parties that any improved Real Estate is located in a Special Flood Hazard Area in the United States, the Credit Parties shall satisfy the Federal Flood Insurance requirements of Section 4.6(a).

(b) Unless the Credit Parties provide Collateral Agent with evidence of the insurance coverage required by this Agreement annually prior to the expiration of each such policy and in any event within ten (10) Business Days of Collateral Agent's request after such expiration, Collateral Agent may in its reasonable business judgment and upon written notice to the Borrower Representative purchase insurance at the Credit Parties' expense necessary (as reasonably determined by Collateral Agent) to protect Collateral Agent's and Lenders' interests, including interests in the Credit Parties' and their Subsidiaries' properties. This insurance may, but need not, protect the Credit Parties' and their Subsidiaries' interests. The coverage that Collateral Agent purchases may not pay any claim that any Credit Party or any Subsidiary of any Credit Party makes or any claim that is made against such Credit Party or any Subsidiary in connection with said Property. The Borrower Representative may later cancel any insurance purchased by Collateral Agent, but only after providing Collateral Agent with evidence that there has been obtained insurance as required by this Agreement. If Collateral Agent purchases insurance, the Credit Parties will be responsible for the reasonable and documented costs

of that insurance, including interest and any other charges Collateral Agent may impose in connection with the placement of insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance shall be added to the Obligations. The costs of the insurance may be more than the cost of insurance the Borrowers may be able to obtain on its own.

4.7 Payment of Taxes. Each Credit Party shall, and shall cause each of its Subsidiaries to, pay, discharge or otherwise satisfy as the same shall become due and payable (after giving effect to any cure periods, if applicable), all material Tax liabilities, assessments and governmental charges or levies upon it or its Property, unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the enforcement of any Lien and for which adequate reserves in accordance with GAAP are being maintained by such Person.

4.8 Compliance with Laws. Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.9 Inspection of Property and Books and Records. Each Credit Party shall maintain and shall cause each of its Subsidiaries to maintain proper books of record and account, in which full, true and correct entries in all material respects and in conformity with GAAP consistently applied (except as disclosed therein) shall be made of all material financial transactions and material matters involving the assets and business of such Person. Each Credit Party shall, and shall cause each of its Subsidiaries to, with respect to each owned, leased, or controlled property, during normal business hours and upon reasonable advance notice (unless an Event of Default shall have occurred and be continuing, in which event no notice shall be required and Agents shall have access at any and all times during the continuance thereof): (a) provide access to such property to Agents and any of their respective Related Persons, as frequently as either Agent reasonably determines to be appropriate but, unless an Event of Default shall have occurred and be continuing, Agents or any of its related Persons shall only be permitted to make one such visit per year hereunder, without material disruption to the business or causing material undue burden on such Credit Party; and (b) permit Agents and any of their respective Related Persons to conduct field examinations, audit, inspect, and make extracts and copies from all of such Credit Party's books and records, and evaluate and make physical verifications and appraisals of the Inventory and other Collateral in any manner and through any medium that either Agent reasonably considers advisable, in each instance, at the Credit Parties' reasonable expense; provided that, so long as no Default or Event of Default has occurred and is continuing, (i) the Credit Parties shall only be obligated to reimburse Agents for the expenses of one (1) such field examination, audit and inspection per calendar year in accordance with Section 9.5 and (ii) during such field examination, no contact shall be made by either Agent, any Lender or any of their Related Persons with the Account Debtors of any of the Credit Parties or their Subsidiaries in their capacities as Account Debtors of Credit Parties or their Subsidiaries. Any Lender may accompany Agents or their respective Related Persons in connection with any inspection at such Lender's expense.

4.10 Use of Proceeds.

(a) The Borrowers shall use the proceeds of the Term Loan A (i) on the Closing Date (1) to finance the Existing Debt Refinancing Transactions, or (2) to pay fees and expenses associated with the funding of the Loans and the Related Transactions and required to be paid pursuant to Section 2.1, or (ii) after the Closing Date, to provide for working capital and other general corporate purposes;

(b) The Borrowers shall use proceeds of the Delayed Draw Term Loans for Permitted Acquisitions, new Store development costs, capital expenditures and working capital;

(c) [Reserved];

(d) [Reserved].

(e) Each Credit Party shall ensure that no Credit Party shall suffer or permit any of its Subsidiaries to, use any portion of the Loan proceeds, directly or indirectly, to purchase or carry Margin Stock or repay or otherwise refinance Indebtedness of any Credit Party incurred to purchase or carry Margin Stock, or otherwise in any manner which is in material contravention of any material Requirement of Law.

4.11 Cash Management Systems. Within sixty (60) days after the Closing Date (as such date may be extended by the Agents in their sole discretion), each Credit Party shall enter into, and cause each depository bank, securities intermediary or other financial institution to enter into, Control Agreements with respect to each of the deposit or securities accounts of such Credit Party (other than (a) any payroll account, payroll tax account, benefit account, other employee wage and benefit account or zero balance account, (b) petty cash and other bank and securities accounts, amounts on deposit in which do not exceed $500,000 in the aggregate at any one time, and (c) withholding tax and fiduciary accounts, escrow accounts, accounts containing customer funds and other accounts in which any Credit Party solely holds funds on behalf of any third party (such excluded accounts, "**Excluded Accounts**"), and other than as may be agreed by the Collateral Agent in writing in its sole discretion). It is agreed and understood that the Credit Parties shall have until the date that is sixty (60) days following the closing date of any Acquisition or other Investment permitted hereby (or such later date as may be agreed to by Agents in their sole discretion) with regard to accounts (other than Excluded Accounts) acquired by the Credit Parties in connection with such Permitted Acquisition or other Investment to comply with the provisions of this Section 4.11 with respect to each deposit, securities or commodity account of such Credit Party and maintained by such Person (other than any Excluded Account).

4.12 Further Assurances.

(a) Promptly, but in any event subject to the express limitations set forth in the Loan Documents, upon reasonable request by Agent, the Credit Parties shall (and, subject to the limitations set forth herein and in the Collateral Documents, shall cause

each of their Subsidiaries to) take such additional actions and execute such documents as either Agent may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement or any other Loan Document, (ii) to subject to the Liens created by any of the Collateral Documents any of the Properties, rights or interests covered by any of the Collateral Documents, (iii) to, subject to customary "Funds Certain Provisions" acceptable to Collateral Agent with respect to perfection of Liens on assets acquired in a Permitted Acquisition or other Investment permitted hereunder, perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and the Liens intended to be created thereby, and (iv) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to the Agents the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document. Without limiting the generality of the foregoing and except as otherwise approved in writing by Required Lenders, the Credit Parties shall cause each of their Subsidiaries (other than Excluded Subsidiaries), within thirty (30) days (or such later date as may be agreed by Agents in their sole discretion) after formation or acquisition thereof (or, in the event of any Excluded Subsidiary ceasing to constitute an Excluded Subsidiary, the date of such event), to guaranty the Obligations and to cause each such Subsidiary to grant to Collateral Agent, for the benefit of the Secured Parties, a security interest in, subject to the limitations set forth herein and in the Collateral Documents, all or substantially all of such Subsidiary's Property to secure such guaranty. Furthermore and except as otherwise approved in writing by Required Lenders, each Credit Party shall pledge all of the outstanding Stock and Stock Equivalents (other than Excluded Equity (as defined in the Guaranty and Security Agreement)) of its Subsidiaries, in each instance, to Agent, for the benefit of the Secured Parties, to secure the Obligations, within the time period required by the Guaranty and Security Agreement. The Credit Parties shall deliver, or cause to be delivered, to Agents, appropriate resolutions, secretary certificates, certified Organization Documents and, if requested by Agents, customary legal opinions relating to the matters described in this Section 4.12 (which opinions shall be in form and substance reasonably acceptable to Agents) in each instance with respect to each Credit Party formed or acquired after the Closing Date. In connection with each pledge of Stock and Stock Equivalents, the Credit Parties shall deliver, or cause to be delivered, to Collateral Agent, irrevocable proxies and stock powers and/or assignments, as applicable, duly executed in blank, within the time period required by the Guaranty and Security Agreement. In the event any Credit Party acquires fee title to any Real Estate with a fair market value in excess of $1,000,000, within sixty (60) days after (or such later date as may be agreed by Agent in its sole discretion) such acquisition, such Person shall execute and/or deliver, or cause to be executed and/or delivered to Collateral Agent, (x) an appraisal complying with FIRREA (to the extent such appraisal is required by FIRREA or other Requirement of Law), (y) a fully executed Mortgage, in form and substance reasonably satisfactory to Collateral Agent and (z) to the extent reasonably requested by the Collateral Agent, (I) an A.L.T.A. lender's title insurance policy issued by a title insurer reasonably satisfactory to Collateral Agent, in form and substance and in an amount reasonably satisfactory to Collateral Agent insuring that the Mortgage is a valid and enforceable first priority Lien on the respective property, free and clear of all defects, encumbrances and Liens other than Permitted Liens, (II) then

current A.L.T.A. surveys, certified to Collateral Agent by a licensed surveyor sufficient to allow the issuer of the lender's title insurance policy to issue such policy without a survey exception and (III) to the extent reasonably requested in writing by the Collateral Agent, an environmental site assessment prepared by a qualified firm reasonably acceptable to Collateral Agent, in form reasonably satisfactory to Collateral Agent. In addition to the obligations set forth in Section 4.6(a), within sixty (60) days (or such later date as may be agreed by Agent in its sole discretion) after written notice from Collateral Agent to the Credit Parties that any improved Real Estate is located in a Special Flood Hazard Area, the Credit Parties shall promptly take such action as is necessary to satisfy the Flood Insurance requirements of Section 4.6(a).

(b) Within ten (10) Business Days (or such later date as may be agreed by the Agents in their sole discretion) after any order(s) entered in connection with the Roasters Litigation which prohibit BRSO PNW from granting liens on its assets is no longer effective, take actions and execute such documents as either Agent may reasonably require from time to time in order to cause BRSO PNW to (i) comply with all provisions of the Guaranty and Security Agreement relating to granting Liens on all or substantially all of its assets and (ii) take any other such actions as the Collateral Agent may require in its sole discretion to perfect the Liens of the Collateral Agent.

(c) Notwithstanding the foregoing, Holdings and its Subsidiaries shall not be required to grant or perfect the Collateral Agent's security interest under any foreign law unless required by the Agent in its reasonable discretion.

4.13 Environmental Matters. Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with, and maintain its Real Estate to the extent required of any Credit Party or Subsidiary thereof under applicable Environmental Law or Contractual Obligation, whether owned, leased, subleased or operated, in compliance with, all applicable Environmental Laws (including by implementing any Remedial Action required of such Credit Party or such Subsidiary necessary to achieve such compliance), except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Without limiting the foregoing, if an Event of Default is continuing and Agent has a reasonable basis to believe that there exist material violations of Environmental Laws by any Credit Party or any Subsidiary of any Credit Party or that there exists any Material Adverse Effect resulting therefrom, then each Credit Party shall, promptly upon receipt of request from Agent, cause the performance of, and allow Agent and its Related Persons access to such Real Estate for the purpose of conducting, such environmental audits and assessments, including subsurface sampling of soil and groundwater to the extent not prohibited under any Contractual Obligation with regard to any leased or subleased Real Estate, and cause the preparation of such reports, in each case as Agent may from time to time reasonably request. Such audits, assessments and reports, to the extent not conducted by Agent or any of its Related Persons, shall be conducted and prepared by reputable environmental consulting firms reasonably acceptable to Agents and shall be in form and substance reasonably acceptable to Agents.

4.14 Landlord Agreements. Within sixty (60) days after the Collateral Agent's request therefor, with respect to any lease, warehouse agreement or other arrangement (a) at any location where Collateral having a fair market value in excess of $100,000 (as determined in good faith by the Borrower Representative) is or may be stored or located, (b) material books and records are or will be stored or located, (c) where primary roasting facilities are located, or (d) where the business headquarters of a Credit Party is located, each Credit Party shall, at the written request of the Collateral Agent, use commercially reasonable efforts to obtain a Collateral Access Agreement from the lessor of each leased property or bailee in possession of any Collateral for which Collateral Agent has requested a Collateral Access Agreement.

4.15 Compliance with Terms of Franchise Agreements. Each Credit Party shall, and shall cause each of its Subsidiaries to, (a) make all payments and otherwise perform all obligations in respect of Franchise Agreements to which any Credit Party or Subsidiary is a party, (b) keep such Franchise Agreements in full force and effect, (c) not allow such Franchise Agreements to lapse or be terminated or any rights to renew such Franchise Agreements to be forfeited or cancelled and (d) notify the Agents of any default by any party with respect to such Franchise Agreements and promptly cure any such default, other than, in each case of clauses (a) through (d) where the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.16 Compliance with Terms of Leases. Each Credit Party shall, and shall cause each of its Subsidiaries to, (a) make all payments and otherwise perform all obligations in respect of all Leases to which any Credit Party or Subsidiary is a party, (b) keep all such Leases in full force and effect, (c) not allow such Leases to lapse or be terminated or any rights to renew such Leases to be forfeited or cancelled, and (d) notify the Collateral Agent of any default by any party with respect to such Leases and promptly cure any such default, except, in any case, where the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect.

4.17 Board Observation Rights. Agents shall have the right to, from time to time, designate (e-mail designation to the Borrower Representative being sufficient for the following purposes) one (1) representative for both Agents to: (a) receive prior written notice of all meetings (both regular and special) of the board of directors (or equivalent governing body) of each Credit Party and each committee thereof (such notice to be given in the same manner and at the same time as notice is given to the members of such body and/or committee); (b) be entitled to attend (or, at the option of such representative, monitor by telephone) all such meetings; and (c) receive all notices, information and reports which are furnished or made available to the members of such body and/or committee at the same time and in the same manner as the same is furnished or made available to such members, except that these observers may be excluded from access to any meeting or portion thereof (as well as the distribution of materials and minutes related thereto) if the applicable Credit Party determines in good faith upon advice of counsel that such exclusion is reasonably necessary to preserve the attorney-client privilege or if matters of conflict of interest to the Agents or any Lender are being discussed. If any action is proposed to be taken by such board of directors (or equivalent governing body) and/or committee by written consent in lieu of a meeting, the Borrower Representative will provide the Administrative

Agent (and the Administrative Agent agrees to provide to the Collateral Agent) with prior written notice thereof (such notice to be given in the same manner and at the same time as notice is given to the members of such body and/or committee) and, upon either Agent's request, furnish or cause to be furnished to such representative a copy of each such written consent promptly after it has become effective, unless the applicable Credit Party determines in good faith that such provision is reasonably likely to affect the attorney-client privilege upon advice of counsel or that such matter involves a conflict of interest with any Agent or Lender. Such representative shall not constitute a member of such body and/or committee and shall not be entitled to vote on any matters presented at meetings of such body and/or committee or to consent to any matter as to which the consent of any such body and/or committee shall have been requested. The Credit Parties will pay (or reimburse) upon request by any such representative for all reasonable out-of-pocket expenses incurred by such representative in connection with attending such meetings.

4.18 SBA Matters.

(a) Upon the request of any Lender that is a Small Business Investment Company (as defined in the SBIA), repay such Lender's Loan in full (including the applicable prepayment fee), in immediately available funds, in the event that any Borrower or any other Credit Party changes the nature of its business within one year after the Closing Date (or, if applicable, any later borrowing date hereunder in a manner that would cause such Lender to have provided funds to such Borrower or any other Credit Party pursuant to this Agreement or any other Loan Documents in violation of 13 C.F.B. §§ 107.700-107.760 (as amended from time to time).

(b) Upon the request of any Lender that is a Small Business Investment Company (as defined in the SBIA) or the SBA, (i) submit to such Lender and/or the SBA timely and accurate compliance reports at such times and in such form and containing such information as the SBA may determine to be necessary to enable the SBA to ascertain whether Holdings and each other Credit Party have complied or are complying with 13 C.F.R. Part 112 ("Part 112"), (ii) submit to such Lender such information as may be necessary to enable such Lender to meet its reporting requirements under Part 112, and (iii) permit the SBA to have access with advance written notice and during normal business hours to such of its books, records, accounts and other sources of information, and its facilities as may be pertinent to ascertain compliance with Part 112. Where any information required of Holdings or any other Credit Party is in the exclusive possession of any other agency, institution or Person and such agency, institution or Person shall fail or refuse to furnish this information, Holdings and each other Credit Party shall so certify in its report and shall set forth what efforts it has made to obtain this information.

4.19 Post-Closing Obligations. Each Credit Party agrees to deliver or to cause to be delivered to Agents, in form and substance reasonably satisfactory to Agent, the items described below and on Schedule 4.19 on or before the dates specified with respect to such items, or such

later dates as may be agreed to by Agents, in their sole discretion. On or before May 30, 2022, the Credit Parties shall deliver or cause to be delivered to the Collateral Agent:

(i) the duly executed Holdings Pledge Agreements of each of the Holdings Pledgors (other than Viking Cake BR, LLC which shall deliver its Holdings Pledge Agreement on the Closing Date), each substantially in the form delivered by Viking Cake BR, LLC on the Closing Date;

(ii) an opinion of counsel to the Holdings Pledgors acceptable to the Agents in their sole discretion, as to the due authorization, execution and delivery of each of the Holdings Pledge Agreements, the enforceability thereof, no conflicts with the underlying trust agreements, perfection of the Lien of the Collateral Agent on the Pledged Collateral described therein, and such other matters as may reasonably be required by the Collateral Agent; and

(iii) payment of all fees and expenses incurred by the Collateral Agent (including reasonable legal fees and expenses) in connection with items covered by this Section 4.19 (including Schedule 4.19)

ARTICLE V

NEGATIVE COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date:

5.1 Limitation on Liens. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, directly or indirectly, make, create, incur, assume or suffer to exist any Lien upon or with respect to any part of its Property, whether now owned or hereafter acquired, other than the following ("**Permitted Liens**"):

(a) any Lien existing on the Property of a Credit Party or a Subsidiary of a Credit Party on the Closing Date and set forth in Schedule 5.1, including extensions and renewals thereof and replacement Liens on the Property currently subject to such Liens;

(b) any Lien created under any Loan Document, Secured Rate Contract or Bank Product;

(c) Liens for Taxes, fees, assessments or other governmental charges (i) which are not past due or remain payable without penalty, or (ii) the non-payment of which is permitted by Section 4.7;

(d) carriers', warehousemen's, mechanics', landlords', contractors', materialmen's, repairmen's or other similar Liens and arising in the Ordinary Course of Business which are not delinquent for more than ninety (90) days or remain payable without penalty or remedy or which are being contested in good faith and by appropriate proceedings diligently prosecuted, which proceedings have the effect of preventing the

forfeiture or sale of the Property subject thereto and for which adequate reserves in accordance with GAAP are being maintained;

(e) Liens (other than any Lien imposed by ERISA) consisting of pledges or deposits required in the Ordinary Course of Business in connection with (i) workers' compensation, unemployment insurance and other social security legislation or to secure the performance of tenders, statutory obligations, performance, surety, stay, customs and appeals bonds, bids, leases, governmental contract, trade contracts, performance and return of money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money) or to secure liability to insurance carriers and (ii) obligations in respect of letters of credit or bank guarantees that have been posted by the Borrowers or any of their Subsidiaries to support payment of items set forth in clause (i) above;

(f) Liens consisting of judgment or judicial attachment liens (other than for payment of Taxes); provided that (i) the enforcement of such Liens is (1) effectively stayed or (2) is fully covered by a valid and binding policy of insurance between the defendant and the insurer covering full payment thereof and such insurer has been notified, and has not disputed the claim made for payment or the amount of such judgment and (ii) the existence of such judgment does not give rise to an Event of Default;

(g) easements, servitudes, rights-of-way, zoning and other restrictions, minor defects or other irregularities in title, and other similar encumbrances which, either individually or in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the Property subject thereto or interfere in any material respect with the ordinary conduct of the business of any Credit Party or any Subsidiary thereof;

(h) Liens on any Property acquired or held by any Credit Party or any Subsidiary of any Credit Party securing Indebtedness incurred or assumed for the purpose of financing (or refinancing) all or any part of the cost of acquiring such Property and permitted under Section 5.5(d); provided that (i) any such Lien attaches to such Property concurrently with or within sixty (60) days after the acquisition thereof, (ii) such Lien attaches solely to the Property so acquired in such transaction and the proceeds thereof, and (iii) the principal amount of the debt secured thereby does not exceed 100% of the cost of such Property as determined at the time such Lien initially attaches to such Property plus fees and expenses incurred in connection with the acquisition thereof;

(i) Liens securing, and interests and title of lessors in respect of, Capital Lease Obligations permitted under Section 5.5(d);

(j) any interest or title of a lessor, sublessor, licensor, sublicensor, franchisor or similar person granted under any lease, sublease, license, sublicense, grant, franchise or permit in the Ordinary Course of Business not prohibited by this Agreement;

(k) Liens arising from precautionary uniform commercial code (or personal property security law) financing statements filed under any lease not prohibited by this Agreement;

(l) non-exclusive licenses and sublicenses granted by a Credit Party or any Subsidiary of a Credit Party (including any non-exclusive license or sublicense of Intellectual Property) and leases and subleases (by a Credit Party or any Subsidiary of a Credit Party as lessor or sublessor) to third parties in the Ordinary Course of Business not interfering in a material respect with the business of any Credit Party or any Subsidiary thereof;

(m) Liens (i) in favor of collecting banks arising by operation of law under Section 4-210 of the UCC or, with respect to collecting banks located in the State of New York, under Section 4-208 of the UCC, or (ii) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the Ordinary Course of Business;

(n) Liens (including the right of set-off) in favor of a bank or other depository institution arising as a matter of law encumbering deposits and Liens that are granted by contract (including contractual rights of set-off) relating to the establishment of depository and cash management relations with banks not given in connection with the issuance of Indebtedness and which are customary to the banking industry;

(o) Liens (i) in favor of customs and revenue authorities arising as a matter of law which secure payment of customs duties in connection with the importation of goods in the Ordinary Course of Business or (ii) on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods in the Ordinary Course of Business;

(p) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 5.4;

(q) Liens pursuant to Secured Rate Contracts to secure obligations thereunder to the extent such Secured Rate Contracts are permitted hereunder;

(r) Liens arising out of consignment or similar arrangements for the sale of goods permitted by this Agreement and entered into by the Borrowers or any Subsidiary of the Borrowers in the Ordinary Course of Business;

(s) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to cash and Cash Equivalents on deposit in one or more accounts maintained by any Credit Party, in each case granted in the Ordinary Course of Business and are customary in the banking industry in favor of the bank or banks with which such

accounts are maintained, securing amounts owing to such bank or banks with respect to cash management and operating account arrangements;

(t) Liens arising on any Real Estate as a result of any eminent domain, condemnation or similar proceeding being commenced with respect to such Real Estate;

(u) receipt of progress payments and advances from customers in the Ordinary Course of Business to the extent the same creates a Lien;

(v) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto to the extent permitted under Section 5.5(i);

(w) Liens attaching solely to cash earnest money deposits in connection with Investments permitted under Section 5.4 (including any letter of intent related thereto);

(x) Liens on Property, and only such Property, which is the subject of a proposed asset disposition permitted hereunder, which Liens secure the obligation of a Credit Party or any Subsidiary of a Credit Party under the relevant asset purchase agreement;

(y) Liens on Property acquired pursuant to a Permitted Acquisition or on property or assets of a Subsidiary of the Borrowers in existence at the time such Subsidiary is acquired pursuant to a Permitted Acquisition; provided that (x) any Indebtedness secured by such Liens is permitted to exist under Section 5.5(o) and (y) such Liens are not incurred in connection with, or in contemplation or anticipation of, such Permitted Acquisition and do not attach to any other Property of Holdings or any of its Subsidiaries other than the proceeds or products thereof; and

(z) Liens on cash posted as cash collateral in favor of any issuer of letters of credit issued for the account of the Credit Parties or their Subsidiaries securing reimbursement obligations permitted under Section 5.5(s); provided that the amount of cash collateral subject to such Liens shall not exceed the amount of reimbursement obligations permitted to be incurred under Section 5.5(s).

5.2 Disposition of Assets. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, directly or indirectly, sell, assign, lease, convey, transfer or otherwise dispose of (whether in one or a series of transactions) any Property (including the Stock of any Subsidiary of any Credit Party, whether in a public or private offering or otherwise, and accounts and notes receivable, with or without recourse), except:

(a) dispositions of Inventory and non-exclusive licenses and sublicenses of Intellectual Property and dispositions or abandonment of obsolete, worn-out or surplus equipment no longer used or useful in the business of the Borrowers and their Subsidiaries, taken as a whole, all in the Ordinary Course of Business;

(b) dispositions not otherwise permitted hereunder which are made for fair market value; provided that the Credit Parties will not sell or otherwise dispose of Intellectual Property (except in transactions entered into in the Ordinary Course of Business and permitted by Section 5.1(j) or 5.1(l)), without the consent of the Agents, and (i) at the time of any disposition, no Default or Event of Default shall exist or shall immediately result from such disposition, (ii) not less than 75% of the aggregate sales price from such disposition shall be paid in cash, (iii) the aggregate fair market value of all assets sold by the Credit Parties and their Subsidiaries pursuant to this clause (b), together, shall not exceed $500,000 in any Fiscal Year, and (iv) on a pro forma basis after giving effect to any such disposition, the Credit Parties are in compliance with the financial covenants set forth in Section 6.1, in each case as recomputed for the most recently ended Measurement Period;

(c) (i) conversions of Cash Equivalents into cash or other Cash Equivalents and cash into Cash Equivalents and (ii) the use of cash in the Ordinary Course of Business or transactions permitted hereunder;

(d) transactions permitted under Section 5.1(j) or 5.1(l);

(e) cancellation, termination or surrender by any Credit Party or any Subsidiary of any Credit Party of any lease in the Ordinary Course of Business;

(f) voluntary termination of Rate Contracts permitted under this Agreement;

(g) dispositions resulting from any casualty, other insured damage, or any taking under power of eminent domain or by condemnation or similar proceeding;

(h) the lapse or abandonment of any registrations or applications for registration of any Intellectual Property owned by or filed in the name of any Credit Party and deemed by any Credit Party, in its reasonable business judgment, to no longer be material to the conduct of the business of the Borrowers and their Subsidiaries, taken as a whole, or to the extent no longer economically desirable in the conduct of their business;

(i) the sale, assignment, lease, conveyance, transfer or other disposition of Property by (i) Holdings or any of its Subsidiaries to any Credit Party (other than Holdings), and (ii) any Subsidiary of Holdings that is not a Credit Party to any Subsidiary of Holdings (other than Holdings);

(j) (i) any disposition or issuance by Holdings of its own Stock or Stock Equivalents (other than to the extent resulting in an Event of Default pursuant to Section 7.1(k)) and (ii) dispositions or issuances by any Subsidiary of its own Stock and Stock Equivalent to qualify directors if and to the extent required by applicable law;

(k) to the extent constituting dispositions, Liens expressly permitted by Section 5.1, Investments expressly permitted under Section 5.4, Restricted Payments expressly permitted under Section 5.8 or a transaction expressly permitted under

Section 5.3, in each case, to the extent not otherwise permitted by this Section 5.2 or with general reference hereto;

(l) the termination or unwinding of any permitted Rate Contract in accordance with its terms;

(m) dispositions of delinquent Accounts in the Ordinary Course of Business in connection with the compromise, settlement or collection thereof (and not as part of any financing transaction), including the sales, forgiveness or discounting of past due accounts or the settlement of delinquent accounts;

(n) the liquidation, wind up or dissolution of any Subsidiary so long as all the assets of such liquidating, winding up or dissolving Subsidiary are transferred to a Credit Party that is not liquidating, winding up or dissolving;

(o) dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) all or substantially all of the proceeds of such disposition are reasonably promptly applied to the purchase price of such replacement property;

(p) disposition of leased Real Estate in the Ordinary Course of Business;

(q) any settlement, surrender or waiver of contractual rights or litigation claims in the Ordinary Course of Business;

(r) dispositions of equity interests in joint ventures pursuant to the documentation governing such joint ventures;

(s) non-exclusive licenses, sublicenses, leases or subleases granted to third parties in the Ordinary Course of Business; and

(t) other dispositions of assets not material or necessary to the business of a Credit Party or a Subsidiary with a fair market value not in excess of $500,000 in the aggregate in any Fiscal Year.

5.3 Consolidations and Mergers. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, (x) merge, consolidate with or into, or (y) convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of the assets (whether now owned or hereafter acquired) of the Credit Parties and their Subsidiaries, taken as a whole, to or in favor of any Person, except that (a) any Subsidiary of a Borrower may merge with, or dissolve or liquidate into, such Borrower or any Subsidiary of such Borrower; provided that, to the extent a Borrower or another Credit Party is a party to such transaction, the Borrower or such other Credit Party, as applicable, shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent, shall have been completed, (b) any Excluded Subsidiary may merge or

dissolve or liquidate into another Excluded Subsidiary or any Domestic Subsidiary of a Borrower to the extent if a Domestic Subsidiary (other than an Excluded Subsidiary), is a party to such transaction, such Domestic Subsidiary shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent shall have been completed, and (c) any Subsidiary may merge with and into any other Person in order to effectuate an acquisition or Disposition permitted by Section 5.2 and/or Section 5.4; provided that, in connection with any acquisition, if such Subsidiary is a Credit Party, such Subsidiary shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent, shall have been completed.

5.4 Loans and Investments. No Credit Party shall and no Credit Party shall suffer or permit any of its Subsidiaries to (i) purchase or acquire any Stock or Stock Equivalents, or any obligations or other securities of, or any interest in, any Person, or (ii) make any Acquisitions, including by way of merger, consolidation or other combination or (iii) make, purchase or acquire, or commit to make, purchase or acquire, any advance, loan, extension of credit or capital contribution to or any other investment in, any Person including the Borrowers, any Affiliate of the Borrowers or any Subsidiary of a Borrower (the items described in clauses (i), (ii) and (iii) are referred to as "**Investments**"), except for:

(a) Investments in cash and Cash Equivalents;

(b) Investments consisting of (i) capital contributions or other Investments by Holdings in the Borrowers, (ii) extensions of credit, capital contributions or other Investments by any Credit Party to or in any other then existing Credit Party (other than Holdings); provided that, until such time as BRSO PNW shall have granted a Lien on all of its assets to the Collateral Agent and otherwise complied with the provisions of Section 4.12(b), Investments described in this clause (ii) to or in BRSO PNW shall not exceed $200,000 at any one time outstanding, (iii) extensions of credit or capital contributions by the Borrowers or any other Credit Party to or in any Subsidiary of a Borrower that is not a Credit Party not to exceed $500,000 in the aggregate at any time outstanding for all such extensions of credit and capital contributions; provided that, if the Investments described in foregoing clauses (i), (ii) and (iii) are evidenced by notes, to the extent required under the Guaranty and Security Agreement, such notes shall be pledged to Collateral Agent, for the benefit of the Secured Parties, (iv) extensions of credit or capital contributions by a Foreign Subsidiary of a Borrower to or in other Foreign Subsidiaries of such Borrower and (v) extensions of credit by any Subsidiary to any Credit Party (other than Holdings); provided that any such extension of credit by a Subsidiary that is not a Credit Party to a Credit Party shall be subordinated to the Obligations on terms reasonably acceptable to the Collateral Agent;

(c) loans and advances to employees, officers and directors in the Ordinary Course of Business not to exceed $100,000 in the aggregate at any time outstanding;

(d) Investments received as the non-cash portion of consideration received in connection with transactions permitted pursuant to Section 5.2(b);

(e) Investments acquired in connection with the settlement of delinquent Accounts in the Ordinary Course of Business or in connection with the bankruptcy or reorganization of suppliers or customers;

(f) Investments consisting of non-cash loans made by a Credit Party to officers, directors and employees of a Credit Party which are used by such Persons to purchase contemporaneously Stock or Stock Equivalents of Holdings;

(g) Investments existing on the Closing Date and set forth on Schedule 5.4 and any modifications, renewals or extensions thereof (in each case other than any increase in the amount thereof);

(h) Investments comprised of Contingent Obligations permitted by Section 5.5(b);

(i) Permitted Acquisitions;

(j) advances of payroll payments to employees in the Ordinary Course of Business;

(k) Investments by Holdings and its Subsidiaries in their respective Subsidiaries existing as of the Closing Date;

(l) guaranty obligations in respect of leases (other than Capital Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the Ordinary Course of Business;

(m) Investments in deposit accounts and securities accounts opened in the Ordinary Course of Business and in compliance with Section 4.11;

(n) (i) endorsements for collection or deposit in the Ordinary Course of Business consistent with past practice, (ii) extensions of trade credit (other than to Affiliates of the Borrowers) arising or acquired in the Ordinary Course of Business, and (iii) Investments received in settlement in the Ordinary Course of Business of such extensions of trade credit;

(o) to the extent constituting Investments, pledges and deposits in the Ordinary Course of Business to the extent expressly permitted by Section 5.1;

(p) Investments in Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation;

(q) Investments consisting of loans or advances to Holdings in lieu of any Restricted Payments permitted under Section 5.8 at the time of any such loan or advance;

provided that such loans or advances shall count against any caps or limitations set forth in the applicable clause of Section 5.8;

(r) Investments held by a Target which is acquired in connection with an Acquisition permitted hereby so long as such Investments were not created in anticipation of such Acquisition;

(s) Investments consisting of trade payables incurred in the Ordinary Course of Business;

(t) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable (including, without limitation, bank notes issued to and in favor of a Borrower and their Subsidiaries by local banking institutions as additional credit support for such receivables in connection with foreign operations) arising from the grant of trade credit in the Ordinary Course of Business; and

(u) other Investments in an aggregate amount not to exceed $500,000 in the aggregate at any time outstanding; provided that no Default or Event of Default has occurred and is continuing or would arise as a result of such Investment.

In determining the amount of Investments permitted under this Section 5.4, the amount of any Investment outstanding at such time shall be the aggregate cash Investment by the applicable Person at the time such Investment is made, less all cash dividends or other cash distributions on equity or returns on capital (but, in each case, only to the extent actually received in cash) received by such Person with respect to that particular Investment.

5.5 Limitation on Indebtedness. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, create, incur, assume, permit to exist, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

(a) the Secured Obligations;

(b) Contingent Obligations of any Credit Party with respect to Indebtedness of any Credit Party (other than Holdings) otherwise permitted under this Section 5.5;

(c) Indebtedness existing on the Closing Date and set forth in Schedule 5.5 and Permitted Refinancings thereof;

(d) Indebtedness of the Credit Parties and their Subsidiaries consisting of Capital Leases or Indebtedness incurred to provide all or a portion of the purchase price of an asset and any Permitted Refinancings thereof; provided that (i) such Indebtedness when incurred shall not exceed the purchase price of such asset and (ii) the total amount of all such Indebtedness shall not exceed $1,000,000 at any time outstanding;

(e) unsecured intercompany Indebtedness permitted pursuant to Section 5.4;

(f) Except as set forth in Schedule 5.5(f), Indebtedness consisting of Contingent Acquisition Consideration, which, together with clause (q) hereof, shall not exceed $2,500,000 at any one time outstanding;

(g) unsecured Indebtedness of Holdings or any of its Subsidiaries to former, future or current officers, directors, consultants or employees of Holdings or any of its Subsidiaries or their respective estates to finance the purchase or redemption of Stock of Holdings and any Permitted Refinancings thereof; provided that the applicable Restricted Payment is permitted by Section 5.8;

(h) Indebtedness in respect of bank overdrafts or returned items, netting services, automatic clearinghouse arrangements, employee credit card programs, drafts payable for payroll and other cash management and similar arrangements incurred in the Ordinary Course of Business;

(i) Indebtedness consisting of unpaid insurance premiums owing to insurance companies and insurance brokers incurred in connection with the financing of insurance premiums in the Ordinary Course of Business;

(j) to the extent constituting Indebtedness, unsecured deferred compensation to employees of Holdings and its Subsidiaries incurred in the Ordinary Course of Business;

(k) to the extent constituting Indebtedness, obligations under Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation;

(l) customary reimbursement or indemnity obligations incurred in the Ordinary Course of Business with respect to (x) appeal bonds, performance bonds, bids, trade contracts, governmental contracts and leases (other than for the repayment of Indebtedness) in an aggregate amount not to exceed $100,000 at any one time outstanding, for obligations described in this clause (x), and (y) statutory obligations, workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance;

(m) non-cash accruals of interest, accretion or amortization of original issue discount and/or pay-in-kind interest with respect to Indebtedness permitted under this Section 5.5;

(n) Indebtedness outstanding under corporate credit cards or corporate charge cards for expenditures made in the Ordinary Course of Business;

(o) Indebtedness of a Target existing at the time the Target is acquired (by acquisition, merger, consolidation or otherwise) pursuant to an Acquisition permitted hereby, or Indebtedness assumed by a Borrower or its Subsidiaries in respect of assets acquired by such Person pursuant to such Acquisition, but only to the extent such

Indebtedness (i) existed at the time such Acquisition was consummated and was not incurred in connection with, as a result of, or in contemplation of, such Acquisition, (ii) to the extent secured, is only secured by Property acquired in connection with such Acquisition (and is not secured by a blanket lien on all or substantially all such Property) and (iii) does not exceed an amount equal to $1,000,000 in the aggregate at any time outstanding for all such Indebtedness and any Permitted Refinancings thereof;

(p) Indebtedness arising from the endorsement of negotiable instruments for collection in the ordinary course of business;

(q) to the extent constituting Indebtedness, the obligations to make purchase price adjustments, indemnities, earn-outs, non-competition, deferred compensation, working capital adjustments or similar adjustments incurred in connection with any Acquisition, any other Investment or any disposition, in each case, permitted hereunder, which, together with clause (f) hereof, shall not exceed $2,500,000 at any one time outstanding;

(r) so long as no Default or Event of Default exists at the time any such Indebtedness is incurred, other unsecured Indebtedness not exceeding $1,000,000 in the aggregate at any time outstanding;

(s) Indebtedness in respect of reimbursement obligations in favor of any issuer of letters of credit issued for the account of the Credit Parties or their Subsidiaries in an amount not exceeding $100,000 in the aggregate at any time outstanding;

(t) Indebtedness arising under indemnity agreements to title insurers to cause such title insurers to issue to Collateral Agent title insurance policies; and

(u) [Reserved];

(v) [Reserved];

(w) to the extent constituting Indebtedness, the Preferred Equity Obligations.

Notwithstanding the foregoing, no Subsidiary that is a not Credit Party will guarantee any Indebtedness for borrowed money of a Credit Party unless such Subsidiary becomes a Guarantor.

5.6 Transactions with Affiliates. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, enter into any transaction with any Affiliate of the Borrowers or of any such Subsidiary, except:

(a) transactions (i) solely among and between Credit Parties not prohibited by this Agreement and (ii) transactions solely among Subsidiaries that are not Credit Parties;

(b) transactions pursuant to the reasonable requirements of the business of such Credit Party or such Subsidiary upon fair and reasonable terms no less favorable to

such Credit Party or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of the Borrowers or such Subsidiary;

(c) employment, indemnity and severance arrangements (stock option and other compensation plans and benefit programs) between any Credit Party or their Subsidiaries and their members of management, officers and employees in the Ordinary Course of Business;

(d) solely to the extent not otherwise permitted by this Section 5.6, transactions with Affiliates expressly referred to and permitted by Section 5.8;

(e) [reserved];

(f) subject to compliance with the requirements of the Guaranty and Security Agreement, issuances of Stock or Stock Equivalents (other than Disqualified Stock) that do not cause an Event of Default; and

(g) the Related Transactions.

5.7 Inventory Locations. The Borrowers will not permit Inventory or any other Collateral having a fair market value in excess of $20,000 to be stored or located at any location including premises owned or leased by any Credit Party or with a bailee, consignee or other Person, except the roasting facilities located at 3004 NE 112th Avenue, Suite A, Vancouver, Washington 98682 and 1102 West Geneva Drive, Tempe, Arizona 85282.

5.8 Restricted Payments. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to (i) make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any Stock or Stock Equivalent, (ii) purchase, redeem or otherwise acquire for value any Stock or Stock Equivalent now or hereafter outstanding, (iii) make any payment or prepayment of principal of, premium, if any, interest, fees, redemption, exchange, purchase, retirement, defeasance, sinking fund or similar payment with respect to Subordinated Indebtedness (including the Preferred Equity Obligations), (iv) make any payment on account of any return of capital to its stockholders, partners or members (or the equivalent Persons thereof) or (v) make any payment or prepayment of Contingent Acquisition Consideration (the items described in clauses (i), (ii), (iii), (iv) and (v) above are referred to as "**Restricted Payments**"), except that:

(a) Holdings may declare and make dividend payments or other distributions payable solely in its Stock or Stock Equivalents;

(b) the Borrowers make distributions, directly or indirectly, to Holdings, which are promptly used by Holdings to redeem from current or former officers, directors and employees (or their current or former spouses, heirs, estates, estate planning vehicles and family members) (or to pay amounts owing under promissory notes issued in connection with the prior redemption from any such person), but excluding, in all cases,

Founder Group Members, Stock and Stock Equivalents (including to repurchase fractional shares) provided all of the following conditions are satisfied:

(i) the aggregate Restricted Payments permitted (x) in any Fiscal Year of the Borrowers shall not exceed $250,000 per Fiscal Year (with unused amounts in any Fiscal Year carried forward and available in succeeding Fiscal Years) and (y) during the term of this Agreement shall not exceed $1,000,000 unless such Restricted Payments are funded solely with the Net Issuance Proceeds of any substantially concurrent issuance of Stock or Stock Equivalents (other than issuances of Disqualified Stock) or with the proceeds of any substantially concurrent contribution of cash to one or more Borrowers made by Holdings; and

(ii) the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions at the time of making such Restricted Payment;

(c) in the event the Borrowers file a consolidated, combined, unitary or similar type income Tax return with Holdings, the Borrowers may make distributions to Holdings (and Holdings may make distributions to its equity owners) in an amount equal to the amount that would have been payable by the Borrowers and their Subsidiaries had the Borrowers not filed a consolidated, combined, unitary or similar type return with Holdings;

(d) the Credit Parties may make payments, as and when due and payable, on (i) Contingent Acquisition Consideration described in Schedule 5.8 and (ii) other Contingent Acquisition Consideration if, with respect to clause (ii), after giving effect to such payment or distribution on a pro forma basis, the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions;

(e) [reserved];

(f) Upon (i) consummation of the Equity Recap Transactions, and (ii) concurrent satisfaction of the Pro Forma Compliance Conditions, as certified by a Responsible Officer of the Borrower Representative in a certificate addressed to the Agents setting forth in reasonable detail the calculations demonstrating such compliance, Holdings may make (and to the extent necessary, the Borrowers may make distributions to Holdings in amounts sufficient to enable Holdings to pay) the following distributions in an aggregate amount not to exceed the amount of net proceeds to Holdings of the Equity Recap Transactions: (1) pay to the holders of Series A-1 Preferred Units (as defined in the A&R Holdings LLC Agreement) an amount up to the amount necessary to fully redeem the Series A-1 Preferred Units; and (2) next, to the extent of any remaining net proceeds of the Equity Recap Transactions and so long as the foregoing distribution to the holders of the Series A-1 Preferred Units under clause (1) reduced the Series A-1 Aggregate Liquidation Preference Amount (as defined in the A&R Holdings LLC Agreement) to less than or equal to $65,000,000 to consummate some or all of the Existing Preferred Unit Redemption; and/or make a distribution in accordance with the

A&R Holdings LLC Agreement (the distributions referred to in clauses 1 and 2 are collectively referred to as the "Equity Recap Distributions").

(g) Holdings may (and, to the extent necessary, the Borrowers may make distributions, to Holdings in amounts sufficient to enable Holdings to pay) Restricted Payments to one or more of the Founder Group Members and holders of the Series A-2 Preferred Units in accordance with the A&R Holdings LLC Agreement, provided all of the following conditions are satisfied: (i) the amount of such Restricted Payments do not exceed an aggregate of $600,000 per Fiscal Year and (ii) the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions at the time of making each such Restricted Payment and after giving effect thereto;

(h) (i) any Credit Party may make dividends and distributions to any other Credit Party (other than Holdings), and (ii) any Subsidiary of a Credit Party may make dividends and distributions to a Credit Party (other than Holdings); and

(i) So long as no Default or Event of Default has occurred and is continuing, or would result from any such payment, the Borrowers may make distributions to Holdings to enable Holdings to (x) make Tax Advances (as defined in, and in accordance with, Section 7.04 of the A&R Holdings LLC Agreement) and (y) pay or reimburse certain costs of members of Holdings in accordance with the terms of the A&R Holdings LLC Agreement as in effect on the date hereof.

5.9 Change in Business; Status as Holding Company. (a) No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in any line of business substantially different from those lines of business carried on by the Credit Parties and their Subsidiaries on the Closing Date and activities reasonably related or complementary thereto, and (b) Holdings shall not (i) engage in any business activities or own any Property other than (A) ownership of the Stock and Stock Equivalents of the Borrowers, (B) activities and contractual rights incidental to maintenance of its organizational existence, (C) the execution and delivery of, and performance of its obligations under, and the Loan Documents to which it is a party, (D) activities expressly permitted under Sections 5.3, 5.4(b)(iii), 5.6 and 5.8, (E) participating in tax, accounting and other administrative activities as the parent of the consolidated group of companies, including the Credit Parties (including providing indemnification to directors, officers, employees, and consultants), (F) guarantees of Indebtedness and other obligations permitted under Loan Documents, (G) granting of non-consensual Liens arising by operation of law that are permitted by Section 5.1, (H) activities necessary or advisable to consummate the Related Transactions and comply with the documentation related thereto and (I) activities incidental or related to the business or activities described in clause (A) through (I) above, and (ii) not permit the Credit Parties and their Subsidiaries to expand their business by opening new Stores to be owned or operated by any Excluded Subsidiaries; it being understood and agreed that, from and after the Closing Date, all expansion of the business of the Credit Parties and their Subsidiaries, such as the opening of new Stores shall be undertaken by Credit Parties.

5.10 Changes in Organization Documents; Name and Jurisdiction of Organization. Except as expressly permitted under Section 5.3, no Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to amend any of its Organization Documents in any respect that is materially adverse to Agents or Lenders. No Credit Party shall (i) change its name as it appears in official filings in its jurisdiction of organization or (ii) change its jurisdiction of organization or the location of its chief executive office or sole place of business, in each case without providing prior written notice to Collateral Agent within twenty (20) days before such change (or such shorter period as Agents may agree in their sole discretion). The Credit Parties agree not to effect or permit any change referred to in the preceding sentence unless all filings have been made (or arrangements have been approved by Agent for such filings to be made) under the UCC or otherwise that are required in order for Agent to continue at all times following such change to have a valid, legal and perfected Liens in all the Collateral and, thereafter, taking all actions reasonably determined by Collateral Agent as necessary to continue the perfection of its Liens.

5.11 Changes in Accounting. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, (a) without the consent of the Agent, make any significant change in accounting treatment or reporting practices, except as required by GAAP or (b) change the Fiscal Year or method for determining Fiscal Quarters of any Credit Party or of any consolidated Subsidiary of any Credit Party; provided that the fiscal year of a Target under an Acquisition may be changed to conform to the same Fiscal Year of the Credit Parties.

5.12 Amendments to Certain Indebtedness. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries, directly or indirectly, to change or amend the terms of any Subordinated Indebtedness, except to the extent permitted by the applicable subordination agreement (including, with respect to the Preferred Equity Obligations, the Subordination Agreement).

5.13 No Negative Pledges. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual restriction or encumbrance of any kind on the ability of any Credit Party or Subsidiary to pay dividends to a Credit Party or make any other distribution to a Credit Party on any of such Credit Party's or Subsidiary's Stock or Stock Equivalents or to pay fees, including management fees, or make other payments and distributions to the Borrowers or any other Credit Party except, in each case, pursuant to the Loan Documents. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, enter into, assume or become subject to any Contractual Obligation prohibiting or otherwise restricting the existence of any Lien upon any of its assets in favor of Collateral Agent, whether now owned or hereafter acquired, except in connection with (i) any document or instrument governing Liens permitted pursuant to Section 5.1; provided that any such restriction contained therein relates only to the asset or assets financed by the underlying secured obligations, (ii) customary provisions restricting subletting or assignment of any lease governing a leasehold interest, (iii) with respect to third party contracts, customary limitations on the ability of a party thereto to assign its interest in the underlying contract without the consent of the other party thereto, (iv) restrictions and conditions contained in agreements relating to the sale of assets permitted hereunder (or to be consummated in connection with the payment in full of the Obligations and

termination of the Commitments or anticipated modification of the Loan Documents to permit such action); provided that such restrictions are limited to the assets being sold, (v) licenses and contracts entered into in the Ordinary Course of Business which by their terms prohibit the assignment of such agreements (to the extent such prohibition is enforceable by law) or the granting of Liens on the rights contained therein; provided that such licenses and contracts (other than shrink-wrap software licenses) are not, in the aggregate, material to the business of such Credit Party and are not related to any material Property, and (vi) customary provisions in joint venture agreements and similar agreements that restrict the transfer of Stock of, or assets in, joint ventures.

5.14 OFAC; USA Patriot Act; Anti-Corruption Laws.

(a) No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to fail to comply with the laws, regulations and executive orders referred to in Section 3.25.

(b) No Credit Party or Subsidiary, nor to the knowledge of the Credit Party, any director, officer, agent, employee, or other person acting on behalf of the Credit Party or any Subsidiary, will use the proceeds of any Loan, directly or, indirectly, for any payments to any Person, including any government official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, or otherwise take any action, directly or indirectly, that would result in a violation of any Anti-Corruption Laws.

(c) Furthermore, the Credit Parties will not, and will not permit any of their Subsidiaries to, directly or indirectly, use the proceeds of the Loans to lend, contribute or otherwise make available such proceeds to any Subsidiary, Affiliate, joint venture partner or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions, or in any other manner, in each case, that will result in a violation by any Credit Party or its Subsidiaries of any Sanctions.

5.15 Sale-Leasebacks. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in a sale leaseback, synthetic lease or similar transaction involving any of its assets.

5.16 Hazardous Materials. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, cause or suffer to exist any Release of any Hazardous Material at, to or from any Real Estate that would violate any Environmental Law or form the basis for any Environmental Liabilities (whether or not owned by any Credit Party or any Subsidiary of any Credit Party), other than such violations and Environmental Liabilities that could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

5.17 Compliance with ERISA. No Credit Party shall cause or suffer to exist (a) any event that would reasonably be expected to result in the imposition of a Lien on any asset of a

Credit Party or a Subsidiary of a Credit Party with respect to any Title IV Plan or Multiemployer Plan securing obligations in excess of $500,000 or (b) any other ERISA Event, that could, in the aggregate with such other ERISA Events, have a Material Adverse Effect.

5.18 New Store Construction Expenses. During the period from the Closing Date to the date of consummation of the Equity Recap Transactions, forecasted new Store expenses shall not exceed $750,000, and actual new Store expenses shall not exceed $750,000 by more than five percent (5.0%), in either instance without the consent (which may be granted by email) of the Agents, provided, that this Section 5.18 shall not apply to the 1) ATX – Star Ranch, 2) STX – Blanco Rd, 3) DTX W Parker Rd, Plano, 4) HTX – Spencer & Watters, 5) DTX – Highland Village, TX, 6) HTX – 9540 Hwy 6 and 7) TA2 – 1st and Grant RBTS.

5.19 New Store Rental Expenses. During the period from the Closing Date to the date of consummation of the Equity Recap Transactions, forecasted annual Rental Expense at any new Store shall not exceed 10% of the average annual gross sales for all existing Stores located within the same state that have been open for more than twelve months.

5.20 Growth Capital Expenditure Available Amount. The Borrowers will not use amounts designated as the "Growth Capital Expenditure Available Amount" on any Compliance Certificate and deposited in a segregated account in accordance with the definition thereof in Annex B of Exhibit 4.2(b) for any purpose other than financing Growth Capital Expenditures (as defined in such Annex B).

ARTICLE VI

FINANCIAL COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date:

6.1 Financial Covenants.

(a) Total Net Leverage Ratio. The Credit Parties shall not permit the Total Net Leverage Ratio for the Measurement Period ending on the last day of any Fiscal Quarter (commencing with the Fiscal Quarter ending September 30, 2022) to be greater than the ratio set forth in the table below opposite the last day of such Fiscal Quarter

(which level shall apply to any pro forma calculation of the Total Net Leverage Ratio prior to such date):

Quarter Ending	Total Net Leverage Ratio
September 30, 2022	4.00 to 1.00
December 31, 2022	4.00 to 1.00
March 31, 2023	3.75 to 1.00
June 30, 2023	3.75 to 1.00
September 30, 2023	3.50 to 1.00
December 31, 2023	3.50 to 1.00
March 31, 2024	3.25 to 1.00
June 30, 2024	3.25 to 1.00
September 30, 2024	3.00 to 1.00
December 31, 2024	3.00 to 1.00
March 31, 2025	2.75 to 1.00

(b) Fixed Charge Coverage Ratio. The Credit Parties shall not permit the Fixed Charge Coverage Ratio for the Measurement Period ending on the last day of any Fiscal Quarter (commencing with the Fiscal Quarter ending September 30, 2022) to be less than 1.10 to 1.00. **"Fixed Charge Coverage Ratio"** shall be calculated in the manner set forth in Exhibit 4.2(b).

ARTICLE VII

EVENTS OF DEFAULT

7.1 Event of Default. Any of the following shall constitute an "**Event of Default**":

(a) Non-Payment. Any Credit Party fails (i) to pay when and as required to be paid herein, any amount of principal of any Loan, or (ii) to pay within three (3) Business Days after the same shall become due, interest on any Loan, any fee payable hereunder or pursuant to any other Loan Document or (iii) to pay or reimburse Agent or Lenders for any other Obligations not described in the preceding clause (i) or (ii), within ten (10) Business Days following the due date therefor (or, if there is no due date therefor, within ten (10) Business Days following Agent's demand for any such payment or reimbursement); or

(b) Representation or Warranty. Any representation, warranty or certification by or on behalf of any Credit Party or any of its Subsidiaries made or deemed made herein, in any other Loan Document, or which is contained in any certificate or financial statement (other than projections, estimates, other forward looking information or general economic or industry information) by any such Person, or their respective Responsible Officers, furnished at any time under this Agreement, or in or under any other Loan

Document, shall prove to have been incorrect in any material respect (without duplication of other materiality qualifiers contained therein) on or as of the date made or deemed made; or

(c) Specific Defaults. Any Credit Party fails to perform or observe any term, covenant or agreement contained in (i) any of Sections 4.3(a), 4.4(a) (with respect to Borrowers), 4.9, 4.10, 4.11, 4.19 or Article V or Article VI or (ii) any of Sections 4.1, 4.2(a), 4.2(b), 4.3 (other than as set forth in clause (i) above) or 4.6 and, with respect to this clause (ii), such failure shall not have been cured within five (5) Business Days; or

(d) Other Defaults. Any Credit Party or Subsidiary of any Credit Party makes any payment in respect of Subordinated Indebtedness other than payments permitted under any subordination agreement, including the Subordination Agreement, or otherwise fails to perform or observe any other term, covenant or agreement contained in this Agreement or any other Loan Document (other than any provision covered by any other clause of this Section 7.1), and such default shall continue unremedied for a period of thirty (30) days after the earlier to occur of (i) the date upon which a Responsible Officer of any Credit Party has actual knowledge of such default and (ii) the date upon which written notice thereof is given to the Borrower Representative by an Agent or Required Lenders; or

(e) Cross-Default. Any Credit Party or any Subsidiary of any Credit Party (i) fails to make any payment in respect of any Indebtedness (other than the Obligations or any obligation owed by any Credit Party to another Credit Party) or Contingent Obligation (other than the Obligations or any obligation owed by any Credit Party to another Credit Party) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than $500,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure continues after the applicable grace or notice period, if any, specified in the document relating thereto on the date of such failure; or (ii) fails to perform or observe any other condition or covenant (after applicable grace periods), or any other event shall occur or condition exist (after applicable grace periods), under any agreement or instrument relating to any such Indebtedness or Contingent Obligation (other than Contingent Obligations owing by one Credit Party with respect to the obligations of another Credit Party permitted hereunder), including any agreement, instrument or certificate relating to the Preferred Equity, if the effect of such failure, event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause such Indebtedness to be declared to be due and payable (or otherwise required to be prepaid, redeemed, purchased or defeased) prior to its stated maturity (without regard to any subordination terms with respect thereto), or such Contingent Obligation to become payable or cash collateral in respect thereof to be demanded; provided that this clause (e)(ii)) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer or other

disposition of the property or assets securing such Indebtedness, if such sale, transfer or disposition is permitted hereunder and under the documents providing for such Indebtedness and such Indebtedness is repaid when required under the documents providing for such Indebtedness, to the extent such prepayment is permitted hereunder; or

(f) Insolvency; Voluntary Proceedings. Any Credit Party or any Subsidiary of any Credit Party: (i) generally fails to pay, or admits in writing its inability to pay, its debts as they become due, subject to applicable grace periods, if any, whether at stated maturity or otherwise; (ii) except as expressly permitted under Section 5.3, voluntarily ceases to conduct its business in the ordinary course; (iii) commences any Insolvency Proceeding with respect to itself; or (iv) takes any action to effectuate or authorize any of the foregoing; or

(g) Involuntary Proceedings. (i) Any involuntary Insolvency Proceeding is commenced or filed against any Credit Party or any Subsidiary of any Credit Party, or any writ, judgment, warrant of attachment, execution or similar process, is issued or levied against a substantial part of any such Person's Properties, and any such proceeding or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or fully bonded within forty-five (45) days after commencement, filing or levy; (ii) any Credit Party or any Subsidiary of any Credit Party admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (iii) any Credit Party or any Subsidiary of any Credit Party acquiesces in the appointment of a receiver, trustee, custodian, conservator, liquidator, mortgagee in possession (or agent therefor), or other similar Person for itself or a substantial portion of its Property or business; or

(h) Monetary Judgments. One or more judgments, non-interlocutory orders, decrees or arbitration awards shall be entered against any one or more of the Credit Parties or any of their respective Subsidiaries involving in the aggregate a liability of $50,000 or more (excluding amounts covered (i) by insurance to the extent the relevant independent third-party insurer has not denied coverage therefor or (ii) in escrow under the relevant agreements for a Permitted Acquisition or other Investment permitted herein or otherwise subject to indemnity coverage reasonably acceptable to Agents and, in each case, available to the Credit Parties for payment of such liabilities), and the same shall remain unsatisfied, unvacated and unstayed pending appeal for a period of thirty (30) days after the entry thereof; or

(i) Non-Monetary Judgments. One or more non-monetary judgments, orders or decrees shall be rendered against any one or more of the Credit Parties or any of their respective Subsidiaries which has could reasonably be expected to have a Material Adverse Effect, and there shall be any period of thirty (30) consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(j) Collateral. Any material provision of any Loan Document shall for any reason (other than pursuant to the express terms hereof or thereof) cease to be valid and binding on or enforceable against any Credit Party or any Subsidiary of any Credit Party party thereto or any Credit Party or any Subsidiary of any Credit Party party thereto shall so state in writing or bring an action to limit its obligations or liabilities thereunder; or any Collateral Document shall for any reason (other than pursuant to the terms thereof and other than in respect of any Collateral sold or otherwise disposed of in accordance with the terms of this Agreement) cease to create a valid security interest in Collateral purported to be covered thereby with a fair market value in excess of $500,000 or such security interest shall for any reason (other than failure of the Collateral Agent to take any action within its control) cease to be a perfected (to the extent required by the Loan Documents) and first priority security interest subject only to Permitted Liens, except to the extent that any such loss of perfection or priority results from the failure of the Collateral Agent to maintain possession of certificates or other possessory collateral actually delivered to it representing securities or other collateral pledged under the Collateral Documents or to file UCC financing statements, continuation statements or equivalent filings and except, as to Collateral consisting of Real Estate, to the extent that such losses are sufficiently covered by a solvent insurer under title insurance policy with respect thereto, if any; or

(k) Ownership. At any time on or after the date which is 30 days after the Closing Date, (i) Holdings Pledgors at any time cease to own, collectively, (x) at least fifty-one percent (51%) of the issued and outstanding Common Units (as defined in the A&R Holdings LLC Agreement) of Holdings (as the same may be adjusted for any combination, recapitalization or reclassification into a greater or smaller number of shares, interests or other unit of equity security) and (y) Units sufficient to elect the majority of the Board (as defined in the A&R Holdings LLC Agreement as in effect on the date hereof) or (ii) Holdings ceases to own, directly or indirectly, (a) one hundred percent (100%) of the issued and outstanding Stock and Stock Equivalents of the Borrowers (other than BRSO 67th or BRCR) or (b) less than fifty-one percent (51%) of the issued and outstanding Stock and Stock Equivalents of BRSO 67th or BRCR; or

(l) Invalidity of Subordination Provisions. The subordination provisions of the Subordination Agreement or any other agreement or instrument governing any Subordinated Indebtedness shall for any reason be revoked or invalidated by the lenders under the applicable Subordinated Indebtedness, or otherwise cease to be in full force and effect, or any Credit Party or any of its Subsidiaries or any holder of any Subordinated Indebtedness shall contest in writing the validity or enforceability thereof or deny that it has any further liability or obligation thereunder; or

(m) ERISA Event. One or more ERISA Events shall have occurred, that, either individually or in the aggregate with other such ERISA Events, could reasonably be expected to result in (i) monetary liability in excess of $500,000 or (ii) a Material Adverse Effect; or

(n) Subordination Agreement. (i) The Subordination Agreement shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect (other than in accordance with its terms), or any Credit Party, any Founder Group Member or any holder of Preferred Equity shall contest in any manner the validity or enforceability thereof or deny that such Person has any further liability or obligation thereunder, or (ii) any party (other than the Agents or any Lender) to the Subordination Agreement fails to perform or observe any material term, covenant or agreement contained in the Subordination Agreement; or

(o) A&R Holdings LLC Agreement. A Material Breach Event or Sale Event shall occur under and as defined in the A&R Holdings LLC Agreement.

7.2 Remedies. Upon the occurrence and during the continuance of any Event of Default, either Agent may, and shall at the request of the Required Lenders:

(a) declare all or any portion of any one or more of the Commitments of each Lender to make Loans to be suspended or terminated, whereupon all or such portion of such Commitments shall forthwith be suspended or terminated;

(b) declare all or any portion of the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable; without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by each Credit Party; and/or

(c) may, or at the request of the Required Lenders shall, exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law;

provided, however, that upon the occurrence of any Event of Default specified in Sections 7.1(f) or 7.1(g) above (in the case of clause (i) of Section 7.1(g) upon expiration of the thirty (30) day period mentioned therein), the obligation of each Lender to make Loans shall automatically terminate and the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable without further act of either Agent or any Lender.

7.3 Rights Not Exclusive. The rights provided for in this Agreement and the other Loan Documents are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising.

ARTICLE VIII

AGENTS

8.1 Appointment and Duties.

(a) Appointment of Agents. (i) Each Lender hereby appoints RCS (together with any successor Agent pursuant to Section 8.9) as Administrative Agent hereunder and authorizes Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Credit Party, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Administrative Agent (or to either Agent) under this Agreement and the other Loan Documents and (iii) exercise such powers as are reasonably incidental thereto. Administrative Agent represents that it is a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1.

(ii) Each Lender hereby appoints TCW (together with any successor Agent pursuant to Section 8.9) as Collateral Agent hereunder and authorizes Collateral Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Credit Party, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Collateral Agent (or to either Agent) under this Agreement and the other Loan Documents and (iii) exercise such powers as are reasonably incidental thereto. Collateral Agent represents that it is a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1.

(b) Duties as Administrative and Collateral Agents. (i) Administrative Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (x) act as the disbursing and collecting agent for the Lenders with respect to all payments and collections arising in connection with the Loan Documents (including in any proceeding described in Sections 7.1(f) or 7.1(g) or any other bankruptcy, insolvency or similar proceeding), and each Person making any payment in connection with any Loan Document to any Secured Party is hereby authorized to make such payment to Administrative Agent, (y) file and prove claims and file other documents necessary or desirable to allow the claims of the Secured Parties with respect to any Secured Obligation in any proceeding described in Section 7.1(f) or (g) or any other bankruptcy, insolvency or similar proceeding (but not to vote, consent or otherwise act on behalf of such Person), and (ii) Collateral Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (w) act as collateral agent for each Secured Party for purposes of the perfection of all Liens created by such agreements and all other purposes stated therein, (x) manage, supervise and otherwise deal with the Collateral, (y) take such other action as is necessary or desirable to maintain the perfection and priority of the Liens created or purported to be created by the Loan Documents, (z) except as may be otherwise specified in any Loan Document, exercise all remedies given to Agent and the other Secured Parties with respect to the

Credit Parties and/or the Collateral, whether under the Loan Documents, applicable Requirements of Law or otherwise and (iii) each Agent may execute any amendment, consent or waiver under the Loan Documents on behalf of any Lender that has consented in writing to such amendment, consent or waiver; provided, however, that Collateral Agent hereby appoints, authorizes and directs each Lender to act as collateral sub-agent for Agent and the Lenders for purposes of the perfection of all Liens with respect to the Collateral, including any deposit account maintained by a Credit Party with, and cash and Cash Equivalents held by, such Lender, and may further authorize and direct the Lenders to take further actions as collateral sub-agents for purposes of enforcing such Liens or otherwise to transfer the Collateral subject thereto to Agent and each Lender hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed.

(c) Limited Duties. Under the Loan Documents, each Agent (i) is acting solely on behalf of the Secured Parties (except to the limited extent provided in Section 1.4(b) with respect to the Register), with duties that are entirely administrative in nature, notwithstanding the use of the defined term "Agent", the terms "agent", "Administrative Agent" and "Collateral Agent" and similar terms in any Loan Document to refer to Agent in any such capacity, which terms are used for title purposes only, (ii) is not assuming any obligation under any Loan Document other than as expressly set forth therein or any role as agent, fiduciary or trustee of or for any Lender or any other Person and (iii) shall have no implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document, and each Secured Party, by accepting the benefits of the Loan Documents, hereby waives and agrees not to assert any claim against Agent based on the roles, duties and legal relationships expressly disclaimed in clauses (i) through (iii) above.

8.2 Binding Effect. Each Secured Party, by accepting the benefits of the Loan Documents, agrees that (i) any action taken (or omitted to be taken) by any Agent or the Required Lenders (or, if expressly required hereby, a greater proportion of the Lenders) in accordance with the provisions of the Loan Documents, (ii) any action taken (or omitted to be taken) by any Agent in reliance upon the instructions of Required Lenders (or, where so required, such greater proportion) and (iii) the exercise by any Agent or the Required Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Secured Parties.

8.3 Use of Discretion.

(a) No Action without Instructions. Agents shall not be required to exercise any discretion or take, or to omit to take, any action, including with respect to enforcement or collection, except any action it is required to take or omit to take (i) under any Loan Document or (ii) pursuant to instructions from the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders).

(b) Right Not to Follow Certain Instructions. Notwithstanding clause (a) above, Agents shall not be required to take, or to omit to take, any action (i) unless, upon demand, such Agent receives an indemnification satisfactory to it from the Lenders (or, to the extent applicable and acceptable to such Agent, any other Person) against all Liabilities that, by reason of such action or omission, may be imposed on, incurred by or asserted against such Agent or any Related Person thereof or (ii) that is, in the opinion of such Agent or its counsel, contrary to any Loan Document or applicable Requirement of Law.

(c) Exclusive Right to Enforce Rights and Remedies. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Credit Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, Agents in accordance with the terms set forth herein and in the other Loan Documents for the benefit of all the Lenders; provided that the foregoing shall not prohibit (i) each Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents, (ii) any Lender from exercising setoff rights in accordance with Section 9.11 or (iii) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Credit Party under any bankruptcy or other debtor relief law, but in the case of this clause (iii) if, and solely if, an Agent has not filed such proof of claim or other instrument of similar character in respect of the Secured Obligations within five (5) days before the expiration of the time to file the same; and provided further that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (A) the Required Lenders shall have the rights otherwise ascribed to Agent pursuant to Section 7.2 and (B) in addition to the matters set forth in clauses (ii), (iii) and (iv) of the preceding proviso and subject to Section 9.11, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

8.4 Delegation of Rights and Duties. Each Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Loan Document by or through any trustee, co-agent, employee, attorney-in-fact and any other Person (including any Secured Party). Any such Person shall benefit from this Article VIII to the extent provided by an Agent.

8.5 Reliance and Liability.

(a) Administrative Agent may, without incurring any liability hereunder, (i) treat the payee of any Note as its holder until such Note has been assigned in accordance with Section 9.9, (ii) rely on the Register to the extent set forth in Section 1.4, (iii) consult with any of its Related Persons and, whether or not selected by it, any other advisors, accountants and other experts (including advisors to, and accountants and

experts engaged by, any Credit Party) and (iv) rely and act upon any document and information (including those transmitted by Electronic Transmission) and any telephone message or conversation, in each case believed by it to be genuine and transmitted, signed or otherwise authenticated by the appropriate parties.

(b) Neither any Agent nor its Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Secured Party, Holdings, the Borrowers and each other Credit Party hereby waive and shall not assert (and each of Holdings and the Borrowers shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action based thereon, except to the extent of liabilities resulting from the gross negligence, bad faith or willful misconduct of Agent or, as the case may be, such Related Person (each as determined in a final, non-appealable judgment by a court of competent jurisdiction) in connection with the duties expressly set forth herein. Without limiting the foregoing, each Agent and its Related Persons:

(i) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of the Required Lenders or for the actions or omissions of any of its Related Persons selected with reasonable care (other than employees, officers and directors of Agent, when acting on behalf of Agent);

(ii) shall not be responsible to any Lender or other Person for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document;

(iii) makes no warranty or representation, and shall not be responsible, to any Lender or other Person for any statement, document, information, representation or warranty made or furnished by or on behalf of any Credit Party or any Related Person of any Credit Party in connection with any Loan Document or any transaction contemplated therein or any other document or information with respect to any Credit Party, whether or not transmitted or (except for documents expressly required under any Loan Document to be transmitted to the Lenders) omitted to be transmitted by Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by Agent in connection with the Loan Documents;

(iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document, whether any condition set forth in any Loan Document is satisfied or waived, as to the financial condition of any Credit Party or as to the existence or continuation or possible occurrence or continuation of any Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from the Borrower Representative or any Lender

describing such Default or Event of Default clearly labeled "notice of default" (in which case Agent shall promptly give notice of such receipt to all Lenders); and

(v) shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Excluded Persons. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is an Excluded Person or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Excluded Person,

and, for each of the items set forth in clauses (i) through (iv) above, each Lender, Holdings and the Borrowers hereby waive and agree not to assert (and each of Holdings and the Borrowers shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action it might have against Agent based thereon.

8.6 Agents Individually. Agents and their Affiliates may make loans and other extensions of credit to engage in any kind of business with, any Credit Party or Affiliate thereof as though it were not acting as Agent and may receive separate fees and other payments therefor. To the extent Agents or any of their Affiliates makes any Loan or otherwise becomes a Lender hereunder, it shall have and may exercise the same rights and powers hereunder and shall be subject to the same obligations and liabilities as any other Lender and the terms "**Lender**", "**Required Lender**", "and any similar terms shall, except where otherwise expressly provided in any Loan Document, include, without limitation, Agents or such Affiliates, as the case may be, in its individual capacity as Lender, or as one of the Required Lenders, respectively.

8.7 Lender Credit Decision.

(a) Each Lender acknowledges that it shall, independently and without reliance upon Agent, any Lender or any of their Related Persons or upon any document (including any offering and disclosure materials in connection with the syndication of the Loans) solely or in part because such document was transmitted by Agent or any of its Related Persons, conduct its own independent investigation of the financial condition and affairs of each Credit Party and make and continue to make its own credit decisions in connection with entering into, and taking or not taking any action under, any Loan Document or with respect to any transaction contemplated in any Loan Document, in each case based on such documents and information as it shall deem appropriate. Except for documents expressly required by any Loan Document to be transmitted by Agent to the Lenders, Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, Property, financial and other condition or creditworthiness of any Credit Party or any Affiliate of any Credit Party that may come in to the possession of Agent or any of its Related Persons.

(b) If any Lender has elected to abstain from receiving MNPI concerning the Credit Parties or their Affiliates, such Lender acknowledges that, notwithstanding such election, Agent and/or the Credit Parties will, from time to time, make available syndicate-information (which may contain MNPI) as required by the terms of, or in the course of administering the Loans to the credit contact(s) identified for receipt of such information on the Lender's administrative questionnaire who are able to receive and use all syndicate-level information (which may contain MNPI) in accordance with such Lender's compliance policies and contractual obligations and applicable law, including federal and state securities laws; provided, that if such contact is not so identified in such questionnaire, the relevant Lender hereby agrees to promptly (and in any event within one (1) Business Day) provide such a contact to Agent and the Credit Parties upon request therefor by Agent or the Credit Parties. Notwithstanding such Lender's election to abstain from receiving MNPI, such Lender acknowledges that if such Lender chooses to communicate with Agent, it assumes the risk of receiving MNPI concerning the Credit Parties or their Affiliates.

8.8 Expenses; Indemnities; Withholding.

(a) Each Lender agrees to reimburse each Agent and each of its Related Persons (to the extent not reimbursed by any Credit Party) promptly upon demand, severally and ratably, for any costs and expenses (including fees, charges and disbursements of financial, legal and other advisors and Other Taxes paid in the name of, or on behalf of, any Credit Party) that may be incurred by Agent or any of its Related Persons in connection with the preparation, syndication, execution, delivery, administration, modification, consent, waiver or enforcement of, or the taking of any other action (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding (including, without limitation, preparation for and/or response to any subpoena or request for document production relating thereto) or otherwise) in respect of, or legal advice with respect to, its rights or responsibilities under, any Loan Document.

(b) Each Lender further agrees to indemnify Agent, and each of their respective Related Persons (to the extent not reimbursed by any Credit Party), severally and ratably, from and against Liabilities (including, to the extent not indemnified pursuant to Section 8.8(c), Taxes, interests and penalties imposed for not properly withholding or backup withholding on payments made to or for the account of any Lender) that may be imposed on, incurred by or asserted against Agent or any of their respective Related Persons in any matter relating to or arising out of, in connection with or as a result of any Loan Document, any Related Document or any other act, event or transaction related, contemplated in or attendant to any such document, or, in each case, any action taken or omitted to be taken by Agent or any of their respective Related Persons under or with respect to any of the foregoing; provided, however, that no Lender shall be liable to Agent or any of its Related Persons to the extent such liability has resulted from the gross negligence, bad faith or willful misconduct of Agent or, as the

case may be, such Related Person, as determined by a court of competent jurisdiction in a final non-appealable judgment or order.

(c) To the extent required by any Requirement of Law, Administrative Agent may withhold from any payment to any Lender under a Loan Document an amount equal to any applicable withholding Tax (including withholding Taxes imposed under Chapters 3 and 4 of Subtitle A of the Code). If the IRS or any other Governmental Authority asserts a claim that Agent did not properly withhold Tax from amounts paid to or for the account of any Lender (because the appropriate certification form was not delivered, was not properly executed, or fails to establish an exemption from, or reduction of, withholding Tax with respect to a particular type of payment, or because such Lender failed to notify Agent or any other Person of a change in circumstances which rendered the exemption from, or reduction of, withholding Tax ineffective, failed to maintain a Participant Register or for any other reason), or Agent reasonably determines that it was required to withhold Taxes from a prior payment but failed to do so, such Lender shall promptly indemnify Agent fully for all amounts paid, directly or indirectly, by Agent as Tax or otherwise, including penalties and interest, and together with all expenses incurred by Agent, including legal expenses, allocated internal costs and out-of-pocket expenses. Agent may offset against any payment to any Lender under a Loan Document, any applicable withholding Tax that was required to be withheld from any prior payment to such Lender but which was not so withheld, as well as any other amounts for which Agent is entitled to indemnification from such Lender under this Section 8.8(c).

8.9 Resignation of Agent.

(a) Either Agent may resign at any time by delivering written notice of such resignation to the Lenders and the Borrower Representative, effective on the date set forth in such notice or, if no such date is set forth therein, upon the date such notice shall be effective in accordance with the terms of this Section 8.9. If Agent delivers any such notice, the Required Lenders shall have the right to appoint a successor Agent, who shall be a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1, with the consent of the Borrower Representative (which consent shall not be unreasonably withheld, conditioned or delayed and shall not be required during the existence of an Event of Default). If, after 30 days after the date of the retiring Agent's notice of resignation, no successor Agent that has been appointed by the Required Lenders has accepted such appointment, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent from among the Lenders. Each appointment under this clause (a) shall be subject to the prior written consent of the Borrower Representative, which may not be unreasonably withheld but shall not be required during the continuance of an Event of Default.

(b) Effective immediately upon its resignation, (i) the retiring Agent shall be discharged from its duties and obligations under the Loan Documents, (ii) the Required Lenders shall assume and perform all of the duties of such retiring Agent until a successor Agent shall have accepted a valid appointment hereunder, (iii) the retiring

Agent and its Related Persons shall no longer have the benefit of any provision of any Loan Document other than with respect to any actions taken or omitted to be taken while such retiring Agent was, or because such Agent had been, validly acting as Agent under the Loan Documents and (iv) subject to its rights under Section 8.3, the retiring Agent shall take such action as may be reasonably necessary to assign to the successor Agent its rights as Agent under the Loan Documents. Effective immediately upon its acceptance of a valid appointment as Agent, a successor Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Agent under the Loan Documents.

8.10 Release of Collateral or Guarantors. Each Lender hereby consents to the release and hereby directs Collateral Agent to, and Collateral Agent shall, release (or, in the case of clause (b)(ii) below, release or subordinate) the following:

(a) any Subsidiary of a Borrower from its guaranty of any Secured Obligation if all of the Stock and Stock Equivalents of such Subsidiary owned by any Credit Party are sold or transferred in a transaction permitted under the Loan Documents (including pursuant to a waiver or consent) or such Subsidiary becomes an Excluded Domestic Subsidiary, to the extent that, after giving effect to such transaction, such Subsidiary would not be required to guaranty any Secured Obligations pursuant to Section 4.12; and

(b) any Lien held by Collateral Agent for the benefit of the Secured Parties against (i) any Collateral that is sold, transferred, conveyed or otherwise disposed of by a Credit Party in a transaction permitted by the Loan Documents (including pursuant to a valid waiver or consent), to the extent all Liens required to be granted in such Collateral pursuant to Section 4.12 after giving effect to such transaction have been granted, (ii) any Property subject to a Lien permitted hereunder in reliance upon Section 5.1(h) or (i), (iii) Property that does not constitute Collateral, (iv) Property owned by a Subsidiary that is released in accordance with clause (a) above and (v) all of the Collateral and all Credit Parties, upon the occurrence of the Facility Termination Date.

Each Lender hereby directs Collateral Agent, and Agent hereby agrees, upon receipt of reasonable advance notice from the Borrower Representative, to execute and deliver or file such documents and to perform other actions reasonably necessary to release the guaranties and Liens when and as directed in this Section 8.10, in each case, at the Borrowers' expense.

8.11 Additional Secured Parties. The benefit of the provisions of the Loan Documents directly relating to the Collateral or any Lien granted thereunder shall extend to and be available to any Secured Party that is not a Lender party hereto as long as, by accepting such benefits, such Secured Party agrees, as among Collateral Agent and all other Secured Parties, that such Secured Party is bound by (and, if requested by Collateral Agent, shall confirm such agreement in a writing in form and substance acceptable to Agent) this Article VIII, Section 9.3, Section 9.9(a), Section 9.10, Section 9.11, Section 9.17 and Section 9.24 and the decisions and actions of Agent and the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders or other parties hereto as required herein) to the same extent a Lender is bound; provided, however, that, notwithstanding the foregoing, (a) such Secured Party shall be

bound by Section 8.8 only to the extent of Liabilities, costs and expenses with respect to or otherwise relating to the Collateral held for the benefit of such Secured Party, in which case the obligations of such Secured Party thereunder shall not be limited by any concept of pro rata share or similar concept, (b) each of Collateral Agent, the Lenders party hereto shall be entitled to act at its sole discretion, without regard to the interest of such Secured Party, regardless of whether any Secured Obligation to such Secured Party thereafter remains outstanding, is deprived of the benefit of the Collateral, becomes unsecured or is otherwise affected or put in jeopardy thereby, and without any duty or liability to such Secured Party or any such Secured Obligation and (c) except as otherwise set forth herein, such Secured Party shall not have any right to be notified of, consent to, direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under any Loan Document.

8.12 Intercreditor Agreements. The Agents are authorized by the other Secured Parties to enter into subordination agreements (including any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to such agreements in connection with the incurrence by an Credit Party of any permitted Subordinated Indebtedness in order to permit such Indebtedness to be subordinated), intercreditor and similar agreements in respect of debt and/or liens contemplated by this Agreement or referenced in Section 8.10 and the parties hereto acknowledge that any such agreement (if entered into) will be binding upon them.

8.13 Lead Arranger and Other Agents. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document, the Lead Arrangers, and agents (other than the Agent), if any, shall not have any duties or responsibilities in their respective capacities as such, nor shall the Lead Arrangers and such agents have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Lead Arrangers or such agents. At any time that any Lender serving (or whose Affiliate is serving) as an agent hereunder shall have transferred to any other Person (other than any Affiliates) all of its interests in the Loans and the Delayed Draw Term Loan Commitment, such Lender (or an Affiliate of such Lender acting as an agent) shall be deemed to have concurrently resigned as such agent.

8.14 Credit Bid. Each of the Lenders hereby irrevocably authorizes (and by entering into a Secured Rate Contract or Bank Product (as applicable), each Secured Swap Provider and Bank Product Provider (as applicable) hereby authorizes and shall be deemed to authorize) Collateral and/or Administrative Agent, on behalf of all Secured Parties, to take any of the following actions upon the instruction of the Collateral Agent or the Required Lenders following the occurrence and during the continuance of any Event of Default:

(a) consent to the disposition of all or any portion of the Collateral free and clear of the Liens securing the Secured Obligations in connection with any disposition pursuant to the applicable provisions of the Bankruptcy Code, including Section 363 thereof;

(b) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any disposition of all or any portion of the Collateral pursuant to the applicable provisions of the Bankruptcy Code, including under Section 363 thereof;

(c) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any disposition of all or any portion of the Collateral pursuant to the applicable provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC;

(d) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any foreclosure or other disposition conducted in accordance with applicable law, including by power of sale, judicial action or otherwise; and/or

(e) estimate the amount of any contingent or unliquidated Secured Obligations of such Lender or other Secured Party;

it being understood that no Secured Party shall be required to fund any amount (other than by means of offset) in connection with any purchase of all or any portion of the Collateral by Agent pursuant to the foregoing clauses (b), (c) or (d) without its prior written consent.

Each Secured Party agrees that Agent is under no obligation to credit bid any part of the Secured Obligations or to purchase or retain or acquire any portion of the Collateral; provided that, in connection with any credit bid or purchase described under clauses (b), (c) or (d) of the preceding paragraph, the Secured Obligations owed to all of the Secured Parties (other than with respect to contingent or unliquidated liabilities as set forth in the next succeeding paragraph) may be, and shall be, credit bid by Agent on a ratable basis.

With respect to each contingent or unliquidated claim that is a Secured Obligation, Agent is hereby authorized, but is not required, to estimate the amount thereof for purposes of any credit bid or purchase described in the second preceding paragraph so long as the estimation of the amount or liquidation of such claim would not unduly delay the ability of Agent to credit bid the Secured Obligations or purchase the Collateral in the relevant disposition. In the event that Agent, in its sole and absolute discretion, elects not to estimate any such contingent or unliquidated claim or any such claim cannot be estimated without unduly delaying the ability of Agent to consummate any credit bid or purchase in accordance with the second preceding paragraph, then any contingent or unliquidated claims not so estimated shall be disregarded, shall not be credit bid, and shall not be entitled to any interest in the portion or the entirety of the Collateral purchased by means of such credit bid.

Each Secured Party whose Secured Obligations are credit bid under clauses (b), (c) or (d) of the third preceding paragraph shall be entitled to receive interests in the Collateral or any other

asset acquired in connection with such credit bid (or in the Stock of the acquisition vehicle or vehicles that are used to consummate such acquisition) on a ratable basis in accordance with the percentage obtained by dividing (x) the amount of the Secured Obligations of such Secured Party that were credit bid in such credit bid or other disposition, by (y) the aggregate amount of all Secured Obligations that were credit bid in such credit bid or other disposition.

For purposes of this Section 8.14, "disposition" shall means (a) the sale, lease, conveyance or other disposition of Property and (b) the sale or transfer by a Borrower or any Subsidiary of a Borrower of any Stock issued by any Subsidiary of such Borrower.

8.15 Collateral Agent Advances. (a) The Collateral Agent may from time to time make such disbursements and advances (collectively "Collateral Agent Advances") in an aggregate amount not to exceed $5,000,000 at any time outstanding which the Collateral Agent, in its sole discretion, deems necessary or desirable to preserve, protect, prepare for sale or lease or dispose of the Collateral or any portion thereof, to enhance the likelihood or maximize the amount of repayment by the Borrowers of the Loans and other Obligations or to pay any other amount chargeable to the Borrowers pursuant to the terms of this Agreement, including, without limitation, costs, fees and expenses as described in Section 9.5. The Collateral Agent Advances shall be repayable on demand and be secured by the Collateral and shall bear interest at a rate per annum equal to the rate then applicable to Loans that are Base Rate Loans. The Collateral Agent Advances shall constitute Obligations hereunder. The Collateral Agent shall notify each Lender and the Borrower Representative in writing of each such Collateral Agent Advance, which notice shall include a description of the purpose of such Collateral Agent Advance. Each Lender agrees that it shall make available to the Collateral Agent, upon the Collateral Agent's demand, in Dollars in immediately available funds, the amount equal to such Lender's Commitment Percentage of each such Collateral Agent Advance. If such funds are not made available to the Collateral Agent by such Lender, the Collateral Agent shall be entitled to recover such funds on demand from such Lender, together with interest thereon for each day from the date such payment was due until the date such amount is paid to the Collateral Agent, at the Federal Funds Rate for three Business Days following such demand and thereafter at the Base Rate.

ARTICLE IX

MISCELLANEOUS

9.1 Amendments and Waivers.

(a) Subject to the provisions of Section 9.1(f) hereof, no amendment, waiver, supplement or other modification of any provision of this Agreement or any other Loan Document (other than the Fee Letter, any Collateral Documents (other than the Guaranty and Security Agreement), or any landlord, bailee or mortgagee agreement, which, in each case, may be amended as provided therein and, if not provided therein, by each of the parties thereto), and no consent with respect to any departure by any Credit Party therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by the Agents with the consent of the Required Lenders), and the Borrowers and then such waiver, modification or consent shall be effective only in the

specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver, modification or consent shall, unless in writing and signed by all the Lenders directly and adversely affected thereby (or by the Agents with the consent of all the Lenders directly and adversely affected thereby), in addition to the Required Lenders (or by the Agents with the consent of the Required Lenders) and the Borrowers, do any of the following:

(i) increase or extend the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 7.2(a));

(ii) postpone or delay any date fixed for, or reduce or waive, any scheduled installment of principal or any payment of interest (other than default rate interest, which may be postponed, delayed, reduced or waived by the Required Lenders), fees or other amounts (other than principal) due to the Lenders (or any of them) hereunder or under any other Loan Document (for the avoidance of doubt, mandatory prepayments pursuant to Section 1.8 (other than scheduled installments under Section 1.8(a)) may be postponed, delayed, reduced, waived or modified with the consent of Required Lenders);

(iii) reduce the principal of, or the rate of interest (other than default rate interest, which may be postponed, delayed or waived by the Required Lenders) specified herein (it being agreed that any waiver or reduction of the default interest margin shall only require the consent of Required Lenders) or the amount of interest payable in cash specified herein on any Loan, or of any fees or other amounts payable hereunder or under any other Loan Documents;

(iv) amend, modify or waive (A) the order in which Secured Obligations are paid or (B) the pro rata sharing of payments by and among the Lenders, in each case in accordance with Section 1.10(c) or any other Section of this Agreement (including voluntary and mandatory prepayments), except in connection with Extended Term Loans as specified in Section 9.1(f)(iii);

(v) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans which shall be required for the Lenders or any of them to take any action hereunder;

(vi) amend this Section 9.1 (other than Section 9.1(e) or, subject to the terms of this Agreement, the definition of Required Lenders, or any provision providing for consent or other action by all Lenders;

(vii) discharge any Credit Party from its respective payment Obligations under the Loan Documents (other than in connection with the release of any Credit Party pursuant to a transaction expressly permitted hereunder or under any other Loan Document), or release all or substantially all of the Collateral, except as otherwise may be provided in this Agreement or the other Loan Documents; or

(viii) subordinate any Loan or any Lien on Collateral to any other Indebtedness or Lien other than as expressly permitted by Section 8.10 hereof.

It being agreed that all Lenders shall be deemed to be directly and adversely affected by an amendment or waiver of the type described in the preceding clauses (v), (vi) and (vii). It being further agreed that the Agents shall receive copies of all final amendments or waivers of this Agreement or any other Loan Documents.

(b) No amendment, waiver or consent shall, unless in writing and signed by Agents, in addition to the Required Lenders or all Lenders directly and adversely affected thereby, as the case may be (or by the Agents with the consent of the Required Lenders or all the Lenders directly and adversely affected thereby, as the case may be), affect the rights or duties of the Agent under this Agreement or any other Loan Document. No amendment, modification or waiver of this Agreement or any Loan Document (i) altering the ratable treatment of Secured Obligations arising under Secured Rate Contracts or Bank Products (as applicable) resulting in such Secured Obligations being junior in right of payment to principal on the Loans or resulting in Secured Obligations owing to any Secured Swap Provider or Bank Product Provider (as applicable) becoming unsecured (other than releases of Liens permitted in accordance with the terms hereof) or (ii) to the definitions of "Secured Obligations", "Rate Contract", "Secured Rate Contract", "Bank Product", "Bank Product Debt" or "Bank Product Provider" (in each case, but only to the extent any such Bank Product Provider has previously provided, to the extent required by the terms of this Agreement, a notice to the Administrative Agent), in each case in a manner adverse to any Secured Swap Provider or Bank Product Provider (as applicable), shall be effective without the written consent of such Secured Swap Provider or such Bank Product Provider (as applicable) (other than in accordance with Section 9.1(a)(vii)).

(c) [Reserved].

(d) This Agreement may be amended with the written consent of the Agents, the Borrower and the Required Lenders to (i) add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the outstanding principal and accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the accrued interest and fees in respect thereof and (ii) include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

(e) Notwithstanding anything to the contrary contained in this Section 9.1, (i) the Borrowers may amend Schedules 3.19 and 3.21 upon notice to the Agents, (ii) Agents may amend Schedules 1.1(a), and 1.1(b) to reflect Sales entered into pursuant to Section 9.9, (iii) Agents and the Borrowers may amend or modify this Agreement and any other Loan Document to (1) cure any ambiguity, omission, defect or inconsistency therein, (2) grant a new Lien for the benefit of the Secured Parties, extend an existing Lien over additional Property for the benefit of the Secured Parties or join additional Persons as Credit Parties, and (3) [Reserved], and (iv) Agents and Borrowers may amend

or modify this Agreement or any other Loan Document to reflect any conforming amendments permitted under Section 5.12.

(f) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "**Extension Offer**") made from time to time by Borrower Representative to all Lenders holding Term Loans with a like maturity date on a pro rata basis (based on the aggregate outstanding principal amount of such respective Term Loans) and on the same terms to each such Lender, Borrowers are hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms contained in any such Extension Offers to extend the maturity date and/or commitment termination of each such Lender's Term Loans and, subject to the terms hereof, otherwise modify the terms of such Term Loans pursuant to the terms of the relevant Extension Offer (including by increasing the interest rate and/or fees payable in respect of such Term Loans (and related outstandings) and/or modifying the amortization schedule in respect of such Lender's Term Loans) (each, an "**Extension**"; and each group of Term Loans, so extended, as well as the original Term Loans not so extended, being a separate Class), so long as the following terms are satisfied:

(i) no Default or Event of Default shall have occurred and be continuing at the time the applicable Extension Offer is delivered to the Lenders;

(ii) [Reserved];

(iii) except as to interest rates, original issue discount, fees, amortization, final maturity date, premium, required prepayment dates and participation in prepayments (which shall, subject to immediately succeeding clauses (iv), (v) and (vi), be determined by Borrower Representative and set forth in the relevant Extension Offer, subject to acceptance by the Extending Term Lenders), the Term Loans of any Term Lender that agrees to an Extension (such commitment, an "**Extended Term Loan Commitment**") with respect to such Term Loans owed to it (an "**Extending Term Lender**") extended pursuant to any Extension ("**Extended Term Loans**") shall have the same terms as the Class of Term Loans subject to such Extension Offer (except for covenants or other provisions contained therein applicable only to periods after the then Latest Maturity Date of the Term Loans extended thereby);

(iv) the final maturity date of any Extended Term Loans shall be no earlier than the Latest Maturity Date of the Term Loans extended thereby and the amortization schedule applicable to Loans pursuant to Section 1.8(a) for periods prior to the original maturity date of the Term Loans shall not be increased;

(v) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the Weighted Average Life to Maturity of the Term Loans extended thereby;

(vi) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not greater than pro rata basis) with non-extended Classes of Term Loans in any voluntary or mandatory prepayments hereunder, in each case as specified in the respective Extension Offer; and

(vii) if the aggregate principal amount of Term Loans (calculated on the outstanding principal amount thereof) in respect of which Term Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans offered to be extended by Borrower Representative pursuant to such Extension Offer, then the Term Loans of such Term Lenders shall be extended ratably up to such maximum amount based on the respective principal or commitment amounts with respect to which such Term Lenders have accepted such Extension Offer.

With respect to all Extensions consummated by Borrowers pursuant to this Section 9.1(f), (i) such Extensions shall not constitute voluntary or mandatory payments or prepayments for purposes of Sections 1.7 or 1.8 and (ii) no Extension Offer is required to be in any minimum amount or any minimum increment; provided that Borrower Representative may at its election specify as a condition to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in Borrower Representative's sole discretion and may be waived by Borrower) of Term Loans of any or all applicable Classes be tendered. Agents and the Lenders hereby consent to the transactions contemplated by this Section (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Term Loans on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit or conflict with any such Extension or any other transaction contemplated by this Section 9.1(f). Any Lender that does not respond to an Extension Offer by the applicable due date shall be deemed to have rejected such Extension Offer.

No consent of either Agent or any Lender shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Term Loans (or a portion thereof). All Extended Term Loans and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents and secured by the Collateral on a pari passu basis with all other applicable Obligations. The Lenders hereby irrevocably authorize Agents to enter into amendments to this Agreement and the other Loan Documents with Borrowers (on behalf of all Credit Parties) as may be necessary in order to establish new Classes or sub-Classes in respect of Term Loans so extended and such technical amendments as may be necessary in the reasonable opinion of Agents and Borrowers in connection with the establishment of such new Classes or sub-Classes, in each case on terms consistent with this Section 9.1(f). Without limiting the foregoing, in connection with any Extensions the applicable Credit Parties shall (at their expense) amend (and Collateral Agent is hereby directed by the Lenders to amend) any Mortgage that has a maturity date prior to the later of the then latest maturity date of the Term Loans, so that such maturity date referenced therein

is extended to the Latest Maturity Date of the Term Loans. Collateral Agent shall promptly notify each Lender of the effectiveness of each such amendment.

In connection with any Extension, Borrower Representative shall provide Agents at least five (5) Business Days (or such shorter period as may be agreed by Agents) prior written notice thereof, and shall agree to such procedures (including regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, Agent, in each case acting reasonably to accomplish the purposes of this Section 9.1(f).

This Section 9.1(f) shall supersede any provisions of this Section 9.1 or Section 9.11 to the contrary.

9.2 Notices.

(a) Addresses. All notices and other communications required or expressly authorized to be made by this Agreement shall be given in writing, unless otherwise expressly specified herein, and (i) addressed to the address set forth on the applicable signature page hereto, (ii) posted to Syndtrak (to the extent such system is available and set up by or at the direction of Agents prior to posting) in an appropriate location by uploading such notice, demand, request, direction or other communication to www.syndtrak.com or using such other means of posting to Syndtrak as may be available and reasonably acceptable to Agents prior to such posting, (iii) posted to any other E-System approved by or set up by or at the direction of Agents or (iv) addressed to such other address as shall be notified in writing (A) in the case of the Borrowers and Agents, to the other parties hereto and (B) in the case of all other parties, to the Borrowers and Agents. Transmissions made by electronic mail or E-Fax to Agents shall be effective only (x) for notices where such transmission is specifically authorized by this Agreement, (y) if such transmission is delivered in compliance with procedures of Agents applicable at the time and previously communicated to the Borrowers, and (z) if receipt of such transmission is acknowledged by Agents.

(b) Effectiveness.

(i) All communications described in clause (a) above and all other notices, demands, requests and other communications made in connection with this Agreement shall be effective and be deemed to have been received (i) if delivered by hand, upon personal delivery, (ii) if delivered by overnight courier service, one (1) Business Day after delivery to such courier service, (iii) if delivered by mail, three (3) Business Days after deposit in the mail, (iv) if delivered by facsimile (other than to post to an E-System pursuant to clause (a)(ii) or (a)(iii) above), upon sender's receipt of confirmation of proper transmission, (v) if delivered by posting to any E-System, on the later of the Business Day of such posting and the Business Day access to such posting is given to the recipient thereof in accordance with the standard procedures applicable to such E-System and (vi) if delivered by electronic mail, pursuant to sub-clauses (y) and (z) of

clause (a) above; provided, however, that no communications to either Agent pursuant to Article I shall be effective until received by such Agent.

(ii) The posting, completion and/or submission by any Credit Party of any communication pursuant to an E-System shall constitute a representation and warranty by the Credit Parties that any representation, warranty, certification or other similar statement required by the Loan Documents to be provided, given or made by a Credit Party in connection with any such communication is true, correct and complete in all material respects except as expressly noted in such communication or E-System.

(c) Each Lender shall notify the Agents in writing of any changes in the address to which notices to such Lender should be directed, of addresses of its Lending Office, of payment instructions in respect of all payments to be made to it hereunder and of such other administrative information as Agent shall reasonably request.

9.3 Electronic Transmissions.

(a) Authorization. Subject to the provisions of Section 9.2(a), each of Agent, Lenders, each Credit Party and each of their Related Persons, is authorized (but not required) to transmit, post or otherwise make or communicate, in its sole discretion, Electronic Transmissions in connection with any Loan Document and the transactions contemplated therein. Each Credit Party and each Secured Party hereto acknowledges and agrees that the use of Electronic Transmissions is not necessarily secure and that there are risks associated with such use, including risks of interception, disclosure and abuse and each indicates it assumes and accepts such risks by hereby authorizing the transmission of Electronic Transmissions.

(b) Signatures. Subject to the provisions of Section 9.2(a), (i)(A) no posting to any E-System shall be denied legal effect merely because it is made electronically, (B) each E-Signature on any such posting shall be deemed sufficient to satisfy any requirement for a "signature" and (C) each such posting shall be deemed sufficient to satisfy any requirement for a "writing", in each case including pursuant to any Loan Document, any applicable provision of any UCC, the federal Uniform Electronic Transactions Act, the Electronic Signatures in Global and National Commerce Act and any substantive or procedural Requirement of Law governing such subject matter, (ii) each such posting that is not readily capable of bearing either a signature or a reproduction of a signature may be signed, and shall be deemed signed, by attaching to, or logically associating with such posting, an E-Signature, upon which Agents, each other Secured Party and each Credit Party may rely and assume the authenticity thereof, (iii) each such posting containing a signature, a reproduction of a signature or an E-Signature shall, for all intents and purposes, have the same effect and weight as a signed paper original and (iv) each party hereto or beneficiary hereto agrees not to contest the validity or enforceability of any posting on any E-System or E-Signature on any such posting under the provisions of any applicable Requirement of Law requiring certain documents to be in writing or signed; provided, however, that nothing herein shall limit

such party's or beneficiary's right to contest whether any posting to any E-System or E-Signature has been altered after transmission.

(c) Separate Agreements. All uses of an E-System shall be governed by and subject to, in addition to Section 9.2 and this Section 9.3, the separate terms, conditions and privacy policy posted or referenced in such E-System (or such terms, conditions and privacy policy as may be updated from time to time, including on such E-System) and related Contractual Obligations executed by Agents and Credit Parties in connection with the use of such E-System.

(d) LIMITATION OF LIABILITY. ALL E-SYSTEMS AND ELECTRONIC TRANSMISSIONS SHALL BE PROVIDED "AS IS" AND "AS AVAILABLE". NONE OF AGENTS, ANY LENDER OR ANY OF THEIR RELATED PERSONS WARRANTS THE ACCURACY, ADEQUACY OR COMPLETENESS OF ANY E-SYSTEMS OR ELECTRONIC TRANSMISSION AND DISCLAIMS ALL LIABILITY FOR ERRORS OR OMISSIONS THEREIN. NO WARRANTY OF ANY KIND IS MADE BY AGENTS, ANY LENDER OR ANY OF THEIR RELATED PERSONS IN CONNECTION WITH ANY E-SYSTEMS OR ELECTRONIC COMMUNICATION, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS. Each of the Borrowers, each other Credit Party executing this Agreement and each Secured Party agrees that Agents have no responsibility for maintaining or providing any equipment, software, services or any testing required in connection with any Electronic Transmission or otherwise required for any E-System.

9.4 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of Agents or any Lender, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. No course of dealing between any Credit Party, any Affiliate of any Credit Party, Agents or any Lender shall be effective to amend, modify or discharge any provision of this Agreement or any of the other Loan Documents.

9.5 Costs and Expenses. Any action taken by any Credit Party under or with respect to any Loan Document, even if required under any Loan Document or at the request of Agent or Required Lenders, shall be at the expense of such Credit Party, and neither Agent nor any other Secured Party shall be required under any Loan Document to reimburse any Credit Party or any Subsidiary of any Credit Party therefor except as expressly provided therein. In addition, the Borrowers agree to pay or reimburse promptly following written demand (a) each Agent for all reasonable and documented out-of-pocket costs and expenses incurred by it or any of its Related Persons, in connection with the investigation, development, preparation, negotiation, syndication, execution, interpretation or administration of, any modification of any term of or termination of, any Loan Document, any commitment or proposal letter therefor, any other document prepared in connection therewith or the consummation and administration of any transaction contemplated

therein, in each case including (and in the case of legal counsel, limited to) Attorney Costs, (b) subject to Section 4.9, if applicable, each Agent for all reasonable and documented out-of-pocket costs and expenses incurred by it or any of its Related Persons in connection with field examinations and Collateral examinations (which shall be reimbursed, in addition to the reasonable, documented out-of-pocket costs and expenses of such examiners, at the per diem rate per individual charged by Agent for its examiners), (c) each Agent, its Related Persons for all reasonable and documented out-of-pocket costs and expenses (provided that legal fees shall be limited to Attorney Costs) incurred in connection with (i) the creation, perfection and maintenance of the perfection of Collateral Agent's Liens upon the Collateral, including Lien search, filing and recording fees, (ii) any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out", (iii) the enforcement or preservation of any right or remedy under any Loan Document, any Obligation, with respect to the Collateral or any other related right or remedy or any attempt to inspect, verify, protect insure, collect, sell, liquidate or otherwise dispose of any Collateral or (iv) the commencement, defense, conduct of, intervention in, or the taking of any other action (including preparation for and/or response to any subpoena or request for document production relating thereto) with respect to, any proceeding (including any bankruptcy or insolvency proceeding) related to any Credit Party, any Subsidiary of any Credit Party, Loan Document, Obligation or Related Transactions, including Attorney Costs, (d) the cost of purchasing insurance that the Credit Parties fail to obtain as required by the Loan Documents to the extent an Event of Default has resulted therefrom and shall be continuing at the time of such purchase and (e) all reasonable and invoiced fees and out-of-pocket disbursements of one external counsel, any necessary local counsel in each relevant jurisdiction (and, solely in the event of a conflict of interest, one additional primary legal counsel (and, if necessary, one additional local external counsel in each relevant jurisdiction)) on behalf of all Lenders and, if necessary, each Agent, taken as a whole, incurred in connection with any of the matters referred to in clause (c)(ii) through (iv) above.

9.6 Indemnity.

(a) Each Credit Party agrees to indemnify, hold harmless and defend each Agent, and each Lender, and each of their respective Related Persons (each such Person being an "**Indemnitee**") from and against all actual, out-of-pocket Liabilities (including, and in the case of legal fees, limited to Attorney Costs) that may be imposed on, incurred by or asserted against any such Indemnitee (whether brought by a Credit Party, an Affiliate of a Credit Party or any other Person) including any actual or prospective investigation, litigation or other proceeding, whether or not brought by any such Indemnitee or any of its Related Persons, any holders of securities or creditors (and including Attorney Costs), whether or not any such Indemnitee, Related Person, holder or creditor is a party thereto, and whether or not based on any securities or commercial law or regulation or any other Requirement of Law or theory thereof, including common law, equity, contract, tort or otherwise, in each case, in any matter relating to or arising out of, in connection with or as a result of (i) any Loan Document, any commitment letter or fee letter (including the Fee Letter) executed in connection with any Loan Document or any financial accommodation contemplated by a Loan Document, any Obligation (or the repayment thereof), the use or intended use of the proceeds of any Loan or any securities

filing of, or with respect to, any Credit Party or (ii) any other act, event or transaction related, contemplated in or attendant to any of the foregoing (collectively, the "**Indemnified Matters**"); provided, however, that no Credit Party shall have any liability under this Section 9.6 to an Indemnitee with respect to any Indemnified Matter, and such Indemnitee shall have any liability with respect to any Indemnified Matter other than (to the extent otherwise liable), to the extent (i) such liability, as determined by a court of competent jurisdiction in a final non-appealable judgment or order, has resulted directly from (A) the gross negligence, bad faith or willful misconduct of such Indemnitee, (B) a material breach by such Indemnitee of its obligations under the Loan Documents or applicable Requirement of Law or (C) a dispute solely among Indemnitees that does not directly involve or result from any act or omission by a Credit Party or its Subsidiaries or Affiliates, or (ii) any settlement of any pending or threatened claim, litigation, investigation or proceeding is effected without the Borrowers' consent (which shall not be unreasonably withheld, conditioned or delayed). Furthermore, each of the Borrowers and each other Credit Party executing this Agreement waives and agrees not to assert against any Indemnitee, and shall cause each other Credit Party to waive and not assert against any Indemnitee, any right of contribution with respect to any Liabilities that may be imposed on, incurred by or asserted against any Related Person. This Section 9.6(a) shall not apply with respect to Taxes other than any Taxes that represent Liabilities arising from any non-Tax claim. Without limiting the foregoing indemnity for Indemnified Matters that include claims for punitive, exemplary, consequential or indirect damages, no party hereto or any of its respective Affiliates, or, as applicable, Approved Funds, shall be liable for any punitive, exemplary, consequential or indirect damages alleged in connection with, arising out of, or relating to, any Liabilities, the Loan Documents, the Loans and Commitments, the use or the proposed use of the proceeds thereof, the Related Transactions, or any other transaction contemplated by this Agreement.

(b) Without limiting the foregoing, "**Indemnified Matters**" includes all Environmental Liabilities imposed on, incurred by or asserted against any Indemnitee, including those arising from, or otherwise involving, any Property of any Credit Party or any Related Person of any Credit Party or any actual, alleged or prospective damage to Property or natural resources or harm or injury alleged to have resulted from any Release of Hazardous Materials on, upon or into such Property or natural resource or any Property on or contiguous to any Real Estate of any Credit Party or any Related Person of any Credit Party, whether or not, with respect to any such Environmental Liabilities, any Indemnitee is a mortgagee pursuant to any leasehold mortgage, a mortgagee in possession, the successor-in-interest to any Credit Party or any Related Person of any Credit Party or the owner, lessee or operator of any Property of any Related Person through any foreclosure action, in each case except to the extent such Environmental Liabilities (i) are incurred solely following foreclosure by Collateral Agent or following Collateral Agent or any Lender having become the successor-in-interest to any Credit Party or any Related Person of any Credit Party and (ii) are attributable solely to acts of such Indemnitee.

9.7 Marshaling; Payments Set Aside. No Secured Party shall be under any obligation to marshal any Property in favor of any Credit Party or any other Person or against or in payment of any Secured Obligation. To the extent that any Secured Party receives a payment from the Borrower, from any other Credit Party, from the proceeds of the Collateral, from the exercise of its rights of setoff, any enforcement action or otherwise, and such payment is subsequently, in whole or in part, invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not occurred.

9.8 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that any assignment by any Lender shall be subject to the provisions of Section 9.9, and provided further that neither the Borrowers nor Holdings may assign or transfer any of its respective rights or obligations under this Agreement without the prior written consent of Agent and each Lender.

9.9 Binding Effect; Assignments and Participations.

(a) Binding Effect. This Agreement shall become effective when it shall have been executed by Holdings, the Borrowers, the other Credit Parties signatory hereto and each Agent and when Administrative Agent shall have been notified by each Lender that such Lender has executed it. Thereafter, it shall be binding upon and inure to the benefit of, but only to the benefit of, Holdings, the Borrowers, the other Credit Parties hereto, each Agent, and each Lender receiving the benefits of the Loan Documents and, to the extent provided in Section 8.11, each other Secured Party and, in each case, their respective successors and permitted assigns. Except as expressly provided in any Loan Document (including in Sections 5.3 and 8.9), none of Holdings, the Borrowers, any other Credit Party, or any Agent shall have the right to assign any rights or obligations hereunder or any interest herein.

(b) Right to Assign. Each Lender may sell, transfer, negotiate or assign (a "**Sale**") all or a portion of its rights and obligations hereunder (including all or a portion of its Commitments and its rights and obligations with respect to Loans and Letters of Credit) to:

(i) any existing Lender (other than a Non-Funding Lender, Impacted Lender or Excluded Person);

(ii) any Affiliate or Approved Fund of any existing Lender (other than a Non-Funding Lender, Impacted Lender or Excluded Person); or

(iii) any other Person (other than a natural person and, so long as no Event of Default is continuing, an Excluded Person) acceptable (which acceptance

shall not be unreasonably withheld or delayed) to Agents (each an "**Eligible Assignee**"); provided, however, that:

(A) [Reserved];

(B) for each Loan, the aggregate outstanding principal amount (determined as of the effective date of the applicable Assignment) of the Loans and Commitments subject to any such Sale shall be in a minimum amount of $1,000,000, unless such Sale is made to an existing Lender or an Affiliate or Approved Fund of any existing Lender, is of the assignor's (together with its Affiliates and Approved Funds) entire interest in such facility or is made with the prior consent of the Borrower Representative (to the extent the Borrower Representative's consent is otherwise required) and Agents;

(C) interest accrued, other than any interest that is payable-in-kind, prior to and through the date of any such Sale may not be assigned; and

(D) such Sales by Lenders who are Non-Funding Lenders due to clause (a) of the definition of Non-Funding Lender shall be subject to Agents' prior written consent in all instances, unless in connection with such sale, such Non-Funding Lender cures, or causes the cure of, its Non-Funding Lender status as contemplated in Section 1.11(e)(v) and shall not be an Impacted Lender.

Agents' refusal to accept a Sale to a holder of Subordinated Indebtedness or a Person that would be a Non-Funding Lender or an Impacted Lender, or the imposition of conditions or limitations (including limitations on voting) upon Sales to such Persons, shall not be deemed to be unreasonable**.**

(c) Procedure. The parties to each Sale made in reliance on clause (b) above (other than those described in clause (e)or (f) below) shall execute and deliver to Administrative Agent an Assignment via an electronic settlement system designated by Administrative Agent (or, if previously agreed with Administrative Agent, via a manual execution and delivery of the Assignment) evidencing such Sale, together with any existing Note subject to such Sale (or any affidavit of loss therefor reasonably acceptable to Administrative Agent and the Borrower Representative (whose consent shall not be unreasonably withheld, conditioned or delayed)), any Tax forms required to be delivered pursuant to Section 10.1 and all other requested "know your customer" documentation and information required by anti-money laundering rules and regulations, including, without limitation, the Patriot Act, and payment of an assignment fee in the amount of $3,500 to Administrative Agent, unless waived or reduced by Administrative Agent; provided that (i) if a Sale by a Lender is made to an Affiliate or an Approved Fund of such assigning Lender, then no assignment fee shall be due in connection with such Sale, and (ii) if a Sale by a Lender is made to an assignee that is not an Affiliate or Approved

Fund of such assignor Lender, and concurrently to one or more Affiliates or Approved Funds of such assignee, then only one assignment fee of $3,500 shall be due in connection with such Sale (unless waived or reduced by Administrative Agent). Upon receipt of all the foregoing, and conditioned upon such receipt and, if such Assignment is made in accordance with clause (iii) of Section 9.9(b), upon Agents (and the Borrower Representative, if applicable) consenting to such Assignment, from and after the recordation date specified in such Assignment, Administrative Agent shall record or cause to be recorded in the Register the information contained in such Assignment.

(d) Effectiveness. Subject to the recording of an Assignment by Administrative Agent in the Register pursuant to Section 1.4(b), (i) the assignee thereunder shall become a party hereto and, to the extent that rights and obligations under the Loan Documents have been assigned to such assignee pursuant to such Assignment, shall have the rights and obligations of a Lender, (ii) any applicable Note shall be transferred to such assignee through such entry and (iii) the assignor thereunder shall, to the extent that rights and obligations under this Agreement have been assigned by it pursuant to such Assignment, relinquish its rights (except for those surviving the termination of the Commitments and the payment in full of the Secured Obligations) and be released from its obligations under the Loan Documents, other than those relating to events or circumstances occurring prior to such assignment (and, in the case of an Assignment covering all or the remaining portion of an assigning Lender's rights and obligations under the Loan Documents, such Lender shall cease to be a party hereto).

(e) Grant of Security Interests. In addition to the other rights provided in this Section 9.9, each Lender may grant a security interest in, or otherwise assign as collateral, any of its rights under this Agreement, whether now owned or hereafter acquired (including rights to payments of principal or interest on the Loans), to (A) any federal reserve bank (pursuant to Regulation A of the Federal Reserve Board), without notice to Agents or (B) any holder of, or trustee for the benefit of the holders of, such Lender's Indebtedness or equity securities, by notice to Agents; provided, however, that no such holder or trustee, whether because of such grant or assignment or any foreclosure thereon (unless such foreclosure is made through an assignment in accordance with clause (b) above), shall be entitled to any rights of such Lender hereunder and no such Lender shall be relieved of any of its obligations hereunder.

(f) Participants and SPVs. In addition to the other rights provided in this Section 9.9, each Lender may, (x) with notice to Agents, grant to an SPV the option to make all or any part of any Loan that such Lender would otherwise be required to make hereunder (and the exercise of such option by such SPV and the making of Loans pursuant thereto shall satisfy the obligation of such Lender to make such Loans hereunder) and such SPV may assign to such Lender the right to receive payment with respect to any Obligation and (y) without notice to or consent from Agents or the Borrowers, sell participations to one or more Persons other than an Excluded Person, a Credit Party, a Founder Group Member or an Affiliate of a Credit Party or a Founder Group Member in or to all or a portion of its rights and obligations under the Loan

Documents (including all its rights and obligations with respect to the Term Loans and the Delayed Draw Term Loan Commitment); provided, however, that, whether as a result of any term of any Loan Document or of such grant or participation, (i) no such SPV or participant shall have a commitment, or be deemed to have made an offer to commit, to make Loans hereunder, and, except as provided in the applicable option agreement, none shall be liable for any obligation of such Lender hereunder, (ii) such Lender's rights and obligations, and the rights and obligations of the Credit Parties and the Secured Parties towards such Lender, under any Loan Document shall remain unchanged and each other party hereto shall continue to deal solely with such Lender, which shall remain the holder of the Obligations in the Register, except that (A) each such participant and SPV shall be entitled to the benefit of Article X, but, with respect to Section 10.1 and Section 10.3, such participant and SPV shall be subject to the requirements and limitations therein, and shall be entitled to the benefits thereunder only to the extent such participant or SPV delivers the Tax forms required to be delivered pursuant to Section 10.1(g) to the same extent as if it were a Lender (it being understood that the documentation required under Section 10.1(g) shall be delivered to the Participating Lender) and to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section and (B) each such SPV may receive other payments that would otherwise be made to such Lender with respect to Loans funded by such SPV to the extent provided in the applicable option agreement and set forth in a notice provided to Agents by such SPV and such Lender, provided, however, that in no case (including pursuant to clause (A) or (B) above) shall an SPV or participant have the right to enforce any of the terms of any Loan Document, and (iii) the consent of such SPV or participant shall not be required (either directly, as a restraint on such Lender's ability to consent hereunder or otherwise) for any amendments, waivers or consents with respect to any Loan Document or to exercise or refrain from exercising any powers or rights such Lender may have under or in respect of the Loan Documents (including the right to enforce or direct enforcement of the Obligations), except for those described in clauses (ii) and (iii) of Section 9.1(a) with respect to amounts, or dates fixed for payment of amounts, to which such participant or SPV would otherwise be entitled and, in the case of participants, except for those described in clause (vii) of Section 9.1(a). No party hereto shall institute (and the Borrowers and Holdings shall cause each other Credit Party not to institute) against any SPV grantee of an option pursuant to this clause (f) any bankruptcy, reorganization, insolvency, liquidation or similar proceeding, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper of such SPV; provided, however, that each Lender having designated an SPV as such agrees to indemnify each Indemnitee against any Liability that may be incurred by, or asserted against, such Indemnitee as a result of failing to institute such proceeding (including a failure to be reimbursed by such SPV for any such Liability). The agreement in the preceding sentence shall survive the termination of the Commitments and the payment in full of the Secured Obligations. Each Lender that makes a grant to an SPV or sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each SPV or participant and the principal amounts (and stated interest) of each SPV's 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 SPV or participant or any information relating to an SPV's or 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 or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations or where disclosure is otherwise required under the Code or 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, Agents shall have no responsibility for maintaining a Participant Register.

9.10 Non-Public Information; Confidentiality.

(a) MNPI. Each Agent and each Lender acknowledges and agrees that it may receive material non-public information ("**MNPI**") hereunder concerning the Credit Parties and their Affiliates and agrees to use such information in compliance with all relevant policies, procedures and applicable Requirements of Laws (including United States federal and state securities laws and regulations).

(b) Confidential Information. Each Agent and each Lender agrees to maintain the confidentiality of information obtained by it pursuant to any Loan Document (it being understood and agreed that all such information shall be deemed to be confidential except to the extent designated in writing by any Credit Party as non-confidential), except that such information may be disclosed, solely, as applicable, in the scope necessary for each subsequently stated purpose, (i) with the Borrower Representative's consent, (ii) on a "need to know" basis to Related Persons of such Lender or Agent, as the case may be, in each case, in connection with matters arising out of this Agreement and that are advised of the confidential nature of such information and are instructed to keep such information confidential in accordance with the terms hereof, (iii) to the extent such information presently is or hereafter becomes (A) publicly available other than as a result of a breach of this Section 9.10 or (B) available to such Lender or Agent or any of their Related Persons, as the case may be, on a non-confidential basis from a source (other than any Credit Party or any of its representatives) not in violation of any confidentiality agreement or obligation owed to any Credit Party or its Related Persons with respect thereto, (iv) to the extent disclosure is required by applicable Requirements of Law or other compulsory legal process or requested or demanded by any Governmental Authority; provided, unless prohibited by Requirement of Law or court order, such Lender or Agent, as the case may be, shall make reasonable efforts to notify the Borrower Representative of any request by any Governmental Authority or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Person by such Governmental Authority) for disclosure of any such nonpublic information prior to disclosure of such information or, in any case, promptly notify the Borrower Representative thereof after such

disclosure, (v) to the extent necessary or customary for inclusion in league table measurements (which disclosure shall not include any information other than the names of the Credit Parties and Secured Parties and customarily reported terms with respect to this Agreement), (vi) (A) to the National Association of Insurance Commissioners or any similar organization, any examiner or any nationally recognized rating agency or (B) otherwise to the extent consisting of general portfolio information that does not identify Credit Parties, (vii) on a "need to know" basis to current or prospective assignees, SPVs (including the investors or prospective investors therein), participants or any Eligible Assignee, direct or contractual counterparties to any Secured Rate Contracts and to their respective Related Persons, in each case to the extent such assignees, investors, participants, counterparties or Related Persons agree in writing to be bound by provisions substantially similar to the provisions of this Section 9.10 (and such Person may disclose information to their respective Related Persons in accordance with clause (ii) above), (viii) to any other party hereto, and (ix) in connection with the exercise or enforcement of any right or remedy under any Loan Document, in connection with any litigation or other proceeding to which such Lender or Agent or any of their Related Persons is a party or bound, or to the extent necessary to respond to public statements or disclosures by Credit Parties or their Related Persons referring to a Lender or Agent or any of their Related Persons. In addition, the Agents and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments. In the event of any conflict between the terms of this Section 9.10 and those of any other Contractual Obligation entered into with any Credit Party (whether or not a Loan Document), the terms of this Section 9.10 shall govern.

(c) Tombstones. The publication by Agents or any Lender of any press releases, tombstones, advertising or other promotional materials (including via any Electronic Transmission) relating to the financing transactions contemplated by this Agreement using Holdings' and the Borrowers' names, product photographs, logo or trademark; and all contents thereof, are subject to the prior written consent of the Borrower Representative (not to be unreasonably withheld or delayed).

(d) Press Release and Related Matters. No Credit Party shall, and no Credit Party shall permit any of its Affiliates to, issue any press release or other public disclosure (other than any document filed with any Governmental Authority relating to a public offering of securities of any Credit Party) using the name, logo or otherwise referring to RCS or of any of its Affiliates, the Loan Documents or any transaction contemplated herein or therein to which RCS or any of its Affiliates is party without the prior written consent of RCS or such Affiliate (not to be unreasonably withheld or delayed) except to the extent required to do so under applicable Requirements of Law and then, unless prohibited by applicable Requirements of Law or a court order, only after consulting with RCS.

(e) Distribution of Materials to Lenders. The Credit Parties acknowledge and agree that the Loan Documents and all reports, notices, communications and other information or materials provided or delivered by, or on behalf of, the Credit Parties hereunder (collectively, the "**Borrower Materials**") may be disseminated by, or on behalf of, Administrative Agent, and made available, to the Lenders by posting such Borrower Materials on an E-System. The Credit Parties authorize Agents to download copies of their logos from its website and post copies thereof on an E-System.

(f) Material Non-Public Information. The Credit Parties hereby agree that if either they, Holdings or any Subsidiary of the Credit Parties has publicly traded equity or debt securities in the United States, they shall (and shall cause Holdings or Subsidiary, as the case may be, to) (i) identify in writing, and (ii) to the extent reasonably practicable, clearly and conspicuously mark such Borrower Materials that contain only information that is publicly available or that is not material for purposes of United States federal and state securities laws as "PUBLIC". The Credit Parties agree that by identifying such Borrower Materials as "PUBLIC" or publicly filing such Borrower Materials with the Securities and Exchange Commission, then Agents and the Lenders shall be entitled to treat such Borrower Materials as not containing any MNPI for purposes of United States federal and state securities laws. The Credit Parties further represent, warrant, acknowledge and agree that the following documents and materials shall be deemed to be PUBLIC, whether or not so marked, and do not contain any MNPI: (A) the Loan Documents, including the schedules and exhibits attached thereto, and (B) administrative materials of a customary nature prepared by the Credit Parties or Agents (including, Notices of Borrowing, Notices of Conversion/Continuation, swingline requests and any similar requests or notices posted on or through an E-System). Before distribution of Borrower Materials, the Credit Parties agree to execute and deliver to Agents a letter authorizing distribution of the evaluation materials to prospective Lenders and their employees willing to receive MNPI, and a separate letter authorizing distribution of evaluation materials that do not contain MNPI and represent that no MNPI is contained therein.

9.11 Set-off; Sharing of Payments.

(a) Right of Setoff. Each Agent and each Lender and each Affiliate (including each branch office thereof) of any of them is hereby authorized, without notice or demand (each of which is hereby waived by each Credit Party), at any time and from time to time during the continuance of any Event of Default and to the fullest extent permitted by applicable Requirements of Law, to set off and apply any and all deposits (whether general or special, time or demand, provisional or final) at any time held and other Indebtedness, claims or other obligations at any time owing by Agent, such Lender, or any of their respective Affiliates to or for the credit or the account of the Borrowers or any other Credit Party against any Obligation of any Credit Party now or hereafter existing, whether or not any demand was made under any Loan Document with respect to such Obligation and even though such Obligation may be unmatured. No Lender shall exercise any such right of setoff without the prior consent of Agents or the Required

Lenders. Each Agent and each Lender agrees promptly to notify the Borrower Representative and Agents after any such setoff and application made by such Lender or its Affiliates; provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights under this Section 9.11 are in addition to any other rights and remedies (including other rights of setoff) that Agent, the Lenders, their Affiliates and the other Secured Parties, may have.

(b) Sharing of Payments, Etc. If any Lender, directly or through an Affiliate or branch office thereof, obtains any payment of any Obligation of any Credit Party (whether voluntary, involuntary or through the exercise of any right of setoff or the receipt of any Collateral or "proceeds" (as defined under the applicable UCC) of Collateral) (and other than pursuant to Section 9.9, Section 9.22, Article X or any payment to a Lender that has not accepted an Extension Offer in respect of the original terms of those of its Loan and Commitments that, as to Lenders that accepted such Extension Offer, were extended as to such Lenders) and such payment exceeds the amount such Lender would have been entitled to receive if all payments had gone to, and been distributed by, Administrative Agent in accordance with the provisions of the Loan Documents, such Lender shall purchase for cash from other Lenders such participations in their Obligations as necessary for such Lender to share such excess payment with such Lenders to ensure such payment is applied as though it had been received by Administrative Agent and applied in accordance with this Agreement (or, if such application would then be at the discretion of the Borrowers, applied to repay the Obligations in accordance herewith); provided, however, that (i) if such payment is rescinded or otherwise recovered from such Lender in whole or in part, such purchase shall be rescinded and the purchase price therefor shall be returned to such Lender without interest and (ii) such Lender shall, to the fullest extent permitted by applicable Requirements of Law, be able to exercise all its rights of payment (including the right of setoff) with respect to such participation as fully as if such Lender were the direct creditor of the applicable Credit Party in the amount of such participation. If a Non-Funding Lender or Impacted Lender receives any such payment as described in the previous sentence, such Lender shall turn over such payments to Administrative Agent in an amount that would satisfy the cash collateral requirements set forth in Section 1.11(e).

9.12 Counterparts; Electronic Transmission. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. Delivery of an executed signature page of this Agreement by facsimile transmission or Electronic Transmission shall be as effective as delivery of a manually executed counterpart hereof.

9.13 Severability. The illegality or unenforceability of any provision of this Agreement or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder.

9.14 Captions. The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

9.15 Independence of Provisions. The parties hereto acknowledge that this Agreement and the other Loan Documents may use several different limitations, tests or measurements to regulate the same or similar matters, and that such limitations, tests and measurements are cumulative and must each be performed, except as expressly stated to the contrary in this Agreement.

9.16 Interpretation. This Agreement is the result of negotiations among and has been reviewed by counsel to Credit Parties, Agents, each Lender and other parties hereto, and is the product of all parties hereto. Accordingly, this Agreement and the other Loan Documents shall not be construed against the Lenders or Agents merely because of Agents' or Lenders' involvement in the preparation of such documents and agreements. Without limiting the generality of the foregoing, each of the parties hereto has had the advice of counsel with respect to Sections 9.18 and 9.19.

9.17 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and legal benefit of the Borrowers and the Lenders party hereto**,** Agents and, subject to the provisions of Section 8.11, each other Secured Party, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents. Neither Agent nor any Lender shall have any obligation to any Person not a party to this Agreement or the other Loan Documents.

9.18 Governing Law and Jurisdiction.

(a) Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Agreement, including its validity, interpretation, construction, performance and enforcement (including any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest).

(b) Submission to Jurisdiction. Any legal action or proceeding with respect to any Loan Document shall be brought exclusively in the courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America for the Southern District of New York and, by execution and delivery of this Agreement, each Person executing this Agreement hereby accepts for itself and in respect of its Property, generally and unconditionally, the jurisdiction of the aforesaid courts; provided that nothing in this Agreement shall limit the right of any Agent to commence any proceeding in the federal or state courts of any other jurisdiction to the extent such Agent reasonably determines that such action is necessary or appropriate to exercise its rights or remedies under the Loan Documents with respect to the Collateral. The parties hereto (and, to the extent set forth in any other Loan Document, each other Credit Party) hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum *non conveniens*, that any of them may now or hereafter

have to the bringing of any such action or proceeding in courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America for the Southern District of New York.

(c) Service of Process. Each party hereto hereby irrevocably waives personal service of any and all legal process, summons, notices and other documents and other service of process of any kind and consents to such service in any suit, action or proceeding brought in the United States with respect to or otherwise arising out of or in connection with any Loan Document by any means permitted by applicable Requirements of Law, including by the mailing thereof (by registered or certified mail, postage prepaid) to the address of such party specified herein (and shall be effective when such mailing shall be effective, as provided therein). Each party hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(d) Non-Exclusive Jurisdiction. Nothing contained in this Section 9.18 shall affect the right of any Agent or any Lender to serve process in any other manner permitted by applicable Requirements of Law or commence legal proceedings or otherwise proceed against any Credit Party in any other jurisdiction.

9.19 Waiver of Jury Trial. THE PARTIES HERETO, TO THE EXTENT PERMITTED BY LAW, WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, IN CONNECTION WITH OR RELATING TO, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ANY OTHER TRANSACTION CONTEMPLATED HEREBY AND THEREBY. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE. EACH PARTY HERETO (A) CERTIFIES THAT NO OTHER PARTY AND NO RELATED PERSON 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 THE LOAN DOCUMENTS, AS APPLICABLE, BY THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

9.20 Entire Agreement; Release; Survival.

(a) THE LOAN DOCUMENTS EMBODY THE ENTIRE AGREEMENT OF THE PARTIES AND SUPERSEDE ALL PRIOR AGREEMENTS AND UNDERSTANDINGS RELATING TO THE SUBJECT MATTER THEREOF AND ANY PRIOR LETTER OF INTEREST, COMMITMENT LETTER, CONFIDENTIALITY AND SIMILAR AGREEMENTS INVOLVING ANY CREDIT PARTY AND ANY LENDER OR ANY OF THEIR RESPECTIVE AFFILIATES RELATING TO A FINANCING OF SUBSTANTIALLY SIMILAR FORM, PURPOSE OR EFFECT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS AGREEMENT AND ANY OTHER LOAN DOCUMENT, THE TERMS OF THIS AGREEMENT SHALL GOVERN (UNLESS OTHERWISE EXPRESSLY

STATED IN SUCH OTHER LOAN DOCUMENTS OR SUCH TERMS OF SUCH OTHER LOAN DOCUMENTS ARE NECESSARY TO COMPLY WITH APPLICABLE REQUIREMENTS OF LAW, IN WHICH CASE SUCH TERMS SHALL GOVERN TO THE EXTENT NECESSARY TO COMPLY THEREWITH).

(b) In no event shall any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings). Each of the Credit Parties and the Secured Parties hereby waives, releases and agrees (and, with respect to the Credit Parties, shall cause each other Credit Party to waive, release and agree) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(c) (i) Any indemnification or other protection provided to any Indemnitee pursuant to this Section 9.20, Sections 9.5 (Costs and Expenses), and 9.6 (Indemnity), and Article VIII (Agents) and Article X (Taxes, Yield Protection and Illegality), and (ii) the provisions of Section 8.1 of the Guaranty and Security Agreement, in each case, shall (x) survive the termination of the Commitments and the payment in full of all other Secured Obligations and (y) with respect to clause (i) above, inure to the benefit of any Person that at any time held a right thereunder (as an Indemnitee or otherwise) and, thereafter, its successors and permitted assigns.

9.21 USA Patriot Act; Beneficial Ownership Regulation. Each Lender that is subject to the USA Patriot Act (and Agents (for themselves and not on behalf of any Lender)) hereby notifies the Credit Parties that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Lender or Agent to identify each Credit Party in accordance with the USA Patriot Act. The Credit Parties shall, promptly following a request by Agent or any Lender, provide all documentation and other information that Agent or such Lender reasonably requests in order to comply with its ongoing obligations under the Beneficial Ownership Regulation.

9.22 Replacement of Lender. Within forty-five days after: (i) receipt by the Borrower Representative of written notice and demand from (A) any Lender (an "**Affected Lender**") for payment of additional costs as provided in Sections 10.1, 10.3 and/or 10.6 or that has become a Non-Funding Lender or Impacted Lender or (B) any SPV or participant (an "**Affected SPV/Participant**") for payment of additional costs as provided in Section 9.9(f), unless the option or participation of such Affected SPV/Participant shall have been terminated prior to the exercise by Borrower Representative of its rights hereunder; or (ii) any failure by any Lender (other than Agent or an Affiliate of Agent) to consent to a requested amendment, waiver or modification to any Loan Document in which Required Lenders (or the relevant directly affected Lenders holding a majority of the Loans and Commitments of such group of directly affected Lenders) have already consented to such amendment, waiver or modification but the consent of each Lender (or each Lender directly affected thereby, as applicable) is required with respect thereto, or any failure by any Lender to accept any Extension Offer, the Borrower Representative may, at

its option, notify (A) in the case of clause (i)(A) or (ii) above, Agents and such Affected Lender (or such non-consenting Lender) of the Borrower Representative's intention to obtain, at the Borrowers' expense, a replacement Lender ("**Replacement Lender**") for such Affected Lender (or such non-consenting Lender), or (B) in the case of clause (i)(B) above, Agents, such Affected SPV/Participant, if known, and the applicable Lender (such Lender, a "**Participating Lender**") that (1) granted to such Affected SPV/Participant the option to make all or any part of any Loan that such Participating Lender would otherwise be required to make hereunder or (2) sold to such Affected SPV/Participant a participation in or to all or a portion of its rights and obligations under the Loan Documents, of the Borrower Representative's intention to obtain, at the Borrowers' expense, a Replacement Lender for such Participating Lender, in each case, which Replacement Lender shall be reasonably satisfactory to Agents. In the event the Borrower Representative obtains a Replacement Lender within forty-five (45) days following notice of its intention to do so, the Affected Lender (or such non-consenting Lender) or Participating Lender, as the case may be, shall sell and assign its Loans and Commitments to such Replacement Lender (provided that no Excluded Person may be a Replacement Lender), at par, provided that the Borrowers have reimbursed such Affected Lender or Affected SPV/Participant, as applicable, for its increased costs for which it is entitled to reimbursement under this Agreement through the date of such sale and assignment, and in the case of a Participating Lender being replaced by a Replacement Lender, (x) all right, title and interest in and to the Obligations and Commitments so assigned to the Replacement Lender shall be assigned free and clear of all Liens or other claims (including pursuant to the underlying option or participation granted or sold to the Affected SPV/Participant, but without affecting any rights, if any, of the Affected SPV/Participant to the proceeds constituting the purchase price thereof) of the Affected SPV/Participant, and (y) to the extent required by the underlying option or participation documentation, such Participating Lender shall apply all or a portion of the proceeds received by it as a result of such assignment, as applicable, to terminate in full the option or participation of such Affected SPV/Participant. In the event that a replaced Lender does not execute an Assignment pursuant to Section 9.9 within five (5) Business Days after receipt by such replaced Lender of notice of replacement pursuant to this Section 9.22 and presentation to such replaced Lender of an Assignment evidencing an assignment pursuant to this Section 9.22, the Borrower Representative shall be entitled (but not obligated) to execute such an Assignment on behalf of such replaced Lender, and any such Assignment so executed by the Borrower Representative, the Replacement Lender (provided that no Excluded Person may be a Replacement Lender) and Agents, shall be effective for purposes of this Section 9.22 and Section 9.9. Notwithstanding the foregoing, with respect to a Lender that is a Non-Funding Lender or Impacted Lender, Agents may, but shall not be obligated to, obtain a Replacement Lender (provided that no Excluded Person may be a Replacement Lender) and execute an Assignment on behalf of such Non-Funding Lender or Impacted Lender at any time with three (3) Business Days' prior notice to such Lender (unless notice is not practicable under the circumstances) and cause such Lender's Loans and Commitments to be sold and assigned, in whole or in part, at par. Upon any such assignment and payment and compliance with the other provisions of Section 9.9, such replaced Lender shall no longer constitute a "**Lender**" for purposes hereof; provided, any rights of such replaced Lender to indemnification hereunder shall survive.

9.23 Joint and Several. The obligations of the Credit Parties hereunder and under the other Loan Documents are joint and several. Without limiting the generality of the foregoing, reference is hereby made to Article II of the Guaranty and Security Agreement, to which the obligations of the Borrowers and the other Credit Parties are subject.

9.24 Creditor-Debtor Relationship. The relationship between Agents and each Lender on the one hand, and the Credit Parties, on the other hand, is solely that of creditor and debtor. No Secured Party has any fiduciary relationship or duty to any Credit Party arising out of or in connection with, and there is no agency, tenancy or joint venture relationship between the Secured Parties and the Credit Parties by virtue of, any Loan Document or any transaction contemplated therein.

9.25 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 Credit Party to honor all of its payment obligations under the Guaranty and Security Agreement in respect of Swap Obligations under any Secured Rate Contract (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 9.25 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 9.25, or otherwise under the Guaranty and Security Agreement, voidable under applicable Requirements of Law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 9.25 shall remain in full force and effect until the guarantees in respect of Swap Obligations under each Secured Rate Contract have been discharged, or otherwise released or terminated in accordance with the terms of this Agreement. Each Qualified ECP Guarantor intends that this Section 9.25 constitute, and this Section 9.25 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Credit Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

9.26 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

9.27 Borrower Representative. Each Borrower hereby designates and appoints Holdings as its representative and agent on its behalf (the "**Borrower Representative**") for the purposes of (a) issuing Notices of Borrowing, Notices of Conversion/Continuation, swingline requests and any similar requests or notices, (b) delivering certificates, including Compliance Certificates, (c) giving instructions with respect to the disbursement of the proceeds of the Loans, (d) selecting interest rate options, giving and receiving all other notices and consents hereunder or under any of the other Loan Documents and (e) taking all other actions (including in respect of compliance with covenants, but without relieving any other Borrower of its joint and several obligations to pay and perform the Obligations) on behalf of any Borrower or the Borrowers under the Loan Documents. The Borrower Representative hereby accepts such appointment. Agents and each Lender may regard any notice or other communication pursuant to any Loan Document from the Borrower Representative as a notice or communication from all Borrowers. Each warranty, covenant, agreement and undertaking made on behalf of a Borrower by the Borrower Representative shall be deemed for all purposes to have been made by such Borrower and shall be binding upon and enforceable against such Borrower to the same extent as if the same had been made directly by such Borrower.

ARTICLE X

TAXES, YIELD PROTECTION AND ILLEGALITY

10.1 Taxes.

(a) Except as required by a Requirement of Law, each payment by any Credit Party under any Loan Document shall be made free and clear of 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) with respect thereto (collectively, "**Taxes**").

(b) If any Taxes shall be required by any Requirement of Law (as determined in good faith discretion of the relevant Credit Party or other withholding agent) to be deducted or withheld from or in respect of any amount payable under any Loan Document to any Lender or Agent (each, a "**Recipient**") then (i) if such Tax is an Indemnified Tax, such amount payable by the Credit Party shall be increased as necessary to ensure that, after all required deductions for Indemnified Taxes are made

(including deductions applicable to any increases to any amount under this Section 10.1), such Recipient receives the amount it would have received had no such deductions been made, (ii) the relevant withholding agent shall make such deductions or withholdings, (iii) the relevant withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Requirements of Law and (iv) as soon as practicable after such payment is made, the relevant Credit Party shall deliver to Administrative Agent an original or certified copy of a receipt issued by such Governmental Authority evidencing such payment or other evidence of payment reasonably satisfactory to Administrative Agent.

(c) In addition, but without duplication of amounts otherwise payable by a Credit Party pursuant to this Article X, the Borrowers agree to pay, and authorizes Administrative Agent to pay in its name, any stamp, court or documentary, intangible, recording, filing or similar Tax imposed by any applicable Requirement of Law or Governmental Authority and all interest, additions to tax, or penalties with respect thereto (including by reason of any delay in payment thereof), in each case 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, grant of a participation, designation of a new office for receiving payments by or on account of the Borrowers or other transfer (other than an assignment or designation of a new office made pursuant to Section 9.22) (collectively, "**Other Taxes**"). As soon as practicable after the date of any payment of Other Taxes by any Credit Party, the Borrowers shall furnish to Administrative Agent, at its address referred to in Section 9.2, the original or a certified copy of a receipt issued by the relevant Governmental Authority evidencing payment thereof or other evidence of payment reasonably satisfactory to Administrative Agent.

(d) The Borrowers shall reimburse and indemnify, within ten (10) days after receipt of demand therefor (with copy to Administrative Agent), each Recipient for all Indemnified Taxes (including any Indemnified Taxes imposed by any jurisdiction on amounts payable under this Section 10.1) paid or payable by such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally asserted. A certificate of the Recipient (or of Agent on behalf of such Recipient) claiming any compensation under this clause (d), setting forth in reasonable detail the nature and amounts of Indemnified Taxes to be paid thereunder and delivered to the Borrower with copy to Administrative Agent, shall be conclusive absent manifest error.

(e) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 10.1 shall not constitute a waiver of such Lender's right to demand such compensation; provided, however that the Borrowers shall not be required to compensate a Lender pursuant to this Section 10.1 for any Indemnified Taxes incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative of the event giving rise to such Indemnified Tax and of such Lender's

intention to claim compensation therefor; provided further, that if the event giving rise to such Indemnified Tax is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(f) Any Lender claiming any additional amounts payable pursuant to this Section 10.1 shall use its reasonable efforts (consistent with its internal policies of general application and Requirements of Law) to change the jurisdiction of its Lending Office if such a change would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender. In determining such amount, Agent and such Lender may use any reasonable averaging and attribution methods.

(g)

(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 Representative and the Administrative Agent, at the time or times reasonably requested by the Borrower Representative or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower Representative 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 Representative or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower Representative or the Administrative Agent as will enable the Borrower Representative 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 described in this paragraph (g)(i) (other than such documentation set forth in paragraphs (g)(ii), (iii) and (iv) of this Section) 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) Each Non-U.S. Lender Party that, at any of the following times, is entitled to an exemption from United States withholding Tax or, is subject to such withholding Tax at a reduced rate under an applicable Tax treaty, shall (w) on or prior to the date such Non-U.S. Lender Party becomes a "Non-U.S. Lender Party" hereunder, (x) on or prior to the date on which any such form or certification expires or becomes obsolete, (y) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (ii) and (z) from time to time if reasonably requested by the Borrower Representative or Administrative Agent and at the time or times prescribed by a Requirement of Law (or, in the case of a participant or SPV, the

relevant Lender), provide Administrative Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed and executed originals of each of the following, as applicable: (A) Forms W-8ECI (claiming exemption from U.S. withholding Tax because the income is effectively connected with a U.S. trade or business), W-8BEN or W-8BEN-E (claiming exemption from, or a reduction of, U.S. withholding Tax under an income Tax treaty (x) with respect to payments of interest under any Loan Document, pursuant to the "interest" article of such tax treaty, and (y) with respect to any other payments under any Loan Document, pursuant to the "business profits" or "other income" article of such tax treaty) and/or W-8IMY (together with appropriate forms, certifications and supporting statements from each beneficial owner, as applicable) or any successor forms, (B) in the case of a Non-U.S. Lender Party claiming exemption under Sections 871(h) or 881(c) of the Code, Form W-8BEN or W-8BEN-E (claiming exemption from U.S. withholding Tax under the portfolio interest exemption) or any successor form and a certificate in form and substance acceptable to Administrative Agent that such Non-U.S. Lender Party is not (1) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (2) a "10 percent shareholder" of Holdings or a Borrower within the meaning of Section 881(c)(3)(B) of the Code or (3) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code or (C) any other applicable document prescribed by the IRS certifying as to the entitlement of such Non-U.S. Lender Party to such exemption from United States withholding Tax or reduced rate with respect to all payments to be made to such Non-U.S. Lender Party under the Loan Documents. Unless the Borrower Representative and Administrative Agent have received forms or other documents reasonably satisfactory to them indicating that payments under any Loan Document to or for a Non-U.S. Lender Party are not subject to United States withholding Tax or are subject to such Tax at a rate reduced by an applicable Tax treaty, the Credit Parties and Administrative Agent shall be entitled to withhold amounts required to be withheld by applicable Requirements of Law from such payments at the applicable statutory rate.

(iii) Each U.S. Lender Party shall (A) on or prior to the date such U.S. Lender Party becomes a "U.S. Lender Party" hereunder, (B) on or prior to the date on which any such form or certification expires or becomes obsolete, (C) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (iii) and (D) from time to time if reasonably requested by the Borrower Representative or Administrative Agent and at the time or times prescribed by a Requirement of Law (or, in the case of a participant or SPV, the relevant Lender), provide Administrative Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed and executed originals of Form W-9 (certifying that such U.S. Lender Party is entitled to an exemption from U.S. backup withholding Tax) or any successor form.

(iv) Each Lender having sold a participation in any of its Obligations or identified an SPV as such to Administrative Agent shall collect from such participant or SPV the documents described in this clause (g) and provide them to Administrative Agent.

(v) If a payment made to a Lender Party would be subject to United States federal withholding Tax imposed by FATCA if such Lender Party fails to comply with the applicable reporting requirements of FATCA (including those contained in Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender Party shall deliver to Administrative Agent and the Borrower Representative at the time or times prescribed by law and at such time or times reasonably requested by Borrower Representative or Administrative Agent any documentation under any Requirement of Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) or reasonably requested by Administrative Agent or the Borrower Representative sufficient for Administrative Agent or the Borrowers to comply with their obligations under FATCA and to determine that such Lender Party has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for the purposes of this clause (v), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(vi) On or before the date the Agents become a party to this Agreement, the Agents shall provide to the Borrower Representative, two duly-signed, properly completed copies of the documentation prescribed in clause (i) or (ii) below, as applicable (together with all required attachments thereto): (i) IRS Form W-9 or any successor thereto, or (ii) (A) IRS Form W-8ECI or any successor thereto, and (B) with respect to payments received on account of any Lender, a U.S. branch withholding certificate on IRS Form W-8IMY or any successor thereto evidencing its agreement with the Borrowers to be treated as a U.S. person for U.S. federal withholding purposes. At any time thereafter, the Agents shall provide updated documentation previously provided (or a successor form thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower Representative.

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, provide such successor form, or promptly notify the Borrower Representative and the Agents in writing of its legal inability to do so.

(h) If any indemnified party determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes as to which it has been indemnified pursuant to this Section 10.1 (including by the payment of additional amounts pursuant to Section 10.1(b)), it shall pay to the relevant indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under

this Section 10.1 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 Section 10.1(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 Section 10.1(h), in no event shall the indemnified party be required to pay any amount to a indemnifying party pursuant to this Section 10.1(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 and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 10.1(h) 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.

10.2 Illegality. If after the date hereof any Lender shall determine that the introduction of any Requirement of Law, or any change in any Requirement of Law or in the interpretation or administration thereof, has made it unlawful, or that any central bank or other Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to make SOFR Rate Loans, then, on notice thereof by such Lender to the Borrower Representative through Administrative Agent, the obligation of that Lender to make SOFR Rate Loans shall be suspended until such Lender shall have notified Administrative Agent and the Borrower Representative that the circumstances giving rise to such determination no longer exists.

(a) Subject to clause (c) below, if any Lender shall determine that it is unlawful to maintain any SOFR Rate Loan, the Borrowers shall prepay in full all SOFR Rate Loans of such Lender then outstanding, together with interest accrued thereon, either on the last day of the Interest Period thereof if such Lender may lawfully continue to maintain such SOFR Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such SOFR Rate Loans, together with any amounts required to be paid in connection therewith pursuant to Section 10.4.

(b) If the obligation of any Lender to make or maintain SOFR Rate Loans has been terminated, the Borrowers may elect, by giving notice to such Lender through Agent that all Loans which would otherwise be made by any such Lender as SOFR Rate Loans shall be instead Base Rate Loans.

(c) Before giving any notice to Administrative Agent pursuant to this Section 10.2, the affected Lender shall designate a different Lending Office with respect to its SOFR Rate Loans if such designation will avoid the need for giving such notice or making such demand and will not, in the judgment of the Lender, be illegal or otherwise disadvantageous to the Lender.

10.3 Increased Costs and Reduction of Return.

(a) If any Lender shall determine that, due to either (i) the introduction of, or any change in, or in the interpretation of, any Requirement of Law or (ii) the compliance with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), in the case of either clause (i) or (ii) subsequent to the date hereof, (x) there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining any SOFR Rate Loans or (y) the Lender shall be subject to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (e) 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, then the Borrowers shall be liable for, and shall from time to time, within thirty (30) days of demand therefor by such Lender (with a copy of such demand to Administrative Agent), pay to Administrative Agent for the account of such Lender, additional amounts as are sufficient to compensate such Lender for such increased costs or such Taxes; provided, that the Borrowers shall not be required to compensate any Lender pursuant to this Section 10.3(a) for any increased costs incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative, in writing of the increased costs and of such Lender's intention to claim compensation thereof; provided, further, that if the circumstance giving rise to such increased costs is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If any Lender shall have determined that:

(i) the introduction of any Capital Adequacy Regulation;

(ii) any change in any Capital Adequacy Regulation;

(iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof; or

(iv) compliance by such Lender (or its Lending Office) or any entity controlling the Lender, with any Capital Adequacy Regulation;

affects the amount of capital required or expected to be maintained by such Lender or any entity controlling such Lender and (taking into consideration such Lender's or such entities' policies with respect to capital adequacy and such Lender's desired return on capital) determines that the amount of such capital is increased as a consequence of its Commitment(s), loans, credits or obligations under this Agreement, then, within thirty (30) days of demand of such Lender (with a copy to Administrative Agent), the Borrowers shall pay to such Lender, from time to time as specified by such Lender, additional amounts sufficient to compensate such Lender (or the entity controlling the Lender) for such increase; provided, that the Borrowers shall not be required to compensate any Lender pursuant to this Section 10.3(b) for any amounts incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative, in writing of the

amounts and of such Lender's intention to claim compensation thereof; provided, further, that if the event giving rise to such increase is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(c) Notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case in respect of this clause (ii) pursuant to Basel III, shall, in each case, be deemed to be a change in a Requirement of Law under Section 10.3(a) above and/or a change in Capital Adequacy Regulation under Section 10.3(b) above, as applicable, regardless of the date enacted, adopted or issued.

10.4 Funding Losses. The Borrowers agree to reimburse each Lender and to hold each Lender harmless from any loss or expense which such Lender may sustain or incur as a consequence of:

(a) the failure of the Borrowers to make any payment or mandatory prepayment of principal of any SOFR Rate Loan as and when due hereunder (including payments made after any acceleration thereof);

(b) the failure of the Borrowers to borrow, continue or convert a Loan after the Borrower Representative has given (or is deemed to have given) a Notice of Borrowing or a Notice of Conversion/Continuation;

(c) the failure of the Borrowers to make any prepayment after the Borrower Representative has given a notice in accordance with Section 1.7;

(d) the prepayment (including pursuant to Section 1.7 or Section 1.8) of a SOFR Rate Loan on a day which is not the last day of the Interest Period with respect thereto; or

(e) the conversion pursuant to Section 1.6 of any SOFR Rate Loan to a Base Rate Loan on a day that is not the last day of the applicable Interest Period;

including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its SOFR Rate Loans hereunder or from fees payable to terminate the deposits from which such funds were obtained; provided that, with respect to the expenses described in clauses (d) and (e) above, such Lender shall have notified Administrative Agent of any such expense within two (2) Business Days of the date on which such expense was incurred. Solely for purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 10.4 and under Section 10.3(a): each SOFR Rate Loan made by a Lender (and each related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the SOFR used in determining the

interest rate for such SOFR Rate Loan by a matching deposit or other borrowing in the interbank Eurodollar market for a comparable amount and for a comparable period, whether or not such SOFR Rate Loan is in fact so funded.

10.5 [Reserved].

10.6 [Reserved].

10.7 Certificates of Lenders. Any Lender claiming reimbursement or compensation pursuant to this Article X shall deliver to the Borrower Representative (with a copy to Agent) a certificate setting forth in reasonable detail the amount payable to such Lender hereunder and such certificate shall be conclusive and binding on the Borrowers in the absence of manifest error.

ARTICLE XI

DEFINITIONS

11.1 Defined Terms. The following terms are defined in the Section referenced opposite such terms:

"Administrative Agent"	Preamble
"**Affected Lender**"	9.22
"**Affected SPV/Participant**"	9.22
"**Agents**"	Preamble
"**Aggregate Excess Funding Amount**"	1.11(e)(iv)
"**Agreement**"	Preamble
"**Anti-Corruption Laws**"	3.25(c)
"**Borrower(s)**"	Preamble
"**Borrower Materials**"	9.10(e)
"**Borrower Representative**"	9.27
"**BRCB**"	Preamble
"BRCR"	Preamble
"**BRD**"	Preamble
"**BRR**"	Preamble
"**BRSO**"	Preamble
"BRSO PNW"	Preamble
"BRSO 67th"	Preamble
"**Cash Flow**"	Exhibit 4.2(b)
"Collateral Agent"	Preamble
"Collateral Agent Advances"	8.15
"**Compliance Certificate**"	4.2(b)
"Delayed Draw Term Loan Commitment Fee"	1.9(b)
"**EBITDA**"	Exhibit 4.2(b)

"**ECF Payment Date**"	1.8(e)
"**Eligible Assignee**"	9.9(b)(iii)
"Equity Recap Distributions"	5.8(f)
"**Event of Default**"	7.1
"**Excess Cash Flow**"	Exhibit 4.2(b)
"**Excluded Accounts**"	4.11
"**Extended Term Loans**"	9.1(f)(iii)
"**Extended Term Loan Commitment**"	9.1(f)(iii)
"**Extending Term Lender**"	9.1(f)(iii)
"**Extension**"	9.1(f)
"**Extension Offer**"	9.1(f)
"**FCPA**"	3.25(c)
"**Fee Letter**"	1.9(a)
"**Fixed Charge Coverage Ratio**"	6.1(b) and Exhibit 4.2(b)
"**Holdings**"	Preamble
"**Indemnified Matters**"	9.6(a)
"**Indemnitee**"	9.6(a)
"**Investments**"	5.4
"**Lender**" and "**Lenders**"	Preamble
"**Maximum Lawful Rate**"	1.3(d)
"**MNPI**"	9.10(a)
"**Net Interest Expense**"	Exhibit 4.2(b)
"**Non-Recurring Expenses**"	Exhibit 4.2(b)
"**Notice of Conversion/Continuation**"	1.6(a)
"**OFAC**"	3.25(a)
"**Other Taxes**"	10.1(c)
"**Participant Register**"	9.9(f)
"**Participating Lender**"	9.22
"**Permitted Liens**"	5.1
"**Prepayment Period**"	1.7(c)
"Principal Place of Business"	3.9(b)
"**RCS**"	Preamble
"**Recipient**"	10.1(b)
"**Register**"	1.4(b)
"**Rejection Notice**"	1.8(h)
"**Restricted Payments**"	5.8
"**Replacement Lender**"	9.22
"**Sale**"	9.9(b)
"**Sanctioned Country**"	3.25(a)
"**Sanctions**"	3.25(a)
"**SDN List**"	3.25(a)

"**Senior Leverage Ratio**"	Exhibit 4.2(b)
"**Tax Returns**"	3.10
"**Taxes**"	10.1(a)
"**Term Loan A**"	1.1(a)
"**TSC**"	Preamble

In addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

"**Account**" means, as at any date of determination, all "accounts" (as such term is defined in the UCC) of a Borrower and its Subsidiaries, including the unpaid portion of the obligation of a customer of a Borrower or any of its Subsidiaries in respect of Inventory purchased by and shipped to such customer and/or the rendition of services by a Borrower or such Subsidiary, as stated on the respective invoice of a Borrower or such Subsidiary, net of any credits, rebates or offsets owed to such customer.

"**Account Debtor**" means the customer of a Borrower or any of its Subsidiaries who is obligated on or under an Account.

"**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 (including by way of a merger or other business combination) and (b) the acquisition of in excess of fifty percent (50%) of the Stock and Stock Equivalents of any Person or otherwise causing any Person to become a Subsidiary of a Borrower (in either case, including by way of a merger or other business combination).

"Adjusted Term SOFR Rate" means the sum of: (i) the Term SOFR Screen Rate, and (ii) 0.11448% (11.448 basis points) for an Available Tenor of one-month's duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months' duration, and 0.42826% (42.826 basis points) for an Available Tenor of six-months' duration; provided that, if the Adjusted Term SOFR Rate determined as provided above shall ever be less than the Floor, then the Adjusted Term SOFR Rate shall be deemed to be the Floor.

"**Affected Financial Institution**" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"**Affiliate**" means, with respect to any Person, any Person that directly or indirectly controls, is controlled by, or is under common control with, such Person; provided, however, that no Secured Party shall be an Affiliate of any Credit Party or of any Subsidiary of any Credit Party solely by reason of the provisions of the Loan Documents. For purposes of this definition, "**control**" means the possession of either (a) the power to vote, or the beneficial ownership of, 10% or more of the voting Stock of such Person (either directly or through the ownership of Stock Equivalents) or (b) the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, any director, officer or general partner that owns ten

percent (10%) or more of the Stock (either directly or through ownership of Stock Equivalents) of a Person shall for purposes of this agreement be deemed an Affiliate of such other Person.

"**Aggregate Term Loan Commitment**" means the combined Term Loan Commitments of the Lenders, which shall initially be in the amount up to $80,000,000, as such amount may be reduced from time to time pursuant to this Agreement.

"**Applicable Margin**" means, (a) from the Closing Date to the date on which the Administrative Agent receives a Compliance Certificate pursuant to Section 4.2(b) for the fiscal quarter ending September 30, 2022, for Term SOFR Loans, 6.00% plus a 1.00% "PIK Amount", and for Base Rate Loans, 5.00% plus a 1.00% "PIK Amount"; and

(b), thereafter, the applicable rate per annum set forth below determined by reference to the Total Net Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 4.2(b):

	Applicable Margin		
Pricing Level	Total Net Leverage Ratio	Term SOFR Loans	Base Rate Loans
1	≥5.25:1.00	6.50% plus the PIK Amount	5.50% plus the PIK Amount
2	>3.25:1.00, but <5.25:1.00	6.00% plus the PIK Amount	5.00% plus the PIK Amount
3	<3.25:1.00	5.50% plus the PIK Amount	4.50% plus the PIK Amount

"PIK Amount" means, in all instances, 0.50%

Any increase or decrease in the Applicable Margin resulting from a change in the Total Net Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 4.2(b); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Lenders, Pricing Level 1 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and in each case shall remain in effect until the date on which such Compliance Certificate is delivered.

In the event that the Administrative Agent and the Borrowers determine in good faith that any financial statement or Compliance Certificate delivered pursuant to Sections 4.1(a) or 4.2(b), respectively, is inaccurate, and such inaccuracy, if corrected, would have led to a higher Applicable Margin pursuant to clause (b) above for any period (an "Applicable Period") than the Applicable Margin pursuant to clause (b) above applied for such Applicable Period, then (i) the Borrowers shall immediately deliver to the Administrative Agent a correct Compliance

Certificate for such Applicable Period, (ii) the Applicable Margin pursuant to clause (b) above shall be determined by reference to the corrected Compliance Certificate (but in no event shall the Lenders owe any amounts to the Borrowers), and (iii) the Borrowers shall within five (5) Business Days of demand therefor by the Administrative Agent pay to the Administrative Agent the additional interest or fees owing as a result of such increased Applicable Margin pursuant to clause (b) above for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with the terms hereof; provided, that (x) any nonpayment of such additional interest or fees shall not constitute a Default or Event of Default until the expiration of such five (5) Business Day period and (y) no such amounts shall be deemed overdue or accrue interest at the rate pursuant to Section 1.3(c) until the expiration of such five (5) Business Day period; provided, further, that if, as a result of such correction, a proper calculation of the Total Net Leverage Ratio would have resulted in higher pricing for one or more periods and lower pricing for one or more other periods (due to the shifting of income or other expenses from one period to another period or any similar reason), then the amount payable by the Borrowers pursuant to clause (iii) above shall be based upon the excess, if any, of the amount of interest and fees that should have been paid for all Applicable Periods over the amount of interest and fees paid for all such periods.

"**Applicable Prepayment Premium**" means, at the date of determination (i) during the period from the Closing Date through the first anniversary of the Closing Date, an amount equal to 2.00% times the principal amount of the Term Loan prepaid on such date, (ii) during the period after the first anniversary of the Closing Date and through the second anniversary of the Closing Date, an amount equal to 1.00% times the principal amount of the Term Loan prepaid on such date and (iii) 0% thereafter.

"**Approved Fund**" means, with respect to any Lender, any Person (other than a natural Person) that (a) (i) 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 Business or (ii) temporarily warehouses loans for any Lender or any Person described in clause (i) above and (b) is advised or managed by (i) such Lender, (ii) any Affiliate of such Lender or (iii) any Person (other than an individual) or any Affiliate of any Person (other than an individual) that administers or manages such Lender.

"A&R Holdings LLC Agreement" means the Fourth Amended and Restated Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC dated on or about and as in effect on the Closing Date.

"**Assignment**" means an assignment agreement entered into by a Lender, as assignor, and any Person, as assignee, pursuant to the terms and provisions of Section 9.9 (with the consent of any party whose consent is required by Section 9.9), and accepted by Administrative Agent, substantially in the form of Exhibit 11.1(a) or any other form approved by Administrative Agent.

"**Attorney Costs**" means and includes all reasonable and invoiced fees and out-of-pocket disbursements of one external counsel and any necessary local counsel in each relevant jurisdiction (and, solely in the event of a conflict of interest, one additional primary legal external counsel (and, if necessary, one additional local external counsel in each relevant jurisdiction)), in

each case, for Agents, the Secured Parties and any Related Persons as a group and selected by Agents.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current 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 or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, pursuant to this Agreement as of such date.

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

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

"**Bank Product**" means any of the following products, services or facilities extended to any Credit Party or any Subsidiary by any Bank Product Provider: (a) cash management services; and (b) commercial credit card, purchase card and merchant card services; provided, however, that for any of the foregoing to be included as "Secured Obligations" for purposes of a distribution under Section 1.11(c), the applicable Bank Product Provider must have previously provided a written notice to the Administrative Agent which shall provide the following information: (i) the existence of such Bank Product and (ii) the maximum dollar amount of obligations arising thereunder, which must be satisfactory to both Agents in their sole discretion (the "Bank Product Amount"). The Bank Product Amount may be changed from time to time upon written notice to each Agent by the Bank Product Provider. Any Bank Product established from and after the time that the Lenders have received written notice from the Borrowers or the Administrative Agent that an Event of Default exists and is continuing, until such Event of Default has been waived in accordance with Section 9.1, shall not be included as "Secured Obligations" for purposes of a distribution under Section 1.11(c).

"**Bank Product Amount**" has the meaning set forth in the definition of Bank Product.

"**Bank Product Debt**" means the Indebtedness and other obligations of any Credit Party or Subsidiary relating to Bank Products.

"**Bank Product Provider**" means any Person that provides Bank Products to a Credit Party or any Subsidiary to the extent that such Person is a Lender, an Affiliate of a Lender or any other Person that was a Lender (or an Affiliate of a Lender) at the time it entered into the Bank

Product but has ceased to be a Lender (or whose Affiliate has ceased to be a Lender) under this Agreement.

"**Bankruptcy Code**" means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. §101 *et seq.*, as amended and in effect from time to time.

"**Base Rate**" for any day the greatest of (a) 2.50% per annum, (b) the Federal Funds Rate plus 0.5%, (c) the Prime Rate, and (d) the Adjusted Term SOFR Rate for a one-month tenor in effect on such date plus 1.0%; provided that for purposes of determining the Base Rate during any period that the Term SOFR Screen Rate is unavailable (as determined by the Administrative Agent), the Base Rate shall be determined using, for clause (d) hereof, the Term SOFR Screen Rate in effect immediately prior to the Term SOFR Screen Rate becoming unavailable plus, in each instance.

"**Base Rate Loan**" means a Loan that bears interest based on the Base Rate.

"Benchmark" means, initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 1.12.

"Benchmark Replacement" means either of the following to the extent selected by the Administrative Agent:

(1) Daily Simple SOFR; or

(2) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower Representative 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.

If the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor for SOFR Rate Loans, the Benchmark Replacement will be deemed to be the Floor for SOFR Rate Loans 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 pursuant to clause (2) thereof for any applicable Interest Period and Available Tenor for any setting of such 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 Representative for the applicable Benchmark giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities that are substantially similar to the credit facilities under this Agreement.

"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 the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

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

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

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

(b) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in

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

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

"Benchmark 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 1.12 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 1.12.

"**Beneficial Ownership Certification**" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation, which certification shall be in form and substance reasonably acceptable to Administrative Agent, and as of the Closing Date, substantially similar in form and substance to the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly in May 2018 by the Loan Syndications and Trading Association and Securities Industry and Financial Markets Association.

"**Beneficial Ownership Regulation**" means 31 C.F.R. § 1010.230.

"**Board of Directors**" means, for any Person, the board of directors (or equivalent governing body) of such Person or, if such Person does not have such a board of directors (or equivalent governing body) and is owned or managed by another entity or entities, the board of directors (or equivalent governing body) of such entity or entities.

"**Borrowing**" means a borrowing hereunder consisting of Loans made to or for the benefit of the Borrowers on the same day by the Lenders pursuant to Article I.

"**Business Day**" means any day that is not a Saturday, Sunday or a day on which banks are required or authorized to close in New York City; provided that, when used in connection with SOFR, Term SOFR, Term SOFR Screen Rate or Term SOFR Rate, the term "Business Day" excludes any day on which the Securities Industry and Financial Markets Association (SIFMA) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"**Capital Adequacy Regulation**" means any guideline, request or directive of any central bank or other Governmental Authority, or any other law, rule or regulation, whether or not having the force of law, in each case, regarding capital adequacy of any Lender or of any corporation controlling a Lender.

"**Capital Lease**" means, with respect to any Person, any lease of, or other arrangement conveying the right to use, any Property by such Person as lessee that has been or should be accounted for as a capital lease on a balance sheet of such Person prepared in accordance with GAAP, subject to the last sentence of Section 11.3.

"**Capital Lease Obligations**" means, at any time, with respect to any Capital Lease, any lease entered into as part of any sale leaseback transaction of any Person or any synthetic lease, the amount of all obligations of such Person that is (or that would be, if such synthetic lease or other lease were accounted for as a Capital Lease) capitalized on a balance sheet of such Person prepared in accordance with GAAP, subject to the last sentence of Section 11.3.

"**Cash Equivalents**" means (a) any readily-marketable securities (i) issued by, or directly, unconditionally and fully guaranteed or insured by the United States federal government or (ii) issued by any agency of the United States federal government the obligations of which are fully backed by the full faith and credit of the United States federal government, (b) any readily-marketable direct obligations issued by any other agency of the United States federal government, any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case having a rating of at least "A-1" from S&P or at least "P-1" from Moody's, (c) any commercial paper rated at least "A-1" by S&P or "P-1" by Moody's and issued by any Person organized under the laws of any state of the United States, (d) any Dollar-denominated time deposit, insured certificate of deposit, overnight bank deposit or bankers' acceptance issued or accepted by (i) any Lender or (ii) any commercial bank that is (A) organized under the laws of the United States, any state thereof or the District of Columbia, (B) "adequately capitalized" (as defined in the regulations of its primary federal banking regulators) and (C) has Tier 1 capital (as defined in such regulations) in excess of $250,000,000 and (e) shares of any United States money market fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clause (a), (b), (c) or (d) above with maturities as set forth in the proviso below, (ii) has net assets in excess of $500,000,000 and (iii) has obtained from either S&P or Moody's the highest rating obtainable for money market funds in the United States; provided, however, that the maturities of all obligations specified in any of clauses (a), (b), (c) or (d) above shall not exceed 365 days.

"Cash Interest Portion" means, with respect to each interest payment on each Interest Payment Date, an amount equal to accrued interest on such Interest Payment Date minus the PIK Amount.

"City Brew Acquisition" means the purchase by a Credit Party of all of the issued and outstanding ownership interests of, or all or substantially all of the assets of, City Roasting Company LLC, a Wyoming limited liability company.

"**Class**" (a) when used with respect to Commitments, refers to whether such Commitment is a Term Loan Commitment, Delayed Draw Term Loan Commitments or Extended Term Loan Commitment, (b) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are initial Term Loans, Delayed Draw Term Loans or Extended Term Loans that result from the same Extension, and (c) when used with respect to any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments. Notwithstanding the foregoing, Commitments (and in each case, the Loans made pursuant to such Commitments) that have identical terms and conditions shall be construed to be in the same Class.

"**Closing Date**" means April 29, 2022.

"**Closing Leverage**" means 4.91:1.00.

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

"**Collateral**" means all Property and interests in Property and proceeds thereof now owned or hereafter acquired by any Credit Party in or upon which a Lien is granted, purported to be granted, or now or hereafter exists in favor of any Lender or Collateral Agent for the benefit of Agents, Lenders and other Secured Parties, whether under this Agreement or under any other documents executed by any Credit Party and delivered to Collateral Agent. Notwithstanding the foregoing, Collateral shall not include Excluded Collateral (as defined in the Guaranty and Security Agreement).

"**Collateral Access Agreement**" means any landlord waiver or other agreement, in form or substance satisfactory to the Agents, between the Collateral Agent and any third party (including any landlord, bailee, consignee, customs broker, or other Person) in possession of any Collateral or acting as landlord of any real property where any Collateral is located, as such landlord waiver or other agreement may be amended, restated, supplemented or otherwise modified from time to time.

"**Collateral Documents**" means, collectively, the Guaranty and Security Agreement, the Mortgages, each Collateral Access Agreement, each Control Agreement and all other security agreements, pledge agreements, patent and trademark security agreements, lease assignments, guaranties and other similar agreements, and all amendments, restatements, modifications or supplements thereof or thereto, by or between any one or more of any Credit Party pledging or granting a lien on Collateral or guaranteeing the payment and performance of the Obligations, and any Lender or Agent for the benefit of Agents, the Lenders and other Secured Parties now or

hereafter delivered to the Lenders or Agents pursuant to or in connection with the transactions contemplated hereby, and all financing statements (or comparable documents now or hereafter filed in accordance with the UCC or comparable law) against any such Person as debtor in favor of any Lender or Agent for the benefit of Agents, the Lenders and the other Secured Parties, as secured party, as any of the foregoing may be amended, restated and/or modified from time to time.

"**Commitment**" means, for each Lender, the sum of its Term Loan Commitment and Delayed Draw Term Loan Commitment.

"**Commitment Percentage**" means, as to any Lender, the percentage equivalent of such Lender's Term Loan Commitment or Delayed Draw Term Loan Commitment divided by the Aggregate Term Loan Commitment and Delayed Draw Term Loan Commitment, as applicable; provided that after any Term Loan or Delayed Draw Term Loan has been funded, Commitment Percentages shall be determined for such Term Loan (including any funded Delayed Draw Term Loan) by reference to the outstanding principal balances thereof as of any date of determination rather than the Commitments therefor; provided, further, that following acceleration of the Loans, such term means, as to any Lender, the percentage equivalent of the principal amount of the Loans held by such Lender, divided by the aggregate principal amount of the Loans held by all Lenders.

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

"**Common Units**" has the meaning given such term in the A&R Holdings LLC Agreement as in effect on the Closing Date.

"Conforming Changes" means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "Term SOFR Screen Rate", the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 1.12 and other technical, administrative or operational matters) that the Administrative Agent decide 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 decide that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determine that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent decide 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 income (however denominated) or that are franchise Taxes or branch profit Taxes.

"**Consolidated EBITDA**" means, for any Measurement Period, for any Person, without duplication, an amount equal to Consolidated Net Income for such period plus (a) the following to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges for such period, (ii) the provision for federal, state, local and foreign income taxes (and franchise tax in the nature of income tax) payable by such Person for such period, (iii) depreciation and amortization expense, (iv) other non-cash items of such Person reducing Consolidated Net Income which do not represent a cash item in such period or any future period (and excludes write-downs of accounts and inventory), (v) any extraordinary, exceptional, unusual or non-recurring items, charges, expenses or losses not otherwise described or contemplated under any of the other numbered clauses or sub-clauses including initial public offering expenses and costs and expenses related to growth objectives; provided that (A) such items, charges, expenses or losses are reasonably identifiable, factually supportable and described in a reasonably detailed statement certified by a Responsible Officer of the Borrower Representative and (B) the aggregate amount added back pursuant to this clause (v) plus the amount added back pursuant to clause (ix) below shall not exceed fifteen percent (15.0%) of Consolidated EBITDA for any Measurement Period (without giving effect to such addbacks), (vi) an amount equal to the difference between Rental Expense as determined pursuant to GAAP and Rental Expense as determined on a cash basis (if GAAP basis Rental Expense is greater than cash basis Rental Expense), (vii) an amount equal to the pre-opening costs of each Store opened and incurred during such Measurement Period not to exceed $125,000 per Store, (viii) transaction closing expenses and expenses related to the Transactions and any transaction fees, costs and expenses incurred in connection with any amendment or waiver of the Loan Documents; provided that such transaction fees, costs and expenses are reasonably identifiable, factually supportable, and certified by a Responsible Officer of the Borrower Representative, and (ix) new store run rate adjustment equal to $250,000 per store, less actual contribution to Consolidated EBITDA from each such store for the first twelve (12) months after the grand opening, provided, that the amount added back pursuant to this clause (ix), plus the amount added back pursuant to clause (v) above, shall not exceed fifteen present (15.0%) of Consolidated EBITDA for any Measurement Period (without giving effect to such addbacks) minus (b) the following to the extent included in calculating such Consolidated Net Income for such period: (i) Federal, state, local and foreign income tax credits of such Person for such period, (ii) all non-cash items increasing Consolidated Net Income for such period, (iii) any gain from extraordinary items or net gains from disposition of property outside of ordinary course of business, (iv) an amount equal to the difference between Rental Expense as determined on a cash basis and Rental Expense as determined pursuant to GAAP (if cash basis Rental Expense is greater than GAAP basis rental expense), and (v) whether or not included in calculating Consolidated Net Income for such period, the aggregate amount of Restricted Payments under Section 5.8(g) during such period.

"**Consolidated Interest Charges**" means, for any period, for any Person, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of such Person paid in cash (and non- cash to the extent provided below) in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP and (b) the portion of rent expense of such Person with respect to such period under Capital Leases and Synthetic Lease

Obligations that is treated as interest in accordance with GAAP. For purposes of calculating Consolidated EBITDA, such Consolidated Interest Charges shall include both cash and any non-cash interest charges. For the avoidance of doubt, the "Yield Maintenance Premium" of up to $27,000,000 paid by Holdings in connection with the conversion of the Subordinated Term Loans to Preferred Equity Obligations as part of the Existing Debt Refinancing Transactions and any paid-in-kind yield on such Preferred Equity Obligations and Existing Preferred Units shall be excluded from the calculation of Consolidated Interest Charges.

"**Consolidated Net Income**" means, for any period, for any Person on a consolidated basis, the net income of such Person for that period determined in accordance with GAAP.

"Consolidated Total Debt" means, at any date of determination, the aggregate principal amount of the outstanding Term Loans and other Funded Indebtedness, in each case for Holdings and the Borrowers on a consolidated basis. For avoidance of doubt, Preferred Equity Obligations and Existing Preferred Units are excluded when calculating Consolidated Total Debt.

"**Contingent Acquisition Consideration**" means any earn-out obligation or similar deferred obligation of a Borrower or any of its Subsidiaries incurred or created in connection with any Permitted Acquisition.

"**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person: (a) with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (b) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (c) under any Rate Contracts; (d) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (e) for the obligations of another Person through any agreement to purchase, repurchase or otherwise acquire such obligation or any Property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another Person. The amount of any Contingent Obligation shall be equal to the outstanding amount of the primary obligation so guarantied or otherwise supported or, if not a fixed and determined amount, the maximum amount so guarantied or supported.

"**Contractual Obligations**" means, as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, deed of trust or other instrument, document or agreement (other than a Loan Document) to which such Person is a party or by which it or any of its Property is bound or to which any of its Property is subject.

"**Control Agreement**" means, with respect to any deposit account, securities account, commodity account, securities entitlement or commodity contract, an agreement, in form and substance reasonably satisfactory to Agents, among Collateral Agent, the financial institution or other Person at which such account is maintained or with which such entitlement or contract is

carried and the Credit Party maintaining such account or owning such entitlement or contract, effective to grant "control" (within the meaning of Articles 8 and 9 under the applicable UCC) over such account to Collateral Agent.

"**Conversion Date**" means any date on which the Borrower Representative converts a Base Rate Loan to a Term SOFR Rate Loan or a Term SOFR Rate Loan to a Base Rate Loan.

"**Copyrights**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to copyrights and all mask work, database and design rights, whether or not registered or published, all registrations and recordations thereof and all applications in connection therewith.

"**Credit Parties**" means the Borrowers, Holdings and the other Guarantors and **"Credit Party"** means any of the foregoing.

"Daily Simple SOFR" means for any day, an interest rate per annum equal to SOFR plus 0.11448% (11.448 basis points), 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 their reasonable discretion.

"**Default**" means any event or circumstance that, with the passing of time or the giving of notice or both, would (if not cured or otherwise remedied during such time) become an Event of Default.

"Delayed Draw Availability Period" means the period beginning on the Closing Date and ending on the date which is the eighteen (18) month anniversary of the Closing Date (or such earlier date upon which the Delayed Draw Term Loan Commitment shall have been fully funded or reduced to zero ($0.00) by the Borrowers in accordance with Section 1.7(b)).

"Delayed Draw Term Facility" means the Delayed Draw Term Loan Commitments and the Delayed Draw Term Loans provided to or for the benefit of the Borrower pursuant to the terms of this Agreement.

"Delayed Draw Term Lender" means any Lender with a Delayed Draw Term Loan Commitment or an outstanding Delayed Draw Term Loan.

"Delayed Draw Term Loan Commitment" means, with respect to each Delayed Draw Term Lender, the commitment of such Delayed Draw Term Lender to make a Delayed Draw Term Loan hereunder in an aggregate amount not to exceed the applicable amount set forth opposite such Delayed Draw Term Lender's name on Schedule 1.1 or in the Assignment pursuant to which such Delayed Draw Term Lender becomes a party hereto, as the same may be (a) reduced from time to time pursuant to Section 1.7 or (b) reduced or increased from time to time pursuant to assignments by or to such Delayed Draw Term Lender pursuant toSection 9.8.

The aggregate amount of the Delayed Draw Term Lenders' Delayed Draw Term Loan Commitments on the Closing Date is $20,000,000.

"Delayed Draw Term Loan" means any term loan made by the Delayed Draw Term Lenders to the Borrower pursuant to Section 1.1(b).

"**Development Overview Report**" means the Development Overview Report in the form delivered by the Borrower Representative to the Lenders prior to the Closing Date.

"**Disposition**" means the sale, lease, conveyance or other disposition of Property.

"**Disqualified Stock**" means any Stock or Stock Equivalent which, by its terms (or by the terms of any security or other Stock into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days following the final maturity date of the Term Loans at the time of issuance (excluding any provisions requiring redemption upon a "change of control" or similar event; provided that such "change of control" or similar event would result in the prior payment in full in cash of the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), the termination of all commitments to lend hereunder and the termination of this Agreement), (b) is convertible into or exchangeable for (i) debt securities or (ii) any Stock or Stock Equivalents referred to in clause (a) above, in each case, at any time on or prior to the date that is ninety-one (91) days following the final maturity date of the Term Loans at the time of issuance, or (c) is entitled to receive scheduled dividends or distributions in cash (except for distributions for taxes attributable to the operations of the business) prior to the time that the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) are paid in full in cash.

"**Division**" means, in reference to any Person which is an entity, the division of such Person into two (2) or more separate Persons with the dividing Person either continuing or terminating its existence as part of the division including as contemplated under Section 18-217 of the Delaware Limited Liability Act for limited liability companies formed under Delaware law or any analogous action taken pursuant to any applicable law with respect to any corporation, limited liability company, partnership or other entity. The word "***Divide***", when capitalized shall have correlative meaning.

"**Dollars**", "**dollars**" and "**$**" each mean lawful money of the United States.

"**Domestic Subsidiary**" means any Subsidiary incorporated, organized or otherwise formed under the laws of the United States, any state thereof or the District of Columbia.

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

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

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

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

"**E-Fax**" means any system used to receive or transmit faxes electronically.

"**E-Signature**" means the process of attaching to or logically associating with an Electronic Transmission an electronic symbol, encryption, digital signature or process (including the name or an abbreviation of the name of the party transmitting the Electronic Transmission) with the intent to sign, authenticate or accept such Electronic Transmission.

"**E-System**" means any electronic system approved by Agents, including DebtX, Syndtrak®, Intralinks® and ClearPar® and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by Agents, any of its Related Persons or any other Person, providing for access to data protected by passcodes or other security system.

"**Electronic Transmission**" means each document, instruction, authorization, file, information and any other communication transmitted, posted or otherwise made or communicated by e-mail or E-Fax, or otherwise to or from an E-System.

"**Environmental Laws**" means all Requirements of Law relating to the protection of human health and safety (from exposure to Hazardous Materials), the environment and natural resources, and including transaction-triggered environmental transfer statutes.

"**Environmental Liabilities**" means all Liabilities (including costs of Remedial Actions, natural resource damages and costs and expenses of investigation and feasibility studies, including the reasonable and documented cost of environmental consultants and Attorney Costs) that may be imposed on, incurred by or asserted against any Credit Party or any Subsidiary of any Credit Party as a result of, or related to, any written claim, suit, action, investigation, proceeding or written demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law or otherwise, arising under any Environmental Law, including without limitation those Liabilities arising in connection with any Release and resulting from the ownership, lease, sublease or other operation or occupation of Real Estate by any Credit Party or any Subsidiary of any Credit Party, whether on, prior or after the date hereof.

"**Equity Contribution**" means all amounts received by Holdings or any of the other Credit Parties in consideration of the issuance by any of them of any Stock or Stock Equivalents.

"**Equity Recap Transactions**" means, the issuance by Holdings of at least $100,000,000 in Stock which does not constitute Disqualified Stock on terms reasonably satisfactory to the Agents (and which, in any event, do not cause such common Stock to constitute Disqualified Stock.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**ERISA Affiliate**" means, collectively, any Credit Party, any Subsidiary of a Credit Party, and any Person under common control or treated as a single employer with any Credit Party or any Subsidiary of a Credit Party, within the meaning of Section 414(b) or (c) of the Code (and, for purposes of Section 302 of ERISA and each "applicable section" under Section 414(t)(2) of the Code, under Section 414(b), (c), (m) or (o) of the Code).

"**ERISA Event**" means any of the following: (a) a reportable event described in Section 4043(c) of ERISA (unless the 30-day notice requirement has been duly waived under the applicable regulations) occurs with respect to a Title IV Plan; (b) the withdrawal of any ERISA Affiliate from a Title IV Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (c) liability with respect to the "withdrawal" or "partial withdrawal" (as such terms are defined in Part I of Subtitle E of Title IV of ERISA) of any ERISA Affiliate from any Multiemployer Plan; (d) with respect to any Multiemployer Plan, the filing of a notice of reorganization, insolvency or termination (or treatment of a plan amendment as termination) under Section 4041A of ERISA; (e) the filing of a notice of intent to terminate a Title IV Plan (or treatment of a plan amendment as termination) under Section 4041 of ERISA; (f) the institution of proceedings to terminate a Title IV Plan or Multiemployer Plan by the PBGC; (g) the failure of any ERISA Affiliate to make any required contribution to any Title IV Plan or Multiemployer Plan unless such failure is cured within thirty (30) days; (h) the imposition of a Lien under Section 412 or 430(k) of the Code or Section 303 or 4068 of ERISA on any property (or rights to property, whether real or personal) of any ERISA Affiliate (i) the failure of a Title IV Plan or any trust thereunder intended to qualify for tax exempt status under Section 401 or 501 of the Code; (j) a Title IV plan is in "at risk" status within the meaning of Code Section 430(i); (k) a Multiemployer Plan is in "endangered status" or "critical status" within the meaning of Section 432(b) of the Code; and (l) any other event or condition that would reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan or for the imposition of any material liability upon any ERISA Affiliate under Title IV of ERISA other than for PBGC premiums due but not delinquent.

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

"**Event of 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.

"**Excess Cash Flow Reference Period**" means, on any date of determination, the period commencing on the first day of the immediately preceding Fiscal Year and ending on the last day of such Fiscal Year.

"**Excluded Domestic Holdco**" means a Domestic Subsidiary substantially all of the assets of which consist, directly or indirectly of Stock (or Stock and indebtedness) of one or more Foreign Subsidiaries or Excluded Domestic Subsidiaries.

"**Excluded Domestic Subsidiary**" means any Domestic Subsidiary that is (a) a direct or indirect Subsidiary of a Foreign Subsidiary, (b) an Excluded Domestic Holdco, (c) a captive insurance company, and (d) a not-for-profit Subsidiary.

"**Excluded Person**" means (a) any Credit Party or any Subsidiary or Affiliate thereof, (b) any Founder Group Member or Affiliate thereof and (c) any other natural person. Until the disclosure of the identity of an Excluded Person to the Lenders generally by the Administrative Agent, such Person shall not constitute an Excluded Person for purposes of a sale of a participation in a Loan (as opposed to an assignment of a Loan) by a Lender.

"**Excluded Rate Contract Obligation**" means, with respect to any Guarantor, any guarantee of any Swap Obligations under a Secured Rate Contract if, and only to the extent that and for so long as, 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 under a Secured Rate Contract (or any guarantee thereof) is or becomes illegal or unlawful 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 to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time the guarantee of such Guarantor or the grant of such security interest would otherwise have become effective with respect to such Swap Obligation under a Secured Rate Contract but for such Guarantor's failure to constitute an "eligible contract participant" at such time. If a Swap Obligation under a Secured Rate Contract arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation under a Secured Rate Contract that is attributable to swaps for which such guarantee or security interest is or becomes illegal or unlawful 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).

"**Excluded Subsidiary**" means (a)(i) any Excluded Domestic Subsidiary described in clauses (a) and (b) of the definition thereof and (ii) any Foreign Subsidiary, and (b) any Domestic Subsidiary that is prohibited by law, rule or regulation from providing a guaranty.

"**Excluded Taxes**" means with respect to any Recipient: (a) Taxes imposed on or measured by net income (however denominated) and franchise Taxes and branch profits taxes, in each case (i) imposed on any Recipient as a result of 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 to the extent

imposed pursuant to a Requirement of Law in effect on the date that such Person became a Lender under this Agreement (other than pursuant to Section 9.22) or designates a new Lending Office, except in each case to the extent such Person is a direct or indirect assignee of any other Lender that was entitled, at the time the assignment to such Person became effective, to receive additional amounts under Section 10.1(b) or such Lender was entitled to receive additional amount under Section 10.1(b) immediately before it changed its Lending Office; (c) Taxes that are directly attributable to the failure by any Recipient to deliver the documentation required to be delivered pursuant to Section 10.1(g); (d) any withholding Taxes imposed under FATCA; and (e) Taxes excluded from the definition of Other Taxes.

"**Existing Debt Agreements**" means, collectively, (a) that certain Credit Agreement, dated as of June 29, 2021, by and among Holdings, and the Borrowers, as borrowers or guarantors, and Bank Midwest, a division of NHB Bank, as Administrative Agent for the Lenders named therein, as amended, supplemented or otherwise modified prior to the Closing Date, (b) the Subordinated Term Loan Agreement.

"**Existing Debt Refinancing Transactions**" means the refinancing, repayment (and, in the case of the Subordinated Term Loan Agreement, conversion to Preferred Equity) of the Indebtedness outstanding under the Existing Debt Agreements, the termination of all commitments under the Existing Debt Agreements and termination and release of any and all Liens and guarantees in connection therewith.

"Existing Preferred Units" means the aggregate 19,974,600 Preferred Units held by Jeremy Brand, Jack Brand and Rob Hernandez in the respective amounts set forth on Schedule A to the A&R Holdings LLC Agreement.

"Existing Preferred Unit Redemption" means, following the consummation of the Equity Recap Transaction and concurrent satisfaction of the Pro Forma Compliance Conditions in accordance with Section 5.8(f), the redemption or repurchase by Holdings of some or all of the issued and outstanding Existing Preferred Units for a price not to exceed the amount specified in clause (2) of such Section 5.8(f).

"Extraordinary Receipts" shall mean any cash received by any Credit Party consisting of (a) pension plan reversions, (b) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action (other than to the extent such proceeds are (i) payable to a Person that is not an Affiliate of Holdings or any of its Subsidiaries, or (ii) received by any Credit Party as reimbursement for any costs previously incurred or any payment previously made by such Person to a Person that is not an Affiliate of Holdings or any of its Subsidiaries (c) indemnity payments (other than to the extent such indemnity payments are (i) payable to a Person that is not an Affiliate of Holdings or any of its Subsidiaries, or (ii) received by any Credit Party as reimbursement for any costs previously incurred or any payment previously made by such Person to a Person that is not an Affiliate of Holdings or any of its Subsidiaries and (d) any purchase price adjustment (other than working capital adjustments) received in connection with any purchase agreement in an amount equal to the product of (i) the amount of such purchase price adjustment multiplied by (ii) a fraction, the numerator of which is the amount of the purchase price under such purchase agreement that was paid for with proceeds

of a Delayed Draw Term Loan and the denominator of which is the amount of the purchase price under such purchase agreement.

"**Facility Termination Date**" means the date on which (a) all Commitments have terminated and (b) all Loans and all other Obligations (excluding contingent indemnification Obligations as to which no claim has been asserted) under the Loan Documents and, solely for purposes of Section 8.10(b)(v), all Secured Obligations arising under Secured Rate Contracts (other than those for which the Borrowers have entered into an alternative arrangement with the provider of such Secured Rate Contract acceptable thereto), that Agents have theretofore been notified in writing by the holder of such Secured Obligation are then due and payable have been paid and satisfied in full and all Secured Obligations arising under Bank Products provided by a Bank Product Provider that the Agents have theretofore been notified in writing by the holder of such Secured Obligation are then due and payable, in each case, have been paid and satisfied in full in cash.

"**FATCA**" means Sections 1471, 1472, 1473 and 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), current or future United States Treasury Regulations promulgated thereunder and published guidance or official interpretations with respect thereto, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any applicable intergovernmental agreements with respect thereto (including any fiscal or regulatory legislation, rules or practices adopted pursuant to any such intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code).

"**Federal Flood Insurance**" means federally backed Flood Insurance available under the National Flood Insurance Program to owners of real property improvements located in Special Flood Hazard Areas in a community participating in the National Flood Insurance Program.

"**Federal Funds Rate**" means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System as published on the next succeeding Business Day by the Federal Reserve Board, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

"**FEMA**" means the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security that administers the National Flood Insurance Program.

"**FIRREA**" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"**Fiscal Month**" means any of the monthly accounting periods of the Credit Parties ending on January 31, February 28 (or February 29, if applicable), March 31, April 30, May 31,

June 30, July 31, August 31, September 30, October 31, November 30 and December 31 of each year.

"**Fiscal Quarter**" means any of the quarterly accounting periods of the Credit Parties ending on March 31, June 30, September 30 and December 31 of each year.

"**Fiscal Year**" means any of the annual accounting periods of the Credit Parties ending on December 31 of each year.

"**Flood Insurance**" means, for any Real Estate of a Credit Party located in a Special Flood Hazard Area, Federal Flood Insurance or private insurance reasonably satisfactory to Collateral Agent, in either case, that (a) meets the requirements set forth by FEMA in its *Mandatory Purchase of Flood Insurance Guidelines*, and (b) shall have a coverage amount equal to the lesser of (i) the "replacement cost value" of the buildings and any personal property Collateral located on the Real Estate as determined under the National Flood Insurance Program or (ii) the maximum policy limits set under the National Flood Insurance Program.

"Floor" means, with respect to SOFR Rate Loans, a rate of interest equal to 1.00%, and with respect to Base Rate Loans, a rate of interest equal to 2.50%.

"**Foreign Subsidiary**" means, with respect to any Person, a Subsidiary of such Person, which Subsidiary is not a Domestic Subsidiary.

"**Founder Group Members**" means, severally, any of Viking Cake BR, LLC, a Delaware limited liability company, Jeffrey Hernandez, Daniel Brand, Jake Spellmeyer, Bryan Pereboom and, with respect to each individual, their spouse and any trust under which such individual or their spouse are trustees or beneficiaries.

"**Franchise Agreement**" means an agreement entered into by any Credit Party pursuant to which such Credit Party as Franchisor agrees to allow a Franchisee to operate a coffee shop using the "Black Rock Coffee Bar" concepts.

"**Franchisee**" means each third party unaffiliated coffee shop operator identified as a franchisee in any Franchise Agreement.

"**Franchised Store Locations**" means, collectively, the property comprising franchised Store locations described in Part (b) of Schedule 3.27 (as such Schedule may be updated from time to time).

"**Franchisor**" means any Credit Party party to a Franchise Agreement.

"**Funded Indebtedness**" means, as of any date of measurement, all Indebtedness of Holdings and its Subsidiaries as of the date of measurement (other than Indebtedness of the type described in clauses (e), (h), (j) (with respect to Indebtedness described in clauses (e) and (h) in the definition of Indebtedness) and (k) (other than with respect to clause (k), guaranties of Indebtedness of others of the type not described in clauses (e), (h) and (j) of the definition of

Indebtedness) of the definition of Indebtedness; provided that Letters of Credit shall only be treated as Funded Indebtedness to the extent drawn and unreimbursed.

"**GAAP**" means generally accepted accounting principles in the United States, as in effect from time to time, set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants, in the statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions and comparable stature and authority within the accounting profession) that are applicable to the circumstances as of the date of determination. Subject to Section 11.3, all references to "GAAP" shall be to GAAP applied consistently throughout the relevant period, except as expressly noted in the relevant financial statements.

"**Governmental Authority**" means any nation, sovereign or government, any state or other political subdivision thereof, any agency, authority or instrumentality thereof and any entity or authority exercising executive, legislative, taxing, judicial, regulatory or administrative functions of or pertaining to government, including any central bank, stock exchange, regulatory body, arbitrator, public sector entity, supra-national entity (including the European Union and the European Central Bank) and any self-regulatory organization (including the National Association of Insurance Commissioners).

"**Guarantors**" means collectively, (a) Holdings, (b) each Borrower (in each case, other than with respect to its own obligations), (c) each Subsidiary and any Person that from time to time guarantees any Secured Obligations. For purposes of clarity, Excluded Subsidiaries shall not be deemed to be Guarantors.

"**Guaranty and Security Agreement**" means that certain Guaranty and Security Agreement, dated as of even date herewith, in form and substance reasonably acceptable to Agents and the Borrowers, made by the Credit Parties in favor of Collateral Agent, for the benefit of the Secured Parties, as the same may be amended, restated and/or modified from time to time.

"**Hazardous Material**" means any substance, material or waste that is classified, regulated or otherwise characterized under any Environmental Law as hazardous, toxic, a contaminant or a pollutant or by other words of similar meaning or regulatory effect, including petroleum or any fraction thereof, asbestos, polychlorinated biphenyls and radioactive substances.

"Holdings Pledge Agreements" means, collectively, the Limited Guaranty and Pledge Agreements of each Holdings Pledgor in favor of (and in form and substance satisfactory in the sole discretion of) the Collateral Agent, as the same may be amended from time to time.

"Holdings Pledgors", means, collectively, each of the following Persons, in each instance, solely to the extent such Person is party to a fully executed, valid and enforceable Holdings Pledge Agreement, and the Collateral Agent has a first priority perfected security interest in the Pledged Collateral (as defined in each such Holdings Pledge Agreement) thereunder: Viking Cake BR LLC, Brand 2021 Irrevocable Trust dated September 10, 2021,

Daniel J. Brand 2021 Trust dated September 10, 2021, DJB 2021 Grantor Retained Annuity Trust dated October 6, 2021, Tanya N. Brand 2021 Trust dated September 10, 2021, Hernandez 2021 Irrevocable Trust dated September 10, 2021, Jeffrey R. Hernandez 2021 Trust dated September 10, 2021, Tiffany S. Hernandez 2021 Trust dated September 10, 2021, Bryan D. Pereboom 2021 Trust dated September 10, 2021, Nicole R. Pereboom 2021 Trust dated September 10, 2021, Pereboom 2021 Irrevocable Trust dated September 10, 2021, JRH 2021 Grantor Retained Annuity Trust dated October 4, 2021, Jacob V. Spellmeyer 2021 Trust dated September 10, 2021, Juliet A. Spellmeyer 2021 Trust dated September 10, 2021, Spellmeyer 2021 Irrevocable Trust dated September 10, 2021, Joshua M. Pike 2021 Trust dated September 10, 2021, Shannon R. Pike 2021 Trust dated September 10, 2021.

"**Impacted Lender**" means any Lender that fails to provide Agent, within three (3) Business Days following Agent's written request, written confirmation that such Lender will comply with its prospective funding obligations and otherwise not become a Non-Funding Lender (provided that such Lender shall cease to be an Impacted Lender upon provision of such written confirmation), or any Lender that has a Person that directly or indirectly controls such Lender and such Person (a) becomes subject to a voluntary or involuntary case under the Bankruptcy Code or any similar bankruptcy laws, (b) has appointed a custodian, conservator, receiver or similar official for such Person or any substantial part of such Person's assets, (c) makes a general assignment for the benefit of creditors, is liquidated, or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent or bankrupt, or (d) becomes the subject of a Bail-in Action, and for each of clauses (a) through (d), Agent has determined that such Lender is reasonably likely to become a Non-Funding Lender. For purposes of this definition, control of a Person shall have the same meaning as in the second sentence of the definition of Affiliate.

"**Indebtedness**" of any Person means, without duplication: (a) all indebtedness for borrowed money; (b) all obligations issued, undertaken or assumed as the deferred purchase price of Property or services, including earn-outs (other than (i) trade payables entered into or incurred in the Ordinary Course of Business and not more than ninety (90) days past due, (ii) deferred compensation liabilities and (iii) deferred employment bonus liabilities, in each case, incurred and/or accrued in the Ordinary Course of Business); (c) the face amount of all letters of credit issued for the account of such Person and without duplication, all drafts drawn thereunder and all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments issued by such Person; (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of Property, assets or businesses; (e) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to Property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such Property); (f) all Capital Lease Obligations; (g) the principal balance outstanding under any synthetic lease, off-balance sheet loan or similar off balance sheet financing product; provided, however, that no obligations in respect of any operating lease shall be treated as "Indebtedness" for any purposes under this Agreement solely as a result of its required treatment as Indebtedness under GAAP; (h) all obligations of such Person, whether or

not contingent, to purchase, redeem, retire, defease or otherwise acquire for value or make any cash payments in respect of Disqualified Stock, valued at, in the case of redeemable preferred Stock, the greater of the voluntary liquidation preference and the involuntary liquidation preference of such Stock plus accrued and unpaid dividends; (i) obligations under any Rate Contract; (j) all indebtedness referred to in clauses (a) through (i) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in Property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness; (k) all Contingent Obligations described in clause (a) of the definition thereof in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (j) above; provided that, if such obligation is limited in recourse against a specific asset, the amount of such Contingent Obligation shall be calculated as the lesser of the obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed or supported and the fair market value of such asset.

"**Indemnified Tax**" means (a) any Tax imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes, in each case, other than Excluded Taxes.

"**Insolvency Proceeding**" means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors; in each case in (a) and (b) above, undertaken under U.S. federal, state or foreign law, including the Bankruptcy Code.

"**Intellectual Property**" means all rights, title and interests in or relating to intellectual property and industrial property arising under any Requirement of Law and all IP Ancillary Rights relating thereto, including all Copyrights, Patents, Software, Trademarks, Internet Domain Names and Trade Secrets.

"**Interest Payment Date**" means, (a) with respect to any SOFR Rate Loan (other than a SOFR Rate Loan having an Interest Period exceeding (3) months) the last day of each Interest Period applicable to such Loan, (b) with respect to any SOFR Rate Loan having an Interest Period exceeding three (3) months, the last day of each three (3) month interval and, without duplication, the last day of such Interest Period, and (c) with respect to Base Rate Loans, the last Business Day of each Fiscal Quarter.

"**Interest Period**" means, as to any Borrowing, the period commencing on the date of such Loan or Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter (in each case, subject to the availability thereof), as specified in the applicable Notice of Borrowing; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next

calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period, (iii) no Interest Period shall extend beyond the Term Loan Maturity Date and (iv) no tenor that has been removed from this definition pursuant to Section 10.5 shall be available for specification in such Notice of Borrowing. For purposes hereof, the date of a Loan or Borrowing initially shall be the date on which such Loan or Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Loan or Borrowing.

"**Internet Domain Name**" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to internet domain names.

"**Inventory**" means all of the "inventory" (as such term is defined in the UCC) of a Borrower and its Subsidiaries, including, but not limited to, all merchandise, raw materials, parts, supplies, work-in-process and finished goods intended for sale, together with all the containers, packing, packaging, shipping and similar materials related thereto, and including such inventory as is temporarily out of a Borrower's or such Subsidiary's custody or possession, including inventory on the premises of others and items in transit.

"**IP Ancillary Rights**" means, with respect to any Intellectual Property, as applicable, all foreign counterparts to, and all divisionals, reversions, continuations, continuations-in-part, reissues, reexaminations, renewals and extensions of, such Intellectual Property and all income, royalties, proceeds and Liabilities at any time due or payable or asserted under or with respect to any of the foregoing or otherwise with respect to such Intellectual Property, including all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any other IP Ancillary Right.

"**IP License**" means all Contractual Obligations (and all related IP Ancillary Rights), whether written or oral, granting any right, title and interest in or relating to any Intellectual Property.

"**IRS**" means the Internal Revenue Service of the United States and any successor thereto.

"**Las Vegas Franchisee Group Litigation**" has the meaning set forth on Schedule 3.5.

"**Latest Maturity Date**" means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Term Loan or any Extended Term Loan, in each case as extended in accordance with this Agreement from time to time.

"**Lead Arrangers"** mean, collectively, Riverside Credit Solutions Fund I, L.P. and TCW Asset Management Company LLC.

"**Leases**" means, collectively, each lease of Real Estate of a Credit Party or a Subsidiary, including each such lease related to a Store or to the operation of the business of the Credit Parties or their Subsidiaries.

"**Lending Office**" means, with respect to any Lender, the office or offices of such Lender specified as its "Lending Office" beneath its name on the applicable signature page hereto, or such other office or offices of such Lender as it may from time to time notify the Borrower Representative and Administrative Agent.

"**Liabilities**" means all claims, actions, suits, judgments, damages, losses, liability, obligations, responsibilities, fines, penalties, sanctions, costs, fees, Taxes, commissions, charges, disbursements and expenses (including, without limitation, those incurred upon any appeal or in connection with the preparation for and/or response to any subpoena or request for document production relating thereto), in each case of any kind or nature (including interest accrued thereon or as a result thereto and fees, charges and disbursements of financial, legal and other advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

"**Lien**" means any mortgage, deed of trust, pledge, hypothecation, assignment, charge, deposit arrangement, encumbrance, easement, lien (statutory or otherwise), security interest or other security arrangement and any other preference, priority or preferential arrangement of any kind or nature whatsoever, including any conditional sale contract or other title retention agreement, the interest of a lessor under a Capital Lease and any synthetic or other financing lease having substantially the same economic effect as any of the foregoing.

"**Liquidity**" means the aggregate amount of the Credit Parties' Qualified Cash.

"**Loan**" means any loan made or deemed made by any Lender hereunder.

"**Loan Documents**" means this Agreement, the Notes, the Fee Letter, the Collateral Documents, the Subordination Agreement, the Limited Guaranty and Pledge Agreements, duly executed by each Founder Group Members, the Holdings Pledge Agreements and all documents, instruments or agreements delivered by or on behalf of any Credit Party in favor of the Agents and/or any Lender, each in form satisfactory to the Agents, in connection with any of the foregoing, other than Secured Rate Contracts or agreements relating to Bank Products.

"**Margin Stock**" means "margin stock" as such term is defined in Regulation T, U or X of the Federal Reserve Board.

"**Material Adverse Effect**" means a material adverse change in any of (a) the financial condition, business, operations, prospects or Property of the Credit Parties and their Subsidiaries taken as a whole; (b) the ability of the Credit Parties and their Subsidiaries taken as a whole to perform their obligations under any Loan Document; or (c) the (i) validity or enforceability of any Loan Document or the rights and remedies (taken as a whole) of Collateral Agent, Administrative Agent, the Lenders and the other Secured Parties under any Loan Document and (ii) the perfection or priority of any Liens with respect to the Collateral granted to the Lenders or

Collateral Agent for the benefit of the Secured Parties under any Loan Document (except to the extent resulting from an action or failure to act by Collateral Agent).

"**Measurement Period**" means, at any date of determination, the most recently completed four Fiscal Quarters of the Credit Parties ended on or prior to such time (taken as one accounting period) for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(a) or Section 4.1(b), as applicable; provided that, solely for purposes of determining the Fixed Charge Coverage Ratio (or any component definition thereof) for any purposes under the Loan Document in respect of any period ended prior to June 30, 2023, Measurement Period shall mean (i) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of September 30, 2022 but prior to the date specified in clause (ii) below, the one Fiscal Quarter ending as of such date, (ii) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(a) or Section 4.1(b), as applicable, for the Fiscal Quarter ending as of December 31, 2022 but prior to the date specified in clause (iii) below, the two most recently completed Fiscal Quarters ending as of such date (taken as one accounting period), and (iii) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of March 31, 2023 but prior to the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of June 30, 2023, the three (3) most recently completed Fiscal Quarters ending as of such date (taken as one accounting period).

"**Moody's**" means Moody's Investors Service, Inc.

"**Mortgage**" means any deed of trust, leasehold deed of trust, mortgage, leasehold mortgage, deed to secure debt, leasehold deed to secure debt or other document creating a Lien on Real Estate or any interest in Real Estate.

"**Multiemployer Plan**" means any multiemployer plan, as defined in Section 3(37) or 4001(a)(3) of ERISA, as to which any ERISA Affiliate incurs or otherwise has any obligation or liability under ERISA or the Code, contingent or otherwise.

"**National Flood Insurance Program**" means the program created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as revised by the National Flood Insurance Reform Act of 1994, that mandates the purchase of flood insurance to cover real property improvements located in Special Flood Hazard Areas in participating communities and provides protection to property owners through a federal insurance program.

"**Net Issuance Proceeds**" means, in respect of any issuance of equity or incurrence of Indebtedness, cash proceeds (including cash proceeds as and when received in respect of non-cash proceeds received or receivable in connection with such issuance), net of underwriting discounts and reasonable out-of-pocket costs and expenses paid or incurred in connection therewith in favor of any Person not an Affiliate of the Borrowers.

"**Net Proceeds**" means proceeds in cash, checks or other cash equivalent financial instruments (including Cash Equivalents) as and when received by the Person making a Disposition, as well as insurance proceeds and condemnation and similar awards received on account of an Event of Loss or otherwise constituting Extraordinary Receipts, net of: (a) in the event of a Disposition (i) the transaction costs, fees and expenses relating to such Disposition excluding amounts payable to the Borrowers or any Affiliate of the Borrowers, (ii) Taxes paid or reasonably estimated to be payable as a result thereof, and (iii) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness (other than the Obligations) secured by a Lien on the asset which is the subject of such Disposition and (b) in the event of an Event of Loss, (i) all money actually applied to repair or reconstruct the damaged Property or Property affected by the condemnation or taking, (ii) all of the costs and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, (iii) Taxes paid or payable as a result thereof, and (iv) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments. After netting out the items in clauses (a) and (b) of the foregoing definition, as applicable, if the amount of Net Proceeds would be less than zero, such amount shall be deemed to be zero.

"**Non-Financing Lease Obligation**" means a lease obligation that is not required to be accounted for as a financing lease or Capital Lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

"**Non-Funding Lender**" means any Lender that has (a) failed to fund all or any portion of any Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment required to be made by it under the Loan Documents within two (2) Business Days after any such Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment is due (excluding expense and similar reimbursements that are subject to good faith disputes), (b) given written notice (and Agent has not received a revocation in writing), to the Borrower, Administrative Agent, any Lender, or has otherwise publicly announced (and Administrative Agent has not received notice of a public retraction) that such Lender has failed or believes it will fail to fund any Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment required to be funded by it under the Loan Documents or one or more other syndicated credit facilities or other financing agreements, (c) failed to fund, and not cured, loans, participations, advances, or reimbursement obligations under one or more other syndicated credit facilities or other financing agreements, unless subject to a good faith dispute, or (d) (i) become subject to a voluntary or involuntary case under the Bankruptcy Code or any similar bankruptcy laws, (ii) a custodian, conservator, receiver or similar official appointed for it or any substantial part of such Person's assets, (iii) made a general assignment for the benefit of creditors, been liquidated, or otherwise been adjudicated as, or determined by any Governmental

Authority having regulatory authority over such Person or its assets to be, insolvent or bankrupt, or (e) become the subject of a Bail-in Action, and for this clause (e), Administrative Agent has determined that such Lender is reasonably likely to fail to fund any payments required to be made by it under the Loan Documents.

"**Non-U.S. Lender Party**" means each of the Agents, each Lender, each SPV and each participant, in each case that is not a United States person as defined in Section 7701(a)(30) of the Code.

"**Note**" means any Term Note and "**Notes**" means all such Notes.

"**Notice of Borrowing**" means a notice given by the Borrower Representative to Administrative Agent pursuant to Section 1.5 or 2.1(r), in substantially the form of Exhibit 11.1(b) hereto.

"**Obligations**" means all Loans, and other Indebtedness, advances, debts, liabilities, obligations, covenants and duties owing by any Credit Party to any Lender, Agent or any other Indemnitee, that arises under any Loan Document, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired; provided that Obligations of any Guarantor shall not include any Excluded Rate Contract Obligations solely of such Guarantor.

"**Ordinary Course of Business**" means, in respect of any transaction involving any Person, the ordinary course of such Person's business, as conducted by any such Person in accordance with past practice and undertaken by such Person in good faith and not for purposes of evading any covenant or restriction in any Loan Document.

"**Organization Documents**" means, (a) for any corporation, the certificate or articles of incorporation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, and any shareholder rights agreement, (b) for any partnership, the partnership agreement and, if applicable, certificate of limited partnership, (c) for any limited liability company, the operating agreement and articles or certificate of formation or (d) any other document setting forth the manner of election or duties of the officers, directors, managers or other similar persons, or the designation, amount or relative rights, limitations and preference of the Stock of a Person.

"**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 any such connection arising from the Recipient having executed, delivered, become a party to, performed its obligations or received a payment under, received or perfected as 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.

"**Patents**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to letters patent and applications therefor.

"**Patriot Act**" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56.

"**PBGC**" means the United States Pension Benefit Guaranty Corporation or any successor thereto.

"**Permits**" means, with respect to any Person, (i) any permit, approval, authorization, license, registration, certificate, concession, grant, franchise, variance or permission from any Governmental Authority or (ii) any other Contractual Obligations with any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Permitted Acquisition**" means the City Brew Acquisition and any other Acquisition by a Credit Party (other than Holdings, BRSO 67 th or BRCR) of the Stock and Stock Equivalents of a Target or all or substantially all of the assets of a Target, in each case other than with respect to the City Brew Acquisition, to the extent that each of the following conditions shall have been satisfied (or waived):

(a) the Borrower Representative shall have delivered to Agents:

(i) at least five (5) Business Days prior to the consummation thereof (or such shorter period as Agents may accept), notice of such Acquisition setting forth in reasonable detail the terms and conditions of such Acquisition which shall include, to the extent available, a due diligence package;

(ii) with respect to any Acquisition or series of related Acquisitions as to which the Acquisition Consideration (as defined below) is equal to or greater than $2,500,000, as soon as available, (A) substantially final drafts of the respective material agreements, documents or instruments pursuant to which such Acquisition is to be consummated (including any related management, non-compete, employment, option or other material agreements and, to the extent required under the related acquisition agreement, regulatory waivers or third party approvals), any schedules to such agreements, documents or instruments and all other material ancillary agreements, instruments and documents to be executed or delivered in connection therewith, (B) if available, environmental assessments, (C) a pro forma balance sheet, pro forma projections for the two (2) year period immediately following such Acquisition, pro forma financial covenant calculations demonstrating compliance with the financial covenants set forth in Section 6.1 in connection with such pro forma projections (with each of the pro forma balance sheet, pro forma projections and pro forma financial covenant calculations certified by the chief financial officer or, if there is no chief financial officer, another Responsible Officer of the applicable Borrower) and (D) a copy

of the due diligence investigation conducted by Holdings, the Borrowers or their Subsidiaries;

(iii) (i) if prepared in connection with any Acquisition or (ii) with respect to any Acquisition or series of related Acquisitions as to which the Acquisition Consideration (as defined below) is equal to or greater than $10,000,000, a quality-of-earnings report or other independent third-party verification conducted by a third party reasonably acceptable to the Agents;

(b) on a pro forma basis immediately after giving effect to such Acquisition, the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions (without giving effect to clause (a) of such term);

(c) such Acquisition shall not be hostile and shall have been approved (or will be contemporaneously approved) by the Board of Directors and/or the stockholders or other equityholders of the Target;

(d) the Target of such Acquisition shall be organized in the United States and the majority of the business units or asset groups of such Target shall be located in the United States.

(e) no Event of Default shall then exist or would exist immediately after giving effect to such Acquisition and any Indebtedness being incurred in connection therewith;

(f) the total consideration paid or payable (including all transaction costs, Indebtedness assumed and/or incurred in connection therewith and the maximum amount of all deferred payments, including Contingent Acquisition Consideration) (such amounts, collectively, the "**Acquisition Consideration**") for Acquisitions consummated after the Closing Date and during the term of this Agreement shall not exceed $15,000,000 in the aggregate for all such Acquisitions, excluding the City Brew Acquisition; provided that (i) that such limit may be increased by the amount of equity (other than Disqualified Stock) proceeds provided by the Founder Group Members (or other holders of Stock of Holdings) during the term of this Agreement to finance such acquisitions, (ii) any consideration for an acquisition funded by an equity contribution to Holdings of common equity (or preferred or other equity on terms acceptable to Agents) shall not be included in the determination of the Acquisition Consideration paid or payable in connection with any Acquisition and (iii) the amount of Acquisition Consideration with respect to any Acquisition shall be reduced by the amount of acquired cash or Cash Equivalents on the balance sheet of the Target;

(g) the Target shall have earnings before interest, taxes, depreciation and amortization from operations within in the United States (calculated on a trailing twelve month basis) of greater than $0; provided that, in calculating earnings before interest, taxes, depreciation and amortization from operations of Holdings and its Subsidiaries and

such Target, such calculations substantially similar to those used in calculating EBITDA will be permitted to be used;

(h) the Credit Parties (including any new Subsidiary to the extent required by Section 4.12) shall execute and deliver the agreements, instruments and other documents required by Section 4.12 within the time period provided in Section 4.12; and

(i) after giving effect to such Acquisition, Holdings will be in compliance with Section 5.9.

"**Permitted Refinancing**" means Indebtedness constituting a refinancing, replacement or extension of Indebtedness permitted under Section 5.5(c), 5.5(d), 5.5(g), 5.5(o), 5.5(u), or 5.5(v) that (a) has an aggregate outstanding principal amount not greater than the aggregate principal amount of the Indebtedness being refinanced, replaced or extended, (b) has a Weighted Average Life to Maturity (measured as of the date of such refinancing or extension) and maturity no shorter than that of the Indebtedness being refinanced, replaced or extended, (c) is not entered into as part of a sale leaseback transaction, (d) is not secured by a Lien on any assets other than the collateral securing the Indebtedness being refinanced, replaced or extended, (e) to the extent that the holders of such Indebtedness being refinanced, replaced or extended are subject to an intercreditor or subordination agreement or arrangement with an Agent, the holders of such refinancing Indebtedness shall enter into a similar intercreditor or subordination agreement or arrangement with such Agent on terms no less favorable to the Lenders as those contained in the intercreditor or subordination agreement or arrangement governing the Indebtedness being refinanced, replaced or extended (as determined by the Agent in its reasonable discretion), (f) the obligors of which are the same as the obligors of the Indebtedness being refinanced, replaced or extended, and (g) is otherwise on terms no less favorable to the Credit Parties and their Subsidiaries or the Lenders, taken as a whole, than those of the Indebtedness being refinanced, replaced or extended.

"**Person**" means any individual, partnership, corporation (including a business trust and a public benefit corporation), joint stock company, estate, association, firm, enterprise, trust, limited liability company, unincorporated association, joint venture and any other entity or Governmental Authority.

"PIK Amount" has the meaning set forth in the definition of Applicable Margin.

"Preferred Equity" means, the **"Series A-1 Preferred Units"** and the **"Series A-2 Preferred Units"** as each such term is defined in the A&R Holdings LLC Agreement.

"Preferred Equity Obligations" means the obligations of Holdings in respect of the Series A-1 Preferred Units and Series A-2 Preferred Units (as each such term is defined in the A&R Holdings LLC Agreement), in an aggregate principal amount of approximately $220,000,000 as of the Closing Date, together with paid-in-kind yield accruing thereon and other amounts due in connection therewith, in each instance in accordance with the terms of the A&R Holdings LLC Agreement.

"Prime Rate" means for any day a fluctuating rate of interest per annum equal to the highest of (a) the rate last quoted by The Wall Street Journal as the "Prime Rate" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by Administrative Agent) or any similar release by the Federal Reserve Board (as determined by Administrative Agent). Any change in the Prime Rate due to a change in any of the foregoing shall be effective at the opening of business on the day any such change is publicly announced or quoted as being effective.

"**Pro Forma Financial Statements**" means the unaudited pro forma consolidated balance sheet and related pro forma statements of income and cash flows of Holdings and its Subsidiaries for and as of the last day of the most recent twelve (12) month period ended at least thirty (30) days prior to the Closing Date, prepared after giving effect to the Related Transactions and the transactions contemplated hereunder to occur on the Closing Date as if such transactions have occurred on the date thereof or at the beginning of the period covered thereby, as the case may be.

"**Pro Forma Compliance Conditions**" means, at any time of determination, the following conditions: (a) no Default or Event of Default exists or, on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, would result therefrom, (b) on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, the Total Net Leverage Ratio shall not be greater than (i) during the period from the Closing Date through June 30, 2022, the Closing Leverage, (ii) during the period from July 1, 2022 to the date of delivery of the Compliance Certificate under Section 4.2(b) for the Fiscal Quarter ended September 30, 2022, the Closing Leverage minus 0.25x, and (iii) thereafter, 0.25x inside the then applicable covenant under Section 6.1(a) and, in the case of the preceding clause (iii), the Credit Parties shall be in compliance with the Fixed Charge Coverage Ratio in Section 6.1(b), as recomputed for the most recently ended Measurement Period, and (c) on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, Liquidity is not less than $5,000,000.

"**Pro Forma Transaction**" means any Investment that results in a Person becoming a Subsidiary, any Permitted Acquisition, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or a Store whether by merger, consolidation, amalgamation or otherwise, incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), any issuance of Stock or Stock Equivalents (other than Disqualified Stock), and any Restricted Payment that by the terms of this Agreement requires such test to be calculated on a "pro forma basis" or after giving "pro forma effect."

"**Projections**" means the financial model and projections of Holdings and its Subsidiaries delivered to the Agent on or prior to the Closing Date, such projections to include a five year, three-statement base case financial model of the Credit Parties.

"**Property**" means any interest in any kind of property or asset, whether real, personal or mixed, and whether tangible or intangible.

"**Qualified Cash**" means unrestricted cash and Cash Equivalents of the Credit Parties in which Collateral Agent, after giving effect to the time periods set forth in Section 4.11, has a perfected first priority Lien.

"**Qualified ECP Guarantor**" means, in respect of any Swap Obligation under a Secured Rate Contract, each Credit 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 under a Secured Rate Contract or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act 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.

"**Rate Contracts**" means swap agreements (as such term is defined in Section 101 of the Bankruptcy Code) designed to provide protection against fluctuations in interest or currency exchange rates and any other agreements or arrangements designed to provide such protection.

"**Real Estate**" means any real property owned, leased, subleased or otherwise operated or occupied by any Credit Party or any Subsidiary of any Credit Party.

"**Related Persons**" means, with respect to any Person, each Affiliate of such Person and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisor (including those retained in connection with the satisfaction or attempted satisfaction of any condition set forth in Article II) and other consultants and agents of or to such Person or any of its Affiliates; provided that, with respect to any reference to such Person or Affiliate of such Person acting in the capability of an agent or other representative, Related Person shall be deemed to include such Person or Affiliate acting in an individual capacity or other capacity.

"**Related Transactions**" means, collectively, (a) the execution and delivery by the Credit Parties of the Loan Documents to which they are a party and the making of the Loans on the Closing Date, (b) the consummation of the Existing Debt Refinancing Transactions, and (c) the payment of any fees or expenses incurred or paid by the Credit Parties or any of their Subsidiaries in connection with the foregoing (including in connection with this Agreement and the other Loan Documents).

"**Releases**" means any release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, disposal, discharge, dumping or leaching of Hazardous Material into the environment.

"Relevant Governmental Body" means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

"**Remedial Action**" means all actions required under applicable Environmental Laws to (a) clean up, remove or treat any Hazardous Material in the environment, (b) prevent or minimize any Release so that a Hazardous Material does not migrate or endanger or threaten to endanger public health or welfare or the environment or (c) perform pre-remedial studies and investigations and post-remedial monitoring and care with respect to any Hazardous Material.

"**Rental Expense**" means, for any period, all rental expense of Borrowers (but excluding lease termination expenses and lease exit costs, whether accounted for as a restructuring costs, lease expense or otherwise in connection with no more than three stores in any Fiscal Year), determined on a consolidated basis in accordance with.

"**Required Lenders**" means at any time, Lenders then holding more than fifty percent (50%) of the sum of (1) the Aggregate Delayed Draw Term Loan Commitment then in effect plus (2) the aggregate unpaid principal balance of the Term Loans then outstanding, provided, that if there are two Lenders at any date of determination (each Lender and its Affiliates being considered a single Lender), Required Lenders means both Lenders.

"**Requirement of Law**" means, with respect to any Person, the common law and any federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case whether or not having the force of law and that are applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject.

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Responsible Officer**" means the chief executive officer, chief financial officer, president, vice president, treasurer, secretary or controller of a Borrower or a Credit Party, as applicable, or any other officer having substantially the same authority and responsibility; or, with respect to compliance with financial covenants or delivery of financial information, the chief financial officer or the treasurer of a Borrower or any other officer having substantially the same authority and responsibility.

"**Roasters Litigation**" has the meaning set forth on Schedule 3.5.

"SBA" means the United States Small Business Administration,

"**SBIA**" means the Small Business Investment Act of 1958, as amended.

"**S&P**" means Standard & Poor's Rating Services.

"**Secured Obligations**" means (a) all Obligations, (b) all Indebtedness, advances, debts, liabilities, obligations, covenants and duties owing by any Credit Party to any Secured Swap

Provider that arises under any Secured Rate Contract, whether or not for the payment of money, whether arising by reason of an extension of credit, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and (c) for purposes of the Collateral Documents and all provisions under the other Loan Documents relating to the Collateral, the sharing thereof and/or payments from proceeds of the Collateral, all Bank Product Debt; provided that Secured Obligations of any Guarantor shall not include any Excluded Rate Contract Obligations solely of such Guarantor.

"**Secured Party**" means Collateral Agent, each Lender, each other Indemnitee, each Secured Swap Provider and each Bank Product Provider.

"**Secured Rate Contract**" means any Rate Contract between a Credit Party (other than Holdings) and a Secured Swap Provider, in effect on the Closing Date or entered into thereafter, to the extent that (x) RCS or any of its Affiliates is the Secured Swap Provider or (y) a Borrower and such Secured Swap Provider have notified Administrative Agent in writing of the intent to include the obligations of such Credit Party arising under such Rate Contract as Secured Rate Contract Obligations, and such Secured Swap Provider shall have acknowledged and agreed to the terms contained herein applicable to Secured Obligations related to Secured Rate Contracts.

"**Secured Swap Provider**" means RCS, a Lender or an Affiliate of a Lender (or a Person who was a Lender or an Affiliate of a Lender at the time of execution and delivery of a Rate Contract) who has entered into a Secured Rate Contract with a Credit Party (other than Holdings).

"SOFR" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Rate Loan" means a Loan that bears interest at the Term SOFR Rate or Daily Simple SOFR.

"**Software**" means (a) all computer programs, including source code and object code versions, (b) all data, databases and compilations of data, whether machine readable or otherwise, and (c) all documentation, training materials and configurations related to any of the foregoing.

"**Solvent**" means, as to any Person as of any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature and (d) such Person is not engaged in a business or a transaction, and is

not about to engage in a business or a transaction, for which such Person's property would constitute an unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"**Special Flood Hazard Area**" means an area that FEMA's current flood maps indicate has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year.

"**SPV**" means any special purpose funding vehicle identified as such in a writing by any Lender to Agents (other than an Excluded Person).

"**Stock**" means all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting.

"**Stock Equivalents**" means all securities convertible into or exchangeable for Stock or any other Stock Equivalent and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any Stock or any other Stock Equivalent, whether or not presently convertible, exchangeable or exercisable.

"**Store**" means any store location operated, or to be operated, by a Credit Party or any Subsidiary, which complies with Section 5.9.

"**Subsidiary**" means, with respect to any Person, any corporation, partnership, joint venture, limited liability company, association or other entity, the management of which is, directly or indirectly, controlled by, or of which an aggregate of more than fifty percent (50%) of the voting Stock is, at the time, owned or controlled directly or indirectly by, such Person or one or more Subsidiaries of such Person.

"Subordinated Indebtedness" means, as of the Closing Date, (i) the Preferred Equity Obligations, and (ii) after the Closing Date, shall include any other Indebtedness of any Credit Party or any Subsidiary of any Credit Party which is subordinated to the Obligations as to right and time of payment and other rights and remedies thereunder and having such other terms as are, in each case, reasonably satisfactory to Agents, including, without limitation, permitted Indebtedness incurred in connection with Acquisition permitted hereunder.

"**Subordinated Term Loans**" means the "Term Loans" as defined in the Subordinated Term Loan Agreement.

"**Subordinated Term Loan Agent**" means Cynosure Partners 2020, LP., a Delaware limited partnership, and its permitted successors of assigns.

"**Subordinated Term Loan Agreement**" means that certain Loan Agreement, dated as of December 21, 2020, by and among Holdings, BRSO, BRD, BRCB, BRR, the lenders party thereto, and the Subordinated Term Loan Agent, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**Subordination Agreement**" means that certain Subordination Agreement, dated as of the Closing Date, by and among the Agents and the holders of the Preferred Equity, and acknowledged by the Credit Parties, as amended, amended and restated, replaced, renewed, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"**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.

"**Target**" means any Person engaged in the same business as the Credit Parties or reasonably related thereto which is acquired or proposed to be acquired in an Acquisition.

"**Tax Affiliate**" means, (a) the Borrowers and their Subsidiaries and (b) each other Credit Party.

"**Term Lender**" means each Lender that (a) has a Term Loan Commitment or (b) who holds a Term Loan.

"**Term Loan**" means, as applicable, and as the context may require, (a) a Term Loan A, (b) a funded Delayed Draw Term Loan, or (c) an Extended Term Loan.

"**Term Loan Amortization Amount**" means, at any applicable time, a fixed dollar amount equal to the product of (a) the sum of (x) the aggregate principal amount of the Term Loan A funded on the Closing Date), plus (y) the aggregate principal amount of all funded Delayed DrawTerm Loans times (b) the applicable Term Loan Amortization Percentage.

"**Term Loan Amortization Percentage**" means, at any applicable time, a percentage equal to 0.250%.

"**Term Loan Commitment**" as to each Term Lender, its obligation to make a Term Loan to the Borrowers hereunder, expressed as an amount in dollars representing the maximum principal amount of such Term Loan to be made by such Term Lender under this Agreement, as such commitment may be reduced or increased from time to time pursuant to assignments by or to such Term Lender pursuant to an Assignment. The initial amount of each Term Lender's Term Loan Commitment is set forth on Schedule 1.1(a) under the caption "Term Loan Commitment" or, otherwise, in the Assignment pursuant to which such Term Lender shall have assumed its Term Loan Commitment, as the case may be. The Term Loan Commitment of each Term Lender set forth on Schedule 1.1(a) as in effect on the Closing Date shall expire on the Closing Date if not funded in accordance with Section 1.1(a) on the Closing Date.

"**Term Loan Maturity Date**" means April 29, 2025.

"**Term Note**" means a promissory note of the Borrowers payable to a Lender, in substantially the form of Exhibit 11.1(d), in the case of the Term Loans, evidencing the Indebtedness of the Borrowers to such Lender resulting from the Term Loans made to the Borrowers by such Lender or its predecessor(s).

"Term SOFR" means the rate per annum determined by the Administrative Agent as the forward-looking term rate based on SOFR.

"Term SOFR Administrator" means CME Group Benchmark Administration Ltd. (or a successor administrator of Term SOFR).

"Term SOFR Administrator's Website" means https://www.cmegroup.com/market-data/cme-group-benchmark-administration/term-sofr, or any successor source for Term SOFR identified as such by the Term SOFR Administrator from time to time.

"Term SOFR Determination Date" means with respect to any Term SOFR Loan for the relevant Interest Period, two Business Days before the first day of such Interest Period.

"Term SOFR Loan" means a Loan that, except as otherwise provided in Sections 8.2 or 8.3, bears interest at the applicable Term SOFR Rate other than pursuant to clause (d) of the definition of Base Rate.

"Term SOFR Rate" means, for the relevant Interest Period, the sum of (a) the Adjusted Term SOFR Rate applicable to such Interest Period, plus (b) the Applicable Margin.

"Term SOFR Screen Rate" means, for the relevant Interest Period, the Term SOFR rate for such Interest Period quoted by the Administrative Agent from the Term SOFR Administrator's Website or the applicable Bloomberg screen (or other commercially available source providing such quotations as may be selected by the Administrative Agent from time to time) (the "Screen") for such Interest Period, which shall be the Term SOFR rate published on the Term SOFR Determination Date. If as of 5:00 p.m. (New York time) on any Term SOFR Determination Date, the Term SOFR rate has not been published by the Term SOFR Administrator or on the Screen, then the rate used will be that as published by the Term SOFR Administrator or on the Screen for the first preceding Business Day for which such rate was published on such Screen so long as such first preceding Business Day is not more than three (3) Business Days prior to such Term SOFR Determination Date.

"**Title IV Plan**" means a pension plan subject to Title IV of ERISA, other than a Multiemployer Plan, to which any ERISA Affiliate incurs or otherwise has any obligation or liability under ERISA or the Code, contingent or otherwise.

"Total Net Leverage Ratio" means, at any date of determination, the ratio of (a) an amount equal to Consolidated Total Debt outstanding as of the last day of the Measurement Period most recently ended, less cash and Cash Equivalents of Borrowers on such date in an amount greater than $3,000,000 but not more than $13,000,000 (for avoidance of doubt, a maximum of $10,000,000) deposited in a deposit account subject to a Control Agreement) to (b)

Consolidated EBITDA for the Measurement Period most recently ended, in each case for Holdings and the Borrowers on a Consolidated basis. For avoidance of doubt, paid-in-kind yield dividends on the Preferred Equity are excluded from the calculation of the Total Net Leverage Ratio, regardless of whether such paid-in-kind yield dividends constitute Indebtedness under GAAP.

"**Trade Secrets**" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trade secrets.

"**Trademark**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers and, in each case, all goodwill associated therewith, all registrations and recordations thereof and all applications in connection therewith.

"**Type**" means, with respect to a Loan, its character as a SOFR Rate Loan or a Base Rate Loan.

"**UCC**" means the Uniform Commercial Code of any applicable jurisdiction and, if the applicable jurisdiction shall not have any Uniform Commercial Code, the Uniform Commercial Code as in effect from time to time in the State of New York.

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Unadjusted EBITDA" means Consolidated EBITDA excluding the addbacks in clauses (v), (vii) and (ix) of the definition thereof.

"**United States**" and "**U.S.**" each means the United States of America.

"**U.S. Lender Party**" means each Agent, each Lender, each SPV and each participant, in each case that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"**Weighted Average Life to Maturity** " means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (b) the then outstanding principal amount of such Indebtedness; provided that, for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended, the effects of any prepayments made on such Indebtedness prior to the date of the applicable extension shall be disregarded.

"**Wholly-Owned Subsidiary**" of a Person means any Subsidiary of such Person, all of the Stock and Stock Equivalents of which (other than directors' qualifying shares required by

law) are owned by such Person, either directly or through one or more Wholly-Owned Subsidiaries of such Person.

"**Write-Down and Conversion Powers**" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

11.2 Other Interpretive Provisions.

(a) Defined Terms. Unless otherwise specified herein or therein, all terms defined in this Agreement or in any other Loan Document shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto. The meanings of defined terms shall be equally applicable to the singular and plural forms of the defined terms. Terms (including uncapitalized terms) not otherwise defined herein and that are defined in the UCC shall have the meanings therein described.

(b) The Agreement. The words "**hereof**", "**herein**", "**hereunder**" and words of similar import when used in this Agreement or any other Loan Document shall refer to this Agreement or such other Loan Document as a whole and not to any particular provision of this Agreement or such other Loan Document; and subsection, section, schedule and exhibit references are to this Agreement or such other Loan Documents unless otherwise specified.

(c) Certain Common Terms. The term "**documents**" includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced. The term "**including**" is not limiting and means "including without limitation."

(d) Performance; Time. Whenever any performance obligation hereunder or under any other Loan Document shall be stated to be due or required to be satisfied on a day other than a Business Day, such performance shall be made or satisfied on the next succeeding Business Day. For the avoidance of doubt, the initial payments of interest and fees relating to the Obligations (other than amounts due on the Closing Date) shall be due and paid on the first day of the first month or quarter, as applicable, following the entry of the Obligations onto the operations systems of Administrative Agent, but in no event later than the first day of the second month or quarter, as applicable, following the Closing Date. In the computation of periods of time from a specified date to a later specified date, the word "**from**" means "from and including"; the words "**to**" and "**until**"

each mean "to but excluding", and the word "**through**" means "to and including." All references to the time of day shall be a reference to New York, New York time. If any provision of this Agreement or any other Loan Document refers to any action taken or to be taken by any Person, or which such Person is prohibited from taking, such provision shall be interpreted to encompass any and all means, direct or indirect, of taking, or not taking, such action.

(e) Contracts. Unless otherwise expressly provided herein or in any other Loan Document, references to agreements and other contractual instruments, including this Agreement and the other Loan Documents, shall be deemed to include all subsequent amendments, thereto, restatements and substitutions thereof and other modifications and supplements thereto which are in effect from time to time, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document.

(f) Laws. References to any statute or regulation may be made by using either the common or public name thereof or a specific cite reference and, except as otherwise provided with respect to FATCA, are to be construed as including all statutory and regulatory provisions related thereto or consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

(g) Divisions. For all purposes under the Loan Documents, in connection with any Division: (i) 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 (ii) 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 Stock at such time. Any reference in Section 5.2, Section 5.3 or Section 5.4 to a combination, merger, consolidation, Disposition, dissolution, liquidation or transfer shall be deemed to apply to a Division (or the unwinding of such a Division) as if it were a combination, merger, consolidation, Disposition, dissolution, transfer or similar term, as applicable, to or with a separate Person. Any Division of a Person shall constitute a separate Person hereunder (and each Division of any Person that is a Subsidiary, Credit Party, joint venture or any other like term shall also constitute such a Person or entity).

11.3 Accounting Terms and Principles. All accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made in accordance with GAAP. If any change in GAAP results in a change in the calculation of the financial covenants or interpretation of related provisions of this Agreement or any other Loan Document, then the Borrower Representative, the Agents and the Required Lenders agree to amend such provisions of this Agreement or any other Loan Document so as to equitably reflect such changes in GAAP with the desired result that the criteria for evaluating the Credit Parties' financial condition shall be the same after such change in GAAP as if such change had not been made; provided that no change in the accounting principles used in the preparation of any financial statement hereafter adopted by Holdings shall be given effect for purposes of measuring

compliance with any provision of Article V or VI unless the Borrower Representative, Agents and the Required Lenders agree to modify such provisions to reflect such changes in GAAP and, unless such provisions are modified, all financial statements, Compliance Certificates and similar documents provided hereunder shall be provided together with a reconciliation between the calculations and amounts set forth therein before and after giving effect to such change in GAAP. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to in Article V and Article VI shall be made, without giving effect to any election under Accounting Standards Codification 825-10 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other Liabilities of any Credit Party or any Subsidiary of any Credit Party at "fair value." A breach of a financial covenant contained in Article VI shall be deemed to have occurred as of the last day of any specified measurement period, regardless of when the financial statements reflecting such breach are delivered to Administrative Agent. For purposes of determining pro forma compliance with any financial covenant as of any date prior to the first date on which such financial covenant is to be tested hereunder, the level of any such financial covenant shall be deemed to be the covenant level for such first test date and if the availability of Indebtedness under this Agreement, or other incurrence of Indebtedness in compliance with this Agreement, is subject to a maximum leverage ratio, then, solely for the purposes of determining such availability or compliance, the cash proceeds of such Indebtedness, shall not be included in the calculation, if applicable, of cash or cash equivalents included in the determination of such leverage ratio. Notwithstanding anything to the contrary, in no event shall any Non-Financing Lease Obligation constitute Indebtedness or a Capital Lease under this Agreement or any other Loan Document, in each case, irrespective of any changes in GAAP after the Closing Date. In addition, and notwithstanding anything to the contrary in this Agreement, all terms of an accounting or financial nature used herein or therein shall be construed, and all computations of amounts and ratios referred to herein and therein shall be made, without giving effect to the Financial Accounting Standards Board Accounting Standards Codification 842 (or any other Accounting Standards Codification having a similar result or effect) (and related interpretations) to the extent any lease (or any similar arrangement conveying the right to use) would be required to be treated as a financing lease or capital lease thereunder where such lease (or similar arrangement) would have been treated as an operating lease under GAAP as in effect immediately prior to the effectiveness of the Financing Accounting Standards Board Accounting Standards Codification 842 (or such other Accounting Standards Codification having a similar result or effect).

11.4 Payments. Administrative Agent may set up standards and procedures to determine or redetermine the equivalent in Dollars of any amount expressed in any currency other than Dollars and otherwise may, but shall not be obligated to, rely on any determination made by any Credit Party. Any such determination or redetermination by Administrative Agent shall be conclusive and binding for all purposes, absent manifest error. No determination or redetermination by any Secured Party or any Credit Party and no other currency conversion shall change or release any obligation of any Credit Party or of any Secured Party (other than Administrative Agent and its Related Persons) under any Loan Document, each of which agrees to pay separately for any shortfall remaining after any conversion and payment of the amount as converted. Administrative Agent may round up or down, and may set up appropriate

mechanisms to round up or down, any amount hereunder to nearest higher or lower amounts and may determine reasonable *de minimis* payment thresholds.

11.5 Pro Forma Calculations.

(a) Notwithstanding anything to the contrary in this Agreement, EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio (but excluding, for the avoidance of doubt, the calculation of Excess Cash Flow), shall be calculated in the manner prescribed by this Section 11.5; provided that, notwithstanding anything to the contrary in this Section 11.5, when calculating the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio for purposes of determining actual compliance (and not pro forma compliance, compliance on a pro forma basis or determining compliance giving pro forma effect to a transaction) with Section 6.1, the events described in this Section 11.5 that occurred subsequent to the end of the applicable Measurement Period shall not be given pro forma effect.

(b) For purposes of calculating EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio (but excluding, for the avoidance of doubt, the calculation of Excess Cash Flow), Pro Forma Transactions (and the incurrence or repayment of any Indebtedness in connection therewith, subject to Section 11.5(c) that have been made by any Credit Party and/or its Subsidiaries (i) during the applicable Measurement Period or (ii) subject to the proviso set forth in Section 11.5(a), subsequent to such Measurement Period ad prior to or simultaneously with the event for which the calculation of any such ratio or test is made shall be calculated on a pro forma basis assuming that all such Pro Forma Transactions (and the change in EBITDA and other components of the financial covenants resulting from such Pro Forma Transaction) had occurred on the first day of the applicable Measurement Period. If since the beginning of any such Measurement Period any Person that subsequently became a Subsidiary or was merged, amalgamated or consolidated with or into any Credit Party or any Subsidiary of such Credit Party since the beginning of such Measurement Period shall have made any Pro Forma Transaction that would have required adjustment pursuant to this Section 11.5, then EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, shall be calculated giving pro forma effect thereto for such Measurement Period in accordance with this Section 11.5.

(c) In the event that any Credit Party or any Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable Measurement Period or (ii) subsequent to the end of the applicable Measurement Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Fixed Charge Coverage Ratio, the Total

Net Leverage Ratio and the Senior Leverage Ratio, as applicable, shall be calculated giving pro forma effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred (A) in the case of the Fixed Charge Coverage Ratio (or any similar ratio or test), on the first day of the applicable Measurement Period and (B) in the case of the Total Net Leverage Ratio and the Senior Leverage Ratio, as applicable, on the last day of the applicable Measurement Period.

(d) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of the event for which the calculation of the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio is made had been the applicable rate for the entire period (taking into account any interest hedging arrangements applicable to such Indebtedness). Interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Borrower Representative to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP. Interest on any Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate or other rate shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen by the Borrower Representative.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

RCS AGENT, LLC

By: /s/ Béla R. Schwartz
Name: Béla R. Schwartz
Title: Vice President and Secretary

Address for Notices (if to the Administrative Agent):

RCS Agent, LLC
800 Boylston Street, Suite 1590
Boston, Massachusetts 02199
Attention: Dave Dobies
Email:

RCS SBIC FUND II, L.P.

By: RCS II SBIC GP, LLC, its general partner

By: /s/ Béla R. Schwartz
Name: Béla R. Schwartz
Its: Vice President and Secretary

TCW ASSET MANAGEMENT COMPANY LLC

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

Address for Notices (if to the Collateral Agent):

TCW Asset Management Company LLC
200 Clarendon Street, 51st Floor
Boston, Massachusetts 02116
Attention: James Synborski
Telephone:
Facsimile:
E-Mail:

TCW DIRECT LENDING VIII LLC

By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW WV FINANCING LLC

By: TCW Asset Management Company LLC,
its Collateral Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW SKYLINE LENDING, L.P.

By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING STRUCTURED SOLUTIONS 2019 LLC

By: TCW Asset Management Company LLC,
its Investment Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TMD-DL HOLDINGS LLC

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

SAFETY NATIONAL CASUALTY CORPORATION

By: TCW Asset Management Company LLC,
Its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

PHILADELPHIA INDEMNITY INSURANCE COMPANY

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

RELIANCE STANDARD LIFE INSURANCE COMPANY

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

BUILD PRIVATE CREDIT, L.P.

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

BLACK ROCK COFFEE HOLDINGS, LLC,
a Delaware limited liability company

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

Address for Notices (if to any Credit Party):

c/o Black Rock Coffee Holdings, LLC
9170 E Bahia Drive, Suite 101
Scottsdale, Arizona 85260
Attn: Brian Schlect
E-Mail:

BLACK ROCK COFFEE BAR, LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK STORE OPERATIONS LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK DEVELOPMENT, LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK ROASTING, LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BRSO 67th, LLC,
an Arizona limited liability company

By: Black Rock Store Operations, LLC, an Oregon limited liability company, Member

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BR CASTLE ROCK LLC,
a Colorado limited liability company

By: Black Rock Store Operations, LLC, an Oregon limited liability company, Member

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BRSO PNW XX, LLC,
a Washington limited liability company

By: Black Rock Store Operations, LLC, an Oregon limited liability company, Member

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

FIRST AMENDMENT TO CREDIT AGREEMENT

This **FIRST AMENDMENT TO CREDIT AGREEMENT**, dated as of November 11, 2022 (this "Amendment"), is entered into among (a) **BLACK ROCK COFFEE HOLDINGS, LLC**, a Delaware limited liability company ("Holdings"), (b) **BLACK ROCK COFFEE BAR, LLC**, an Oregon limited liability company ("BRCB"), **BLACK ROCK STORE OPERATIONS LLC**, an Oregon limited liability company ("BRSO"), **BLACK ROCK DEVELOPMENT, LLC**, an Oregon limited liability company ("BRD"), **BLACK ROCK ROASTING, LLC**, an Oregon limited liability company ("BRR"), **BRSO 67TH, LLC**, an Arizona limited liability company ("BRSO 67th") and **BR CASTLE ROCK LLC**, a Colorado limited liability company ("BRCR" together with BRCB, BRSO, BRD, BRR and BRSO 67th, collectively and jointly and severally, the "Borrowers", and each individually, a "Borrower"), (c) **BRSO PNW XX, LLC**, a Washington limited liability company ("BRSO PNW") as a Guarantor (as defined in the Credit Agreement referred to below), (d) the other Credit Parties (as defined in the Credit Agreement referred to below), (d) the Lenders (as defined below) party hereto, and (e) **RCS AGENT, LLC** (in its individual capacity, "RCS"), as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent") for the Lenders and **TCW ASSET MANAGEMENT COMPANY LLC** in its individual capacity ("TCW"), as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent" and, together with the Administrative Agent, each an "Agent" and collectively, the "Agents") for the Lenders.

PRELIMINARY STATEMENTS

A. Reference is made to that certain Credit Agreement, dated as of April 29, 2022 (as amended, amended and restated, extended, supplemented or otherwise modified in writing from time to time and in effect immediately prior to the effectiveness of this Amendment, the "Existing Credit Agreement", and the Existing Credit Agreement, as amended by this Amendment, the "Amended Credit Agreement"), among (a) the Borrowers, (b) Holdings, (c) the Guarantor, (d) each other Person party hereto from time to time that is designated as a "Credit Party", (e) the several financial institutions and other lenders from time to time party thereto (collectively, the "Lenders" and each individually, a "Lender") (f) the Administrative Agent and (g) the Collateral Agent.

B. The Borrowers have requested that the Existing Credit Agreement be amended to extend the delivery date of the Compliance Certificate to be delivered concurrently with the financial statements referred to in Section 4.1(b) of the Existing Credit Agreement for the Fiscal Quarter ended September 30, 2022, as more fully set forth herein, subject to the terms and conditions set forth in this Amendment and the Amended Credit Agreement.

C. The Administrative Agent, Collateral Agent and Lenders are willing to amend the Existing Credit Agreement on the terms and subject to the conditions set forth herein.

Accordingly, in consideration of the premises and other good and valuable consideration, the parties hereto hereby agree as follows:

1. Capitalized Terms. Capitalized terms used herein, including in preamble and the preliminary statements, and not otherwise defined herein shall have the meanings assigned to such terms in the Amended Credit Agreement.

2. Amendments to Credit Agreement. As of the First Amendment Effective Date, the Existing Credit Agreement is hereby amended to extend the delivery date of the Compliance Certificate to be delivered concurrently with the financial statements referred to in Section 4.1(b) of the Existing Credit Agreement for the Fiscal Quarter ended September 30, 2022 (the "September 2022 Compliance Certificate") from November 14, 2022 to the earlier to occur of (i) December 23, 2022 and (ii) the date that Untitled Group LLC (or an affiliate thereof) ("Untitled") ceases to diligently pursue, on an uninterrupted basis, the proposed transaction by and between, among others, Holdings and Untitled, which is contemplated by that certain Term Sheet for Preferred Unit Financing of Black Rock Coffee Holdings, LLC, dated as of October 19, 2022 and in the form provided to the Administrative Agent and Collateral Agent prior to the First Amendment Effective Date (such date, the "September 2022 Compliance Certificate Delivery Date"). The failure to deliver the September 2022 Compliance Certificate by the September 2022 Compliance Certificate Delivery Date shall constitute an immediate Event of Default under the Amended Credit Agreement.

Notwithstanding the extension of the delivery date of the September 2022 Compliance Certificate, the Borrower Representative shall remain obligated to deliver the financial statements referred to in, and in accordance with, Section 4.1(b) of the Existing Credit Agreement.

The Credit Parties acknowledge and agree that the foregoing amendment relates solely to the delivery of the September 2022 Compliance Certificate as specified herein and shall in no way be deemed or construed as a waiver or amendment by the Administrative Agent, Collateral Agent or the Lenders of any Default or Event of Default or any other covenants or obligations under the Existing Credit Agreement or any other Loan Document. The Administrative Agent, Collateral Agent and Lenders expressly reserve the full extent of their rights under the Existing Credit Agreement, the other Loan Documents and applicable law, with respect to any Default or Event of Default.

3. Conditions Precedent to Amendment. This Amendment shall become effective as of the date first written above (the "First Amendment Effective Date") upon the satisfaction of each of the following conditions precedent:

(a) *Amendment.* The Administrative Agent and Collateral Agent shall have received this Amendment, duly executed by the Credit Parties and the Lenders.

(b) *Representations and Warranties*. On the First Amendment Effective Date, the representations and warranties set forth in Section 5 of this Amendment shall be true and correct.

(c) *Expenses.* The Administrative Agent and Collateral Agent shall have received reimbursement or payment of all out-of-pocket costs and expenses required to be reimbursed or paid by the Borrowers under the Existing Credit Agreement on or prior to the First Amendment Effective Date.

(d) *First Amendment Closing Fee*. The Borrowers shall pay to the Administrative Agent, for the ratable account of the Term Lenders, a closing fee (the "First Amendment Closing Fee") in the amount of $ 251,090.72 (calculated as an amount equal to 25 basis points (*i.e.*, 0.25%) *multiplied* by the current principal amount of the outstanding Term Loan and the Delayed Draw Term Loan Commitments, in each case, as of the First Amendment Effective Date). The First Amendment Closing Fee shall be fully earned, due and payable on the First Amendment Effective Date and shall be capitalized and added to the outstanding principal amount of the Term Loan.

4. Covenants. As soon as practicable after the First Amendment Effective Date, the Credit Parties covenant and agree to establish and maintain a blocked deposit account at a third-party depository in which the Credit Parties shall solely deposit any and all proceeds received by any Credit Party in connection with the Roasters Litigation (the "Roasters Proceeds Account"), which Roasters Proceeds Account shall be subject to a Control Agreement; *provided*, *however*, that if any Credit Party receives any proceeds in connection with the Roasters Litigation before such Roasters Proceeds Account is established, the Credit Parties shall deposit such proceeds into an existing deposit account which is subject to an existing Control Agreement (any such account, an "Existing Blocked Account") and shall ensure that such Existing Blocked Account has funds deposited therein in amount at least equal to such proceeds received from the Roasters Litigation at all times; *provided*, *further*, that, upon the opening of the Roasters Proceeds Account, any such proceeds deposited in any Existing Blocked Account shall be transferred from the Existing Blocked Account to the Roasters Proceeds Account.

5. Representations and Warranties. The Credit Parties hereby represent and warrant to the Administrative Agent, Collateral Agent and the Lenders as of the First Amendment Effective Date as follows:

(a) *Corporate Authorization; No Contravention*. The execution, delivery and performance by each of the Credit Parties of this Amendment, (i) have been duly authorized by all necessary corporate, limited liability company or limited partnership action, as applicable, and (ii) do not and will not:

(i) contravene the terms of any of that Person's Organization Documents;

(ii) conflict with or result in any material breach or contravention of, or result in the creation of any Lien (other than Liens in favor of the Collateral Agent created under the Loan Documents) under, any document evidencing any Contractual Obligation that is material to the Credit Parties to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject except in each case to the extent such would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; or

(iii) violate any Requirement of Law in any respect, except to the extent such violation could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) *Governmental Authorization.* No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Amendment, the Amended Credit Agreement or any other Loan Document except (i) for recordings, filings and other perfection actions in connection with the Liens granted to Collateral Agent under the Collateral Documents, (ii) those obtained or made on or prior to the First Amendment Effective Date, and (iii) filings required by applicable Requirements of Law in connection with the exercise of remedies by the Collateral Agent.

(c) *Binding Effect*. This Amendment has been duly executed and delivered by such Credit Party that is party hereto. This Amendment constitutes the legal, valid and binding obligations of each Credit Party that is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

(d) *Representations and Warranties; No Default*. The following statements shall be true on the First Amendment Effective Date, both immediately before and immediately after giving effect to this Amendment and the consummation of the transactions contemplated by this Amendment taking place on or about the First Amendment Effective Date:

(i) The representations and warranties of each Credit Party contained in Article III of the Amended Credit Agreement or any other Loan Document are true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) on and as of the First Amendment Effective Date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true and correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date); and

(ii) no Default or Event of Default shall exist.

6. Survival of Representations and Warranties. All representations and warranties made by the Credit Parties in this Amendment or other document delivered pursuant to this Amendment or in connection herewith shall survive the execution and delivery hereof. Such representations and warranties have been or will be relied upon by each Agent and each Lender, regardless of any investigation made by either Agent or any Lender or on their behalf and notwithstanding that either Agent or any Lender may have had notice or knowledge of any Default at the time of any extension of credit, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

7. Amendment as a Loan Document. This Amendment constitutes a "Loan Document" under the Amended Credit Agreement.

8. Effect on Loan Documents. After giving effect to this Amendment on the First Amendment Effective Date, the Amended Credit Agreement and the other Loan Documents shall be and remain in full force and effect in accordance with their terms and are hereby ratified and confirmed by Holdings, the Borrower and each other Credit Party in all respects. The execution, delivery, and performance of this Amendment shall not operate as a waiver of any right, power, or remedy of the Administrative Agent, Collateral Agent or the Lenders under the Existing Credit Agreement or the other Loan Documents. Each of Holdings, the Borrower and each other Credit Party hereby acknowledge and agree that, after giving effect to this Amendment, all of its obligations and liabilities under the Existing Credit Agreement and the other Loan Documents to which it is a party, as such obligations and liabilities have been amended or otherwise modified by this Amendment, are reaffirmed and remain in full force and effect. All references to the Existing Credit Agreement in any Loan Document or other document or instrument delivered in connection therewith shall be deemed to refer to the Amended Credit Agreement. Nothing contained herein shall be construed as a novation of the Obligations outstanding under and as defined in the Existing Credit Agreement, which shall remain in full force and effect, except as modified hereby.

9. Reaffirmation of Grant of Security Interests. Each of the Credit Parties hereby reaffirms its grant to the Collateral Agent, for the benefit of the Secured Parties, of a continuing security interest in and Lien upon the Collateral of such Person, whether now owned or hereafter acquired or arising, and wherever located, all as provided in the Collateral Documents, and Holdings, the Borrower, and each other Credit Party hereby reaffirms that the Secured Obligations are and shall continue to be secured by the continuing security interest and Lien granted by such Person to the Administrative Agent, for the benefit of the Secured Parties, pursuant to the Collateral Documents.

10. Limited Effect. This Amendment relates only to the specific matters expressly covered herein, shall not be considered to be an amendment or waiver of any rights or remedies that the Administrative Agent, Collateral Agent or any Lender may have under the Existing Credit Agreement or any other Loan Document (except as expressly set forth herein) or under applicable law, and shall not be considered to create a course of dealing or to otherwise obligate in any respect the Administrative Agent, Collateral Agent or any Lender to execute similar or other amendments or waivers or grant any amendments or waivers under the same or similar or other circumstances in the future.

11. Release of Claims. In consideration of the Administrative Agent's and Collateral Agent's agreements contained in this First Amendment, each Credit Party hereby irrevocably releases and forever discharges the Administrative Agent, Collateral Agent and their affiliates, subsidiaries, successors, assigns, directors, officers, employees, agents, consultants and attorneys (each, a "Released Person") of and from any and all claims, suits, actions, investigations or proceedings, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law of any kind or character, known or unknown, which such Credit

Party ever had or now has against the Administrative Agent, Collateral Agent or any other Released Person which relates, directly or indirectly, to any acts or omissions of the Administrative Agent, Collateral Agent or any other Released Person relating to the Existing Credit Agreement or any other Loan Document on or prior to the date hereof.

12. Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Amendment, including its validity, interpretation, construction, performance and enforcement (including any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest).

13. Counterparts. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or other electronic imaging means (*e.g.*, "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Amendment.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed and delivered as of the date first above written.

BLACK ROCK COFFEE HOLDINGS, LLC

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BLACK ROCK COFFEE BAR, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BLACK ROCK STORE OPERATIONS, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BLACK ROCK DEVELOPMENT, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BLACK ROCK ROASTING, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BRSO 67th, LLC

By: Black Rock Store Operations, LLC
Its: Member
By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BR CASTLE ROCK LLC

By: Black Rock Store Operations, LLC
Its: Member

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BRSO PNW XX, LLC

By: Black Rock Store Operations, LLC
Its: Member

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

RCS AGENT, LLC,
as Administrative Agent

By: /s/ Béla R. Schwartz
Name: Béla R. Schwartz
Title: Vice President and Secretary

RCS SBIC FUND II, L.P.,
as a Lender

By: RCS II SBIC GP, LLC
Its: General Partner

By: /s/ Béla R. Schwartz
Name: Béla R. Schwartz
Title: Vice President and Secretary

TCW ASSET MANAGEMENT COMPANY LLC, as Collateral Agent

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING VIII LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW WV FINANCING LLC, as a Lender

By: TCW Asset Management Company LLC,
its Collateral Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW SKYLINE LENDING, L.P., as a Lender

By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING STRUCTURED SOLUTIONS 2019 LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TMD-DL HOLDINGS LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

SAFETY NATIONAL CASUALTY CORPORATION, as a Lender

By: TCW Asset Management Company LLC,
Its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

PHILADELPHIA INDEMNITY INSURANCE COMPANY, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

RELIANCE STANDARD LIFE INSURANCE COMPANY, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

BUILD PRIVATE CREDIT, L.P., as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

SECOND AMENDMENT TO CREDIT AGREEMENT

This **SECOND AMENDMENT TO CREDIT AGREEMENT**, dated as of January 13, 2023 (this "Amendment"), is entered into among (a) **BLACK ROCK COFFEE HOLDINGS, LLC**, a Delaware limited liability company ("Holdings"), (b) **BLACK ROCK COFFEE BAR, LLC**, an Oregon limited liability company ("BRCB"), **BLACK ROCK STORE OPERATIONS LLC**, an Oregon limited liability company ("BRSO"), **BLACK ROCK DEVELOPMENT, LLC**, an Oregon limited liability company ("BRD"), **BLACK ROCK ROASTING, LLC**, an Oregon limited liability company ("BRR"), **BRSO 67TH, LLC**, an Arizona limited liability company ("BRSO 67th") and **BR CASTLE ROCK LLC**, a Colorado limited liability company ("BRCR" together with BRCB, BRSO, BRD, BRR and BRSO 67th, collectively and jointly and severally, the "Borrowers", and each individually, a "Borrower"), (c) **BRSO PNW XX, LLC**, a Washington limited liability company ("BRSO PNW") as a Guarantor (as defined in the Credit Agreement referred to below), (d) the other Credit Parties (as defined in the Credit Agreement referred to below), (d) the Lenders (as defined below) party hereto, and (e) **RCS AGENT, LLC** (in its individual capacity, "RCS"), as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent") for the Lenders and **TCW ASSET MANAGEMENT COMPANY LLC** in its individual capacity ("TCW"), as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent" and, together with the Administrative Agent, each an "Agent" and collectively, the "Agents") for the Lenders.

PRELIMINARY STATEMENTS

A. Reference is made to that certain Credit Agreement, dated as of April 29, 2022, as amended by that certain First Amendment to Credit Agreement, dated as of November 11, 2022 (the "First Amendment") (and as further amended, amended and restated, extended, supplemented or otherwise modified in writing from time to time and in effect immediately prior to the effectiveness of this Amendment, the "Existing Credit Agreement", and the Existing Credit Agreement, as amended by this Amendment, the "Amended Credit Agreement"), among (a) the Borrowers, (b) Holdings, (c) the Guarantor, (d) each other Person party hereto from time to time that is designated as a "Credit Party", (e) the several financial institutions and other lenders from time to time party thereto (collectively, the "Lenders" and each individually, a "Lender") (f) the Administrative Agent and (g) the Collateral Agent.

B. The Borrowers have requested that the Existing Credit Agreement be amended to extend the delivery date of the Compliance Certificate to be delivered concurrently with the financial statements referred to in Section 4.1(b) of the Existing Credit Agreement for the Fiscal Quarter ended September 30, 2022, as more fully set forth herein, subject to the terms and conditions set forth in this Amendment and the Amended Credit Agreement.

C. The Administrative Agent, Collateral Agent and Lenders are willing to amend the Existing Credit Agreement on the terms and subject to the conditions set forth herein.

Accordingly, in consideration of the premises and other good and valuable consideration, the parties hereto hereby agree as follows:

1. Capitalized Terms. Capitalized terms used herein, including in preamble and the preliminary statements, and not otherwise defined herein shall have the meanings assigned to such terms in the Amended Credit Agreement.

2. Amendments to Credit Agreement. As of the Second Amendment Effective Date, the Existing Credit Agreement is hereby amended as follows: to extend the delivery date of the Compliance Certificate to be delivered concurrently with the financial statements referred to in Section 4.1(b) of the Existing Credit Agreement for the Fiscal Quarter ended September 30, 2022 (the "September 2022 Compliance Certificate") from December 23, 2022 to the earlier to occur of (i) January 31, 2023 and (ii) the date that Untitled Group LLC (or an affiliate thereof) ("Untitled") ceases to diligently pursue, on an uninterrupted basis, the proposed transaction by and between, among others, Holdings and Untitled, which is contemplated by that certain Term Sheet for Preferred Unit Financing of Black Rock Coffee Holdings, LLC, dated as of December 14, 2022 and in the form provided to the Administrative Agent and Collateral Agent prior to the Second Amendment Effective Date (such date, the "September 2022 Compliance Certificate Delivery Date"). The failure to deliver the September 2022 Compliance Certificate by the September 2022 Compliance Certificate Delivery Date shall constitute an immediate Event of Default under the Amended Credit Agreement.

Notwithstanding the extension of the delivery date of the September 2022 Compliance Certificate, the Borrower Representative shall remain obligated to deliver the financial statements referred to in, and in accordance with, Section 4.1(b) of the Existing Credit Agreement.

The Credit Parties acknowledge and agree that the foregoing amendment relates solely to the delivery of the September 2022 Compliance Certificate as specified herein and shall in no way be deemed or construed as a waiver or amendment by the Administrative Agent, Collateral Agent or the Lenders of any Default or Event of Default or any other covenants or obligations under the Existing Credit Agreement or any other Loan Document. The Administrative Agent, Collateral Agent and Lenders expressly reserve the full extent of their rights under the Existing Credit Agreement, the other Loan Documents and applicable law, with respect to any Default or Event of Default.

3. Conditions Precedent to Amendment. This Amendment shall become effective as of the date first written above (the "Second Amendment Effective Date") upon the satisfaction of each of the following conditions precedent (provided, however, that *solely* for purposes of complying with the extension granted in the First Amendment and referred to in Section 2 hereof, this Agreement will be deemed effective as of December 23, 2022):

(a) *Amendment*. The Administrative Agent and Collateral Agent shall have received this Amendment, duly executed by the Credit Parties and the Lenders.

(b) *Limited Guaranty and Pledge Agreements*. The Administrative Agent and Collateral Agent shall have received (i) that certain Limited Guaranty and Pledge Agreement, by and among Vahalda LLC ("Vahalda"), an Oregon limited liability company, and Collateral Agent, (ii) that certain Limited Guaranty and Pledge Agreement, by and among Aureata, LLC ("Aureata"), a Delaware limited liability company, and Collateral Agent, (iii) that certain Amended & Restated Limited Guaranty and Pledge Agreement, by and among Jeffrey Hernandez ("Hernandez") and Collateral Agent, (iv) that certain Amended & Restated Limited Guaranty and Pledge Agreement, by and among Daniel Brand ("Brand") and Collateral Agent, (v) that certain Amended & Restated Limited Guaranty and Pledge Agreement, by and among Bryan Pereboom ("Pereboom") and Collateral Agent, (vi) that certain Amended & Restated Limited Guaranty and Pledge Agreement, by and among Jake Spellmeyer ("Spellmeyer", and together with Vahalda, Aureata, Hernandez, Brand, and Pereboom, collectively, the " Guarantors/Pledgors") and Collateral Agent, (vii) all UCC financing statements and/or amendments relating to the Unit Collateral (as defined below) as the Collateral Agent may determine to be appropriate and/or necessary, and (viii) any and all other documents, instruments, etc. that the Collateral Agent may reasonably deem necessary or appropriate to evidence and perfect the Liens of the Collateral Agent on the Common Units (as defined in the A&R Holdings LLC Agreement) of Holdings held by the Guarantors/Pledgors (if any) (the "Unit Collateral"), all of the foregoing being duly executed by the parties to each agreement, as applicable.

(c) *Representations and Warranties*. On the Second Amendment Effective Date, the representations and warranties set forth in Section 5 of this Amendment shall be true and correct.

(d) *Expenses.* The Administrative Agent and Collateral Agent shall have received reimbursement or payment of all out-of-pocket costs and expenses required to be reimbursed or paid by the Borrowers under the Existing Credit Agreement on or prior to the Second Amendment Effective Date, including but not limited to all fees and expenses invoiced through the Second Amendment Effective Date incurred by the Administrative Agent and Collateral Agent and its counsel related to the documentation referenced hereto in Section 3(b).

(e) *Second Amendment Closing Fee.* The Borrowers shall pay to the Administrative Agent, for the ratable account of the Term Lenders, a closing fee (the "Second Amendment Closing Fee") in the amount of $252,033.12 (calculated as an amount equal to 25 basis points (*i.e.*, 0.25%) *multiplied* by the current principal amount of the outstanding Term Loan and the Delayed Draw Term Loan Commitments, in each case, as of the Second Amendment Effective Date). The Second Amendment Closing Fee shall be fully earned, due and payable on the Second Amendment Effective Date and shall be capitalized and added to the outstanding principal amount of the Term Loan.

4. Covenants. As soon as practicable after the Second Amendment Effective Date, the Credit Parties covenant and agree to establish and maintain a blocked deposit account at a third-party depository in which the Credit Parties shall solely deposit any and all proceeds received by any Credit Party in connection with the Roasters Litigation (the "Roasters Proceeds Account"), which Roasters Proceeds Account shall be subject to a Control Agreement; *provided*, *however*, that if any Credit Party receives any proceeds in connection with the Roasters

Litigation before such Roasters Proceeds Account is established, the Credit Parties shall deposit such proceeds into an existing deposit account which is subject to an existing Control Agreement (any such account, an "Existing Blocked Account") and shall ensure that such Existing Blocked Account has funds deposited therein in amount at least equal to such proceeds received from the Roasters Litigation at all times; *provided*, *further*, that, upon the opening of the Roasters Proceeds Account, any such proceeds deposited in any Existing Blocked Account shall be transferred from the Existing Blocked Account to the Roasters Proceeds Account.

5. Representations and Warranties. The Credit Parties hereby represent and warrant to the Administrative Agent, Collateral Agent and the Lenders as of the Second Amendment Effective Date as follows:

(a) *Corporate Authorization; No Contravention*. The execution, delivery and performance by each of the Credit Parties of this Amendment, (i) have been duly authorized by all necessary corporate, limited liability company or limited partnership action, as applicable, and (ii) do not and will not:

(i) contravene the terms of any of that Person's Organization Documents;

(ii) conflict with or result in any material breach or contravention of, or result in the creation of any Lien (other than Liens in favor of the Collateral Agent created under the Loan Documents) under, any document evidencing any Contractual Obligation that is material to the Credit Parties to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject except in each case to the extent such would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; or

(iii) violate any Requirement of Law in any respect, except to the extent such violation could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) *Governmental Authorization*. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Amendment, the Amended Credit Agreement or any other Loan Document except (i) for recordings, filings and other perfection actions in connection with the Liens granted to Collateral Agent under the Collateral Documents, (ii) those obtained or made on or prior to the Second Amendment Effective Date, and (iii) filings required by applicable Requirements of Law in connection with the exercise of remedies by the Collateral Agent.

(c) *Binding Effect*. This Amendment has been duly executed and delivered by such Credit Party that is party hereto. This Amendment constitutes the legal, valid and binding obligations of each Credit Party that is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable

bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

(d) *Representations and Warranties; No Default*. The following statements shall be true on the Second Amendment Effective Date, both immediately before and immediately after giving effect to this Amendment and the consummation of the transactions contemplated by this Amendment taking place on or about the Second Amendment Effective Date:

(i) The representations and warranties of each Credit Party contained in Article III of the Amended Credit Agreement or any other Loan Document are true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) on and as of the Second Amendment Effective Date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true and correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date); and

(ii) no Default or Event of Default shall exist.

6. Survival of Representations and Warranties. All representations and warranties made by the Credit Parties in this Amendment or other document delivered pursuant to this Amendment or in connection herewith shall survive the execution and delivery hereof. Such representations and warranties have been or will be relied upon by each Agent and each Lender, regardless of any investigation made by either Agent or any Lender or on their behalf and notwithstanding that either Agent or any Lender may have had notice or knowledge of any Default at the time of any extension of credit, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

7. Amendment as a Loan Document. This Amendment constitutes a "Loan Document" under the Amended Credit Agreement.

8 . Effect on Loan Documents. After giving effect to this Amendment on the Second Amendment Effective Date, the Amended Credit Agreement and the other Loan Documents shall be and remain in full force and effect in accordance with their terms and are hereby ratified and confirmed by Holdings, the Borrower and each other Credit Party in all respects. The execution, delivery, and performance of this Amendment shall not operate as a waiver of any right, power, or remedy of the Administrative Agent, Collateral Agent or the Lenders under the Existing Credit Agreement or the other Loan Documents. Each of Holdings, the Borrower and each other Credit Party hereby acknowledge and agree that, after giving effect to this Amendment, all of its obligations and liabilities under the Existing Credit Agreement and the other Loan Documents to which it is a party, as such obligations and liabilities have been amended or otherwise modified by this Amendment, are reaffirmed and remain in full force and effect. All references to the Existing Credit Agreement in any Loan Document or other document or instrument delivered in connection therewith shall be deemed to refer to the Amended Credit Agreement. Nothing contained herein shall be construed as a novation of the Obligations outstanding under and as

defined in the Existing Credit Agreement, which shall remain in full force and effect, except as modified hereby.

9. Reaffirmation of Grant of Security Interests. Each of the Credit Parties hereby reaffirms its grant to the Collateral Agent, for the benefit of the Secured Parties, of a continuing security interest in and Lien upon the Collateral of such Person, whether now owned or hereafter acquired or arising, and wherever located, all as provided in the Collateral Documents, and Holdings, the Borrower, and each other Credit Party hereby reaffirms that the Secured Obligations are and shall continue to be secured by the continuing security interest and Lien granted by such Person to the Administrative Agent, for the benefit of the Secured Parties, pursuant to the Collateral Documents.

10. Limited Effect. This Amendment relates only to the specific matters expressly covered herein, shall not be considered to be an amendment or waiver of any rights or remedies that the Administrative Agent, Collateral Agent or any Lender may have under the Existing Credit Agreement or any other Loan Document (except as expressly set forth herein) or under applicable law, and shall not be considered to create a course of dealing or to otherwise obligate in any respect the Administrative Agent, Collateral Agent or any Lender to execute similar or other amendments or waivers or grant any amendments or waivers under the same or similar or other circumstances in the future.

11. Release of Claims. In consideration of the Administrative Agent's and Collateral Agent's agreements contained in this Second Amendment, each Credit Party hereby irrevocably releases and forever discharges the Administrative Agent, Collateral Agent and their affiliates, subsidiaries, successors, assigns, directors, officers, employees, agents, consultants and attorneys (each, a "Released Person") of and from any and all claims, suits, actions, investigations or proceedings, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law of any kind or character, known or unknown, which such Credit Party ever had or now has against the Administrative Agent, Collateral Agent or any other Released Person which relates, directly or indirectly, to any acts or omissions of the Administrative Agent, Collateral Agent or any other Released Person relating to the Existing Credit Agreement or any other Loan Document on or prior to the date hereof.

12. Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Amendment, including its validity, interpretation, construction, performance and enforcement (including any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest).

13. Counterparts. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or other electronic imaging

means (*e.g.*, "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Amendment.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed and delivered as of the date first above written.

BLACK ROCK COFFEE HOLDINGS, LLC

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BLACK ROCK COFFEE BAR, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BLACK ROCK STORE OPERATIONS, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BLACK ROCK DEVELOPMENT, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BLACK ROCK ROASTING, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BRSO 67th, LLC

By: Black Rock Store Operations, LLC
Its: Member
By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BR CASTLE ROCK LLC

By: Black Rock Store Operations, LLC
Its: Member

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

BRSO PNW XX, LLC

By: Black Rock Store Operations, LLC
Its: Member

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

RCS AGENT, LLC,
as Administrative Agent

By: /s/ Béla R. Schwartz
Name: Béla R. Schwartz
Title: Vice President and Secretary

RCS SBIC FUND II, L.P.,
as a Lender

By: RCS II SBIC GP, LLC
Its: General Partner

By: /s/ Béla R. Schwartz
Name: Béla R. Schwartz
Title: Vice President and Secretary

TCW ASSET MANAGEMENT COMPANY LLC, as Collateral Agent

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING VIII LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW WV FINANCING LLC, as a Lender

By: TCW Asset Management Company LLC,
its Collateral Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW SKYLINE LENDING, L.P., as a Lender

By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING STRUCTURED SOLUTIONS 2019 LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TMD-DL HOLDINGS LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

SAFETY NATIONAL CASUALTY CORPORATION, as a Lender

By: TCW Asset Management Company LLC,
Its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

PHILADELPHIA INDEMNITY INSURANCE COMPANY, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

RELIANCE STANDARD LIFE INSURANCE COMPANY, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

BUILD PRIVATE CREDIT, L.P., as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

THIRD AMENDMENT TO CREDIT AGREEMENT

This **THIRD AMENDMENT TO CREDIT AGREEMENT**, dated as of May 8, 2023 (this "Amendment"), is entered into among (a) **BLACK ROCK COFFEE HOLDINGS, LLC**, a Delaware limited liability company ("Holdings"), (b) **BLACK ROCK COFFEE BAR, LLC**, an Oregon limited liability company ("BRCB"), **BLACK ROCK STORE OPERATIONS LLC**, an Oregon limited liability company ("BRSO"), **BLACK ROCK DEVELOPMENT, LLC**, an Oregon limited liability company ("BRD"), **BLACK ROCK ROASTING, LLC**, an Oregon limited liability company ("BRR"), **BRSO 67TH, LLC**, an Arizona limited liability company ("BRSO 67th") and **BR CASTLE ROCK LLC**, a Colorado limited liability company ("BRCR" together with BRCB, BRSO, BRD, BRR and BRSO 67th, collectively and jointly and severally, the "Borrowers", and each individually, a "Borrower"), (c) **BRSO PNW XX, LLC**, a Washington limited liability company ("BRSO PNW") as a Guarantor (as defined in the Credit Agreement referred to below), (d) the other Credit Parties (as defined in the Credit Agreement referred to below), (e) the Lenders (as defined below) party hereto, and (f) **RCS AGENT, LLC** (in its individual capacity, "RCS"), as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent") for the Lenders and **TCW ASSET MANAGEMENT COMPANY LLC** in its individual capacity ("TCW"), as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent" and, together with the Administrative Agent, each an "Agent" and collectively, the "Agents") for the Lenders.

PRELIMINARY STATEMENTS

A. Reference is made to that certain Credit Agreement, dated as of April 29, 2022, as amended by that certain First Amendment to Credit Agreement, dated as of November 11, 2022 (the "First Amendment"), as further amended by that certain Second Amendment to Credit Agreement, dated as of January 13, 2023 (the "Second Amendment"), and as further amended, amended and restated, extended, supplemented or otherwise modified in writing from time to time and in effect immediately prior to the effectiveness of this Amendment, the "Existing Credit Agreement", and the Existing Credit Agreement, as amended by this Amendment, the "Amended Credit Agreement"), among (a) the Borrowers, (b) Holdings, (c) the Guarantor, (d) each other Person party hereto from time to time that is designated as a "Credit Party", (e) the several financial institutions and other lenders from time to time party thereto (collectively, the "Lenders" and each individually, a "Lender") (f) the Administrative Agent and (g) the Collateral Agent.

B. The Borrowers have requested that the Existing Credit Agreement be amended to waive the Identified Events of Default (as defined below), waive certain mandatory prepayments of the Term Loans, amend certain financial covenants, consent to the BE Facility Transactions, and effect certain other changes to the Existing Credit Agreement and the other Loan Documents, in each instance subject to the terms and conditions set forth in this Amendment and the Amended Credit Agreement.

C. The Administrative Agent, Collateral Agent and Lenders are willing to amend the Existing Credit Agreement on the terms, and subject to the conditions, set forth herein and in the Amended Credit Agreement.

Accordingly, in consideration of the premises and other good and valuable consideration, the parties hereto hereby agree as follows:

1. Capitalized Terms. Capitalized terms used herein, including in preamble and the preliminary statements, and not otherwise defined herein shall have the meanings assigned to such terms in the Amended Credit Agreement.

2. Waiver. As of the Third Amendment Effective Date (defined below), the following Events of Default have occurred and are continuing:

(a) Viking Cake loaned an amount up to $7,100,000 for the benefit of BRSO PNW through Holdings, an incurrence of Indebtedness in violation of Section 5.5 of the Credit Agreement (the "Indebtedness Event of Default");

(b) The Credit Parties were in Default of the Total Net Leverage Ratio and the Fixed Charge Coverage Ratio for the Fiscal Quarters ended September 30, 2022, December 31, 2022, and March 31, 2023 (collectively, the "Financial Covenant Events of Default");

(c) The Credit Parties' violation of Section 5.19 of the Credit Agreement through their opening of certain Stores where forecasted annual Rental Expense at each such Store exceeded 10% of the average annual gross sales for all existing Stores located within the same state that had been open for more than twelve months (collectively, the "Store Opening Events of Default");

(d) The Borrowers' violation of Section 4.3 of the Credit Agreement by failing to provide notice to each Agent of the occurrence of all of the Events of Default listed above (collectively, the "Notice Events of Default");

(e) The Borrowers' violation of Section 4.1(a) of the Credit Agreement by failing to deliver audited financial statements of Holdings within 120 days of Holdings' Fiscal Year ended December 31, 2022 (the "Audit Event of Default"); and

(f) The Borrowers' violation of Section 5.8 of the Credit Agreement through the distribution of $100,000 in the aggregate to members of BRSO 67th and BRCR (the "Restricted Payments Events of Default").

The Indebtedness Event of Default, the Financial Covenant Events of Default, the Store Opening Events of Default, the Notice Events of Default, the Audit Event of Default and the Restricted Payments Events of Default are collectively referred to herein as the "Identified Events of Default").

The Lenders hereby waive, effective as of the Third Amendment Effective Date (as defined in the Amended Credit Agreement), the Identified Events of Default. The foregoing waiver relates solely to the Identified Events of Default and shall not apply to any other Default(s) or Event(s) of Default now existing or hereafter arising and shall not entitle the Borrowers or any other Credit Party to any other or further waiver under any similar or other circumstances now existing or hereafter arising.

3. Amendments to Existing Credit Agreement.

(a) The Existing Credit Agreement is, as of the Third Amendment Effective Date, hereby amended and restated to (i) delete the stricken text (indicated textually in the same manner as the following example: ~~**stricken text**~~), (ii) add the double-underlined text (indicated textually in the same manner as the following example: **double-underlined text**) and (iii) move from its location the stricken text in green (indicated textually in the same manner as the following example: ~~moved from text~~) into its new location the double-underlined text in green (indicated textually in the same manner as the following example: moved to text), as set forth in the Credit Agreement attached as Annex A hereto.

(b) Exhibit 4.2(b) (Form of Compliance Certificate) to the Existing Credit Agreement is, as of the Third Amendment Effective Date, hereby amended by deleting such exhibit in its entirety and inserting in lieu thereof the form of Exhibit 4.2(b) set forth in Annex B attached hereto.

(c) Schedule 1.1(a) (Term Loan and Delayed Draw Term Loan Commitments) is, as of the Third Amendment Effective Date, hereby amended by deleting such Schedule in its entirety and inserting in lieu thereof the form of Schedule 1.1(a) (Third Amendment Term Lenders and Outstanding Term Lenders as of Third Amendment Effective Date) set forth in Annex C attached hereto.

(d) Schedule 3.21 (Deposit Accounts and Other Accounts) to the Existing Credit Agreement is, as of the Third Amendment Effective Date, hereby amended by deleting such exhibit in its entirety and inserting in lieu thereof the form of Schedule 3.21 set forth in Annex D attached hereto.

4. Conditions Precedent to Amendment. This Amendment shall become effective upon the satisfaction of each of the following conditions precedent (the date upon which this Amendment shall so become effective being referred to as the "Third Amendment Effective Date"):

(a) *Amendment;* The Administrative Agent and Collateral Agent shall have received:

(i) this Amendment, duly executed by the Credit Parties and the Lenders and the Founder Group Members (see Annex E), together with certificates evidencing each of the "Pledged Shares" as such term is defined in each of the Founder

Group Members' Pledge Agreements (as defined in the Amended Credit Agreement), together with stock or certificate powers executed in blank;

(ii) a fully executed copy of the Cynosure 2023 Preferred Equity Agreement, together with evidence that Holdings has received at least $25,000,000 of Net Proceeds from the issuance of Preferred Equity thereunder;

(iii) the First Amended and Restated Subordination Agreement (the "Subordination Agreement"), duly executed by the Collateral Agent, the Junior Creditors (as defined in the Subordination Agreement) and the Credit Parties on terms satisfactory to the Agents; and

(iv) a Certificate signed by a Responsible Officer of Holdings and each Borrower certifying as to the satisfaction of the conditions precedent set forth herein and such other matters as may be required by the Agents, and attaching a copy of the A&R Holdings LLC Agreement and such other documents, agreements and certificates as the Agents may require.

(b) *Representations and Warranties/No Default*. On the Third Amendment Effective Date, the representations and warranties set forth in Section 5 of this Amendment shall be true and correct. After giving effect to the waiver of the Identified Events of Default set forth in this Amendment, no Default or Event of Default shall have occurred and be continuing.

(c) *Expenses*. The Administrative Agent and Collateral Agent shall have received reimbursement or payment of all out-of-pocket costs and expenses required to be reimbursed or paid by the Borrowers under the Existing Credit Agreement on or prior to the Third Amendment Effective Date, including but not limited to all fees and expenses invoiced through the Third Amendment Effective Date incurred by the Administrative Agent and Collateral Agent and its counsel; provided, however, that the amount of attorneys' fees of counsel to the Administrative Agent reimbursed or paid by the Borrowers shall not exceed $130,000.

(d) *Third Amendment Closing Fee*. The Borrowers shall pay to the Administrative Agent, for the ratable account of the Term Lenders, a closing fee (the "Third Amendment Closing Fee") in the amount of $202,346.84 (calculated as an amount equal to 25 basis points (0.25%) *multiplied* by the current principal amount of the outstanding Term Loan as of the Third Amendment Effective Date). The Third Amendment Closing Fee shall be fully earned, due and payable in full, in cash, on the Third Amendment Effective Date.

(e) *Delayed Draw Term Loan Commitment Fee*. The Borrowers shall pay to the Administrative Agent, for the ratable account of the Delayed Draw Term Lenders (as such term is defined in the Existing Credit Agreement), the Delayed Draw Term Loan Commitment Fee (as such term is defined in the Existing Credit Agreement), for all accrued and undrawn Delayed Draw Term Loan Commitments (as such term is

defined in the Existing Credit Agreement) as existing immediately prior to the Third Amendment Effective Date in the amount of $21,111.12. The Delayed Draw Term Loan Commitment Fee shall be fully earned, due and payable in full, in cash, on the Third Amendment Effective Date.

5. Representations and Warranties. The Credit Parties hereby represent and warrant to the Administrative Agent, Collateral Agent and the Lenders as of the Third Amendment Effective Date as follows:

(a) *Corporate Authorization; No Contravention*. The execution, delivery and performance by each of the Credit Parties of this Amendment, (i) have been duly authorized by all necessary corporate, limited liability company or limited partnership action, as applicable, and (ii) do not and will not:

(i) contravene the terms of any of that Person's Organization Documents;

(ii) conflict with or result in any material breach or contravention of, or result in the creation of any Lien (other than Liens in favor of the Collateral Agent created under the Loan Documents) under, any document evidencing any Contractual Obligation that is material to the Credit Parties to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject except in each case to the extent such would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; or

(iii) violate any Requirement of Law in any respect, except to the extent such violation could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) *Governmental Authorization.* No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Amendment, the Amended Credit Agreement or any other Loan Document except (i) for recordings, filings and other perfection actions in connection with the Liens granted to Collateral Agent under the Collateral Documents, (ii) those obtained or made on or prior to the Third Amendment Effective Date, and (iii) filings required by applicable Requirements of Law in connection with the exercise of remedies by the Collateral Agent.

(c) *Binding Effect*. This Amendment has been duly executed and delivered by such Credit Party that is party hereto. This Amendment constitutes the legal, valid and binding obligations of each Credit Party that is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

(d) *Representations and Warranties; No Default*. The following statements shall be true on the Third Amendment Effective Date, both immediately before and

immediately after giving effect to this Amendment and the consummation of the transactions contemplated by this Amendment taking place on or about the Third Amendment Effective Date:

(i) The representations and warranties of each Credit Party contained in Article III of the Amended Credit Agreement or any other Loan Document are true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) on and as of the Third Amendment Effective Date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true and correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date);

(ii) the Credit Parties have received an aggregate amount of $7,500,000 from Viking Cake, which is available for the working capital needs of the Credit Parties; and

(iii) no Default or Event of Default exists.

6. Survival of Representations and Warranties. All representations and warranties made by the Credit Parties in this Amendment or other document delivered pursuant to or in connection with this Amendment shall survive the execution and delivery hereof. Such representations and warranties have been relied upon by each Agent and each Lender, regardless of any investigation made by either Agent or any Lender or on their behalf and notwithstanding that either Agent or any Lender may have had notice or knowledge of any Default on the Third Amendment Effective Date, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

7. Conditions Subsequent.

(a) The Borrowers will deliver the audited financial statements described in Section 4.1(a) of the Amended Credit Agreement on or before May 31, 2023;

(b) To the extent not in effect on the Third Amendment Effective Date, the Credit Parties shall use commercially reasonable efforts to deliver, or shall cause to be delivered, to the Collateral Agent a Control Agreement with respect to each of the Credit Parties' deposit accounts listed below.

Credit Party	Name of Bank	Type of Account	Account Number
Black Rock Coffee Holdings, LLC	Arizona Bank & Trust	Deposit Account	9361255155

(c) To the extent not received on the Third Amendment Effective Date, the Borrowers shall deliver, or cause to be delivered, (i) original signatures to this Third

Amendment and each agreement and certificate executed and delivered in connection herewith to the Collateral Agent, and (ii) shall use commercially reasonable efforts to deliver original signatures of each of the other Credit Parties to each such agreement to the Collateral Agent within thirty (30) days of the Third Amendment Effective Date.

8. Confirmation and Ratification. Holdings, the Borrowers, BRSO PNW and each other Credit Party each and collectively hereby (a) acknowledge that the Subordination Agreement remains in full force and effect on and as of the date hereof, and hereby ratify the continued existence and effectiveness of the Subordination Agreement, (b) confirm that all references in the Subordination Agreement to the "Credit Agreement" shall be deemed, from and after the date hereof, to refer to the Amended Credit Agreement, (c) confirm that the Subordination Agreement remains in full force and effect on and as of the date hereof and agree that the Subordination Agreement shall in no way be limited or affected by this Amendment, and (d) ratify the continued existence and effectiveness of the Subordination Agreement.

9. Amendment as a Loan Document. This Amendment constitutes a "Loan Document" under the Amended Credit Agreement. Any breach of this Amendment, including, without limitation, a breach of the condition(s) subsequent set forth in Section 7, shall be an Event of Default under the Amended Credit Agreement.

10. Effect on Loan Documents. After giving effect to this Amendment on the Third Amendment Effective Date, the Amended Credit Agreement and the other Loan Documents shall be and remain in full force and effect in accordance with their terms and are hereby ratified and confirmed by Holdings, the Borrowers and each other Credit Party in all respects. The execution, delivery, and performance of this Amendment shall not operate as a waiver (except with respect to the Identified Events of Default) of any right, power, or remedy of the Administrative Agent, Collateral Agent or the Lenders under the Existing Credit Agreement or the other Loan Documents. Each of Holdings, the Borrower and each other Credit Party hereby acknowledge and agree that, after giving effect to this Amendment, all of its and their obligations and liabilities under the Existing Credit Agreement and the other Loan Documents to which it is a party, as such obligations and liabilities have been amended or otherwise modified by this Amendment, are reaffirmed and remain in full force and effect. All references to the Existing Credit Agreement in any Loan Document or other document or instrument delivered in connection therewith shall be deemed to refer to the Amended Credit Agreement. Nothing contained herein shall be construed as a novation of the Obligations outstanding under and as defined in the Existing Credit Agreement, which shall remain in full force and effect, as expressly modified hereby.

11. Reaffirmation of Grant of Security Interests. Each of the Credit Parties hereby reaffirms its grant to the Collateral Agent, for the benefit of the Secured Parties, of a continuing security interest in and Lien upon the Collateral of such Person, whether now owned or hereafter acquired or arising, and wherever located, all as provided in the Collateral Documents, and Holdings, the Borrowers, and each other Credit Party hereby reaffirms that the Secured Obligations are and shall continue to be secured by the continuing security interest and Lien

granted by such Person to the Collateral Agent, for the benefit of the Secured Parties, pursuant to the Collateral Documents.

12. Limited Effect. This Amendment relates only to the specific matters expressly covered herein, shall not be considered to be an amendment or waiver of any rights or remedies that the Administrative Agent, Collateral Agent or any Lender may have under the Existing Credit Agreement or any other Loan Document (except as expressly set forth herein) or under applicable law, and shall not be considered to create a course of dealing or to otherwise obligate in any respect the Administrative Agent, Collateral Agent or any Lender to execute similar or other amendments or waivers or grant any amendments or waivers under the same or similar or other circumstances in the future.

13. Release of Claims. In consideration of the Administrative Agent's, Collateral Agent's and each Lender's agreements contained in this Third Amendment, each Credit Party hereby irrevocably releases and forever discharges the Administrative Agent, Collateral Agent and each Lender and their affiliates, subsidiaries, successors, assigns, directors, officers, employees, agents, consultants and attorneys (each, a "Released Person") of and from any and all claims, suits, actions, causes of action, investigations or proceedings, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law of any kind or character, known or unknown, which such Credit Party ever had or now has against the Administrative Agent, Collateral Agent, any Lender or any other Released Person which relates, directly or indirectly, to any acts or omissions of the Administrative Agent, Collateral Agent, any Lender or any other Released Person relating to the Existing Credit Agreement or any other Loan Document on or prior to the date hereof.

14. Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Amendment, including its validity, interpretation, construction, performance and enforcement (including any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest). The provisions of Section 9.18 of the Existing Credit Agreement are hereby incorporated by reference, mutatis mutandis, into this Amendment.

15. Counterparts. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or other electronic imaging means (*e.g.*, "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Amendment.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed and delivered as of the date first above written.

BLACK ROCK COFFEE HOLDINGS, LLC

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK COFFEE BAR, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK STORE OPERATIONS, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK DEVELOPMENT, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK ROASTING, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BRSO 67th, LLC

By: Black Rock Store Operations, LLC
Its: Member
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Its: Managing Member

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BR CASTLE ROCK LLC

By: Black Rock Store Operations, LLC
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By: Black Rock Coffee Holdings, LLC
Its: Managing Member

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Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

RCS AGENT, LLC,
as Administrative Agent

By: /s/ Béla R. Schwartz
Name: Béla R. Schwartz
Title: Vice President and Secretary

RCS SBIC FUND II, L.P.,
as a Lender

By: RCS II SBIC GP, LLC
Its: General Partner

By: /s/ Béla R. Schwartz
Name: Béla R. Schwartz
Title: Vice President and Secretary

TCW ASSET MANAGEMENT COMPANY LLC, as Collateral Agent

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DL VIII FINANCING LLC, as a Lender

By: TCW Asset Management Company LLC,
its Collateral Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW WV FINANCING LLC, as a Lender

By: TCW Asset Management Company LLC,
its Collateral Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW SKYLINE LENDING, L.P., as a Lender

By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING STRUCTURED SOLUTIONS 2019 LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TMD-DL HOLDINGS LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

SAFETY NATIONAL CASUALTY CORPORATION, as a Lender

By: TCW Asset Management Company LLC,
Its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

PHILADELPHIA INDEMNITY INSURANCE COMPANY, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

RELIANCE STANDARD LIFE INSURANCE COMPANY, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

BUILD PRIVATE CREDIT, L.P., as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

ACKNOWLEDGED AND AGREED TO:

VIKING CAKE HOLDINGS II, LLC

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

ANNEX A

Credit Agreement

[See attached.]

$100,000,000 SENIOR CREDIT FACILITY

CREDIT AGREEMENT

dated as of April 29, 2022

by and among

BLACK ROCK COFFEE HOLDINGS, LLC,
as Holdings and Borrower Representative,

BLACK ROCK COFFEE BAR, LLC,
BLACK ROCK STORE OPERATIONS LLC
BLACK ROCK DEVELOPMENT, LLC
BLACK ROCK ROASTING, LLC,
BRSO 67TH, LLC and
BR CASTLE ROCK LLC,
as Borrowers

BRSO PNW XX, LLC,
as Guarantor

THE OTHER CREDIT PARTIES PARTY HERETO FROM TIME TO TIME,
as Credit Parties

THE LENDERS PARTY HERETO FROM TIME TO TIME,

and

RCS AGENT, LLC,
as Administrative Agent

RCS SBIC FUND II, L.P.,
as Joint Lead Arranger and Co-Bookrunner

TCW ASSET MANAGEMENT COMPANY LLC,
as Collateral Agent, Joint Lead Arranger and Co-Bookrunner

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CREDIT AGREEMENT

This **CREDIT AGREEMENT** (including all exhibits and schedules hereto, as the same may be amended, modified, extended, refinanced and/or restated from time to time, this "**Agreement**") is entered into as of April 29, 2022, by and among (a) **BLACK ROCK COFFEE HOLDINGS, LLC**, a Delaware limited liability company ("**Holdings**"), (b) **BLACK ROCK COFFEE BAR, LLC**, an Oregon limited liability company ("**BRCB**"), **BLACK ROCK STORE OPERATIONS LLC**, an Oregon limited liability company ("**BRSO**"); **BLACK ROCK DEVELOPMENT, LLC**, an Oregon limited liability company ("**BRD**"), **BLACK ROCK ROASTING, LLC**, an Oregon limited liability company ("**BRR**"), **BRSO 67th, LLC**, an Arizona limited liability company ("**BRSO 67th**") and **BR CASTLE ROCK LLC**, a Colorado limited liability company ("**BRCR"**, and together with BRCB, BRSO, BRD, BRR and BRSO 67th, and each other Person which joins this Agreement as a Borrower by execution of a Joinder in form and substance reasonably acceptable to the Agent (as hereinafter defined), collectively and jointly and severally, the "**Borrowers**", and each individually, a "**Borrower**"), (c) **BRSO PNW XX, LLC**, a Washington limited liability company ("**BRSO PNW**") as a "Guarantor", (d) each other Person party hereto from time to time that is designated as a "Credit Party", (e) the several financial institutions and other lenders from time to time party hereto (collectively, the "**Lenders**" and each individually, a "**Lender**"), and (f) **RCS AGENT, LLC** (in its individual capacity, "**RCS**"), as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "**Administrative Agent**") for the Lenders, and **TCW Asset Management Company LLC** in its individual capacity, ("**TCW**"), as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent") for the Lenders. The Administrative Agent and the Collateral Agent are sometimes referred to herein collectively as the "Agents", or each individually as an "Agent". The term "Agent", when used herein and not preceded by "Administrative" or "Collateral", means either Agent, and the term "Agents" means both Agents.

W I T N E S S E T H:

WHEREAS, Holdings and the Borrowers have requested, and the Lenders have agreed to make available to the Borrowers, a term loan facility, ~~**and a delayed draw term loan facility, in each case,**~~ upon and subject to the terms and conditions set forth in this Agreement;

WHEREAS, the Borrowers desire to secure all of their Obligations under the Loan Documents by granting to Collateral Agent, for the benefit of the Secured Parties, a security interest in and lien upon substantially all of their Property (except as otherwise provided herein or in the other Loan Documents);

WHEREAS, Holdings directly owns all of the Stock and Stock Equivalents of the BRCB, BRSO, BRD, BRSO PNW and BRR, and BRSO owns a majority of the Stock and Stock Equivalents of BRSO 67th and BRCR, and Holdings is willing to guaranty all of the Obligations and to pledge to Collateral Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents it owns in BRCB, BRSO, BRD and BRR, and BRSO is willing to pledge to the Collateral Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents it owns in BRSO PNW, BRSO 67th and BRCR, and substantially all of its other

Property (except as otherwise provided herein or in the Loan Documents) to secure the Obligations; and

WHEREAS, subject to the terms hereof, each other Guarantor is willing to guaranty all of the Obligations of the Borrowers and to grant to Collateral Agent, for the benefit of the Secured Parties, a security interest in and lien upon substantially all of its Property (except as otherwise provided in the Loan Documents) to secure the Obligations, including, in the case of BRSO, a pledge to the Collateral Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents it owns in BRSO PNW, BRSO 67th and BRCR.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties hereto agree as follows:

ARTICLE I

THE CREDITS

1.1 Amounts and Terms of Commitments.

(a) The Term Loan A Commitments. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Lender with a Term Loan Commitment, severally and not jointly, agrees to make term loans to the Borrowers (each such loan, a "**Term Loan A**") on the Closing Date in the amount of such Lender's Term Loan Commitment as in effect on the Closing Date. Amounts borrowed as a Term Loan A which are repaid or prepaid may not be reborrowed.

(b) ~~**Delayed Draw Term Loans. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Lender with a Delayed Draw Term Commitment, severally, and not jointly, agrees to make Delayed Draw Term Loans to the Borrowers (each such loan, a "Delayed Draw Term Loan") during the Delayed Draw Availability Period, in a principal amount not to exceed its Delayed Draw Term Loan Commitment. Once funded, Delayed Draw Term Loans shall be added to the outstanding principal amount of, and should become part of, the outstanding Term Loan A. Amounts paid or prepaid in respect of the Delayed Draw Term Loans may not be reborrowed.**~~**[Reserved].**

(c) [Reserved].

1.2 Evidence of Loans; Notes. The Term Loans made by each Term Lender are evidenced by this Agreement and, if requested by such Lender, a Term Note payable to such Lender in an amount equal to the unpaid balance of the applicable Term Loans held by such Lender.

1.3 Interest.

(a) Subject to Sections 1.3(c) and 1.3(d), each Loan shall bear interest on the outstanding principal amount thereof from the date when made at a rate per annum equal to the Adjusted Term SOFR Rate or the Base Rate, as the case may be, plus, in each instance, the Applicable Margin. Each determination of an interest rate by Administrative Agent shall be conclusive and binding on the Borrowers and the Lenders in the absence of manifest error. All computations of fees and interest (other than interest accruing on Base Rate Loans (unless calculated in accordance with clause (c) of the definition of "Base Rate")) payable under this Agreement shall be made on the basis of a 360-day year and actual days elapsed. All computations of interest accruing on Base Rate Loans payable under this Agreement shall be made on the basis of a 365-day year (366 days in the case of a leap year) and actual days elapsed. Interest and fees shall accrue during each period during which interest or such fees are computed from the first day thereof to, but excluding, the last day thereof.

(b) Interest on each Loan shall be paid in arrears on each Interest Payment Date, provided, that interest on each Loan shall be paid, in cash, in an amount equal to the Cash Interest Portion of such Loan plus the Applicable Margin, and paid-in-kind and capitalized in accordance with the definition of PIK Amount. Interest shall also be paid in the manner set forth in the preceding sentence on the date of any payment or prepayment of the Term Loans in full.

(c) At the election of Administrative Agent or the Collateral Agent or Required Lenders, while any Event of Default exists (or automatically while any Event of Default under Section 7.1(a), 7.1(f) or 7.1(g) exists), the Borrowers shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the Loans and other Obligations, as applicable, at a rate per annum which is determined by adding two percent (2.0%) per annum to the Applicable Margin then in effect for such Loans or such other Obligations (plus the Term SOFR Rate or Base Rate, as the case may be). All such interest shall be payable on demand of either Agent or the Required Lenders.

(d) Anything herein to the contrary notwithstanding, the obligations of the Borrowers hereunder shall be subject to the limitation that payments of interest shall not be required, for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by the respective Lender would be contrary to the provisions of any law applicable to such Lender limiting the highest rate of interest which may be lawfully contracted for, charged or received by such Lender, and in such event the Borrowers shall pay such Lender interest at the highest rate permitted by applicable law ("**Maximum Lawful Rate**"); provided, however, that if at any time thereafter the rate of interest payable hereunder is less than the Maximum Lawful Rate, the Borrowers shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by Administrative Agent, on behalf of Lenders, is equal to the total interest that would have been received

had the interest payable hereunder been (but for the operation of this paragraph) the interest rate payable since the Closing Date as otherwise provided in this Agreement.

1.4 Loan Accounts.

(a) Administrative Agent, on behalf of the Lenders, shall record on its books and records the amount of each Loan made, the interest rate applicable thereto, all payments of principal and interest thereon and the principal balance thereof from time to time outstanding. Such record shall, subject to Sections 1.4(b) through (d), absent manifest error, be conclusive evidence of the amount of the Loans made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so, or any failure to deliver such loan statement shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder (and under any Note) to pay any amount owing with respect to the Loans or provide the basis for any claim against Administrative Agent.

(b) Administrative Agent, acting as a non-fiduciary agent on behalf of the Borrowers and solely with respect to the actions described in this Section 1.4(b), shall establish and maintain at one of its offices (A) a record of ownership (the "**Register**") in which Administrative Agent agrees to register by book entry the interests (including any rights to receive payment hereunder) of Administrative Agent, each Lender in the Term Loans, each of their obligations under this Agreement to participate in each Term Loan, and any assignment of any such interest, obligation or right and (B) accounts in the Register in accordance with its usual practice in which it shall record (1) the names and addresses of the Lenders (and each change thereto pursuant to Sections 9.9 and 9.22), (2) the Commitments of each Lender, (3) the amount (and stated interest) of each Loan and for Term SOFR Rate Loans, the Interest Period applicable thereto, (4) the amount of any principal or interest due and payable or paid, and (5) any other payment received by any Agent from the Borrowers and its application to the Obligations.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Loans (including any Notes evidencing such Loans) are registered obligations, the right, title and interest of the Lenders and their assignees in and to such Loans, shall be transferable only upon notation of such transfer in the Register and no assignment thereof shall be effective until recorded therein. This Section 1.4 and Section 9.9 shall be construed so that the Loans are at all times maintained in "registered form" under Section 5f.103-1(e) of the United States Treasury Regulations and within the meaning of Sections 163(f), 871(h)(2) and 881(e)(2) of the Code.

(d) The Credit Parties, Agents and the Lenders shall treat each Person whose name is recorded in the Register as a Lender, for all purposes of this Agreement. Information contained in the Register with respect to any Lender shall be available for access by the Borrower Representative, Agents, and each Lender during normal business hours and from time to time upon reasonable prior written notice. No Lender shall, in such capacity, have access to or be otherwise permitted to review any information in the

Register other than information with respect to such Lender unless otherwise agreed by the Agents.

1.5 Procedure for Borrowings.

(a) The Borrowing of the Term Loan on the Closing Date shall be made upon the Borrower Representative's irrevocable (subject to Section 10.5 hereof) written (which may be delivered by facsimile, electronic mail or E-Fax) notice delivered to the Administrative Agent substantially in the form of a Notice of Borrowing or in a writing in any other form acceptable to Administrative Agent, which notice must be received by Administrative Agent prior to 2:00 p.m., one (1) Business Day prior to the Closing Date. Such Notice of Borrowing shall specify:

(i) the amount of the Borrowing;

(ii) the requested Borrowing date, which shall be a Business Day;

(iii) whether the Borrowing is to be comprised of Tern SOFR Loans or Base Rate Loans;

(iv) if the Borrowing is to be Term SOFR Rate Loans, the Interest Period applicable to such Loans;

(v) the Borrowers' wire instructions.

~~**(b) The Borrowing of each Delayed Draw Term Loan during the Delayed Draw Availability Period shall be made upon the Borrower Representative's irrevocable (subject to Section 10.5 hereof) written (which may be delivered by facsimile, electronic mail or E-Fax) notice delivered to the Administrative Agent substantially in the form of a Notice of Borrowing or in a writing in any other form acceptable to Administrative Agent, which notice must be received by Administrative Agent prior to 2:00 p.m., at least ten (10) Business Days' prior to the requested Borrowing date. Such Notice of Borrowing shall specify:**~~

~~**(i) the amount of the Delayed Draw Term Loan Borrowing (which shall be at least $1,000,000 or such lesser amount as may equal the then unfunded Delayed Draw Term Loan Commitment);**~~

~~**(ii) the requested Borrowing date, which shall be a Business Day;**~~

~~**(iii) whether the Borrowing is to be comprised of Tern SOFR Loans or Base Rate Loans;**~~

~~**(iv) if the Borrowing is to be Term SOFR Rate Loans, the Interest Period applicable to such Loans;**~~

~~**(v) the Borrowers' wire instructions.**~~

~~**In addition, each Notice of Borrowing relating to a Delayed Draw Term Loan shall be accompanied by a certificate of a Responsible Officer of the Borrower Representative certifying that, as of the date of such certificate and, pro forma, as of the requested Borrowing Date, the Pro Forma Compliance Conditions are satisfied, and setting forth in reasonable detail the calculations demonstrating such compliance. The principal amount of each Delayed Draw Term Loan shall automatically be added to the then outstanding principal amount of and become part of the Term Loan for all purposes of this Agreement including accrual of interest and determining the Term Loan Amortization Amount on each Interest Payment Date following such funding.**~~

(b) [Reserved]:

(c) Upon receipt of a Notice of Borrowing pursuant to clause (a)~~ **or (b)**~~ above, Administrative Agent will promptly notify each applicable Lender of such Notice of Borrowing and of the amount of such Lender's Commitment Percentage of the Borrowing.

(d) Each Lender with a Commitment shall make its Loan available to the Administrative Agent not later than 12:00 p.m. on the applicable Borrowing date, by wire transfer of same day funds in Dollars, at the Administrative Agent's office or account. Upon satisfaction or waiver of the conditions precedent specified herein, including Section 2.1 and Section 2.2, and receipt of all requested Loan funds, the Administrative Agent shall make the proceeds of such Loans available to the Borrowers on the applicable Borrowing date by causing an amount of same day funds in Dollars equal to the proceeds of all such Loans received by the Administrative Agent from Lenders to be wired to the account of the Borrowers as may be designated in writing to the Administrative Agent by the Borrowers in the applicable Notice of Borrowing.

1.6 Conversion and Continuation Elections.

(a) The Borrower Representative shall have the option to (i) request that any Loan be made as a Term SOFR Rate Loan, (ii) convert at any time all or any part of outstanding Loans from Base Rate Loans to Term SOFR Rate Loans, (iii) convert any Term SOFR Rate Loan to a Base Rate Loan, subject to Section 10.4 if such conversion is made prior to the expiration of the Interest Period applicable thereto, or (iv) continue all or any portion of any Loan as a Term SOFR Rate Loan upon the expiration of the applicable Interest Period. Any Loan or group of Loans having the same proposed Interest Period to be made or continued as, or converted into, a Term SOFR Rate Loan must be in a minimum amount of $100,000 (or, if less, the aggregate outstanding amount of such Loan or Loans). Any such election must be made by Borrower Representative by 2:00 p.m. (x) on the date that is three (3) Business Days prior to (1) the date of any proposed Loan which is to bear interest at Term SOFR, (2) the end of each Interest Period with respect to any Term SOFR Rate Loans to be continued as such, or (3) one (1) day prior to the date on which the Borrower Representative wishes to convert any Base Rate Loan to a Term SOFR Rate Loan for an Interest Period designated by the Borrower Representative in such election, and (y) on the date that is one (1) Business Day prior to

the date on which the Borrower Representative wishes to convert any Term SOFR Rate Loan to a Base Rate Loan. If no Notice of Conversion/Continuation is received with respect to a Term SOFR Rate Loan by 2:00 p.m. on the date that is three (3) Business Day prior to the end of the Interest Period with respect thereto, that Term SOFR Rate Loan shall automatically be continued as a Term SOFR Rate Loan with a one month Interest Period. If a Notice of Conversion/Continuation is received with respect to a Term SOFR Rate Loan by a 2:00 p.m. on the date that is three (3) Business Days prior to the end of the Interest Period with respect thereto, but fails to specify an Interest Period with respect thereto, the Borrower Representative will be deemed to have selected a one month Interest Period. The Borrower Representative must make such election by notice to Administrative Agent in writing, including by hand delivery, overnight courier, mail, facsimile or Electronic Transmission, which notice may be given pursuant to irrevocable written notice (a "**Notice of Conversion/Continuation**") substantially in the form of Exhibit 1.6 or in a writing in any other form reasonably acceptable to Administrative Agent. No Loan shall be made, converted into or continued as a Term SOFR Rate Loan, if an Event of Default has occurred and is continuing and Required Lenders have determined not to make, convert or continue any Loan as a Term SOFR Rate Loan as a result thereof; provided that the Borrower Representative shall not be required to convert then existing Term SOFR Rate Loans to Base Rate Loans prior to the expiration of the applicable Interest Period(s) thereto solely because of the occurrence and continuance of an Event of Default.

(b) Upon receipt of a Notice of Conversion/Continuation, Administrative Agent will promptly notify each Lender thereof. In addition, Administrative Agent will, with reasonable promptness, notify the Borrower Representative and the Lenders of each determination of Term SOFR; provided that any failure to do so shall not relieve the Borrowers of any liability hereunder or provide the basis for any claim against any Agent. All conversions and continuations shall be made pro rata according to the respective outstanding principal amounts of the Loans held by each Lender with respect to which the notice was given.

(c) Notwithstanding any other provision contained in this Agreement, after giving effect to any Borrowing, or to any continuation or conversion of any Loans, there shall not be more than five (5) different Interest Periods in effect; provided that, after the establishment of any Class of Loans pursuant to an Extension, such number of Interest Periods shall increase by two (2) Interest Periods for each applicable Class so established.

1.7 Optional Prepayments ~~and Reductions in Delayed Draw Term Loan Commitments~~.

(a) Optional Prepayments Generally. The Borrowers may at any time upon at least two (2) Business Days' (or such shorter period as is acceptable to Administrative Agent) prior written notice by the Borrower Representative to Administrative Agent by 2:00 p.m. on such day, prepay the Loans in whole or in part in an amount greater than or equal to $100,000 in each instance, together with any Applicable Prepayment Premium

and amounts, if any, due under in Section 10.4. Optional partial prepayments shall be applied to Term Loans as specified by the Borrower Representative; provided that any optional partial prepayments of the Term Loans shall be applied to the outstanding installments thereof in direct order of maturity ratably across each Class of Term Loans then outstanding. Any prepayment in full of the Term Loan in connection with the payment in full of all Obligations (other than Contingent Indemnity Obligations) pursuant to a refinancing with a third-party lender during the period from the Closing Date through the second anniversary of the Closing Date (the "**Prepayment Period**") will be accompanied by the Applicable Prepayment Premium.

(b) ~~**Reductions in Delayed Draw Term Loan Commitments. The Borrowers may at any time, upon at least three (3) Business Days' (or such shorter period as is acceptable to Administrative Agent) prior written notice by the Borrower Representative to Administrative Agent by 2:00 p.m. on such day, terminate or permanently reduce the aggregate Delayed Draw Term Loan Commitment, without premium or penalty; provided that such reductions shall be in an amount greater than or equal to $1,000,000 (or a lesser amount if the Aggregate Delayed Draw Term Loan Commitments then outstanding is less than $1,000,000). All reductions of the Aggregate Delayed Draw Term Loan Commitment shall be allocated pro rata among all Lenders with a Delayed Draw Term Loan Commitment.~~ **[Reserved].**

(c) Applicable Prepayment Premium. Any voluntary or mandatory prepayment of the Term Loan during the period from the Closing Date through the second anniversary of the Closing Date (the "**Prepayment Period**") shall be accompanied by the Applicable Prepayment Premium.

(d) Notices. Notice of prepayment or commitment reduction pursuant to clauses (a) or (b) above shall not thereafter be revocable by the Borrower Representative and Administrative Agent will promptly notify each Lender thereof and of such Lender's Commitment Percentage of such prepayment or reduction; provided, however, that a notice of prepayment or commitment reduction may state that such notice is conditioned upon the effectiveness of other credit facilities, the incurrence of other Indebtedness, the consummation of another transaction (such as a change of control) or the occurrence of another specified event, in which case such notice may be revoked by Borrower Representative (by written notice to Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. The payment amount specified in a notice of prepayment shall be due and payable on the date specified therein. Together with each prepayment under this Section 1.7, the Borrowers shall pay any amounts required to be paid pursuant to Section 10.4.

1.8 Mandatory Prepayments of Loans and Commitment Reductions.

(a) Scheduled Term Loan Payments. The principal amount of the Term Loans ~~**(including, for avoidance of doubt, funded Delayed Draw Term Loans)**~~ shall be paid in installments on the last Business Day of each Fiscal Quarter (commencing with

the second full Fiscal Quarter following the Closing Date and on the Term Loan Maturity Date in an amount equal to the then-applicable Term Loan Amortization Amount.

The Borrowers shall repay to the Administrative Agent for the ratable account of the appropriate Term Lenders an amount equal to the entire remaining outstanding principal balance of the Term Loan on the Term Loan Maturity Date. The Borrowers shall repay to the Administrative Agent for the ratable account of the appropriate Lenders of Extended Term Loans on each date set forth in the applicable Extension, such amount of such Extended Term Loan as agreed in such Extension.

(b) [Reserved].

(c) Asset Dispositions; Events of Loss. If a Credit Party or any Subsidiary of a Credit Party shall at any time or from time to time:

(i) make a Disposition (except for a Disposition permitted under Section 5.2(a), (c), (d), (e), (f), (h), (i), (j), (k), (l), (o), (p), (s) or (t)); or

(ii) suffer an Event of Loss;

(iii) receives any Extraordinary Receipt, other than in connection with the Las Vegas Franchisee Group Litigation~~, which is governed by Section 1.8(c)(iv) below~~ **or the Roasters Litigation**;

and the aggregate amount of the Net Proceeds received by the Credit Parties and their Subsidiaries in connection with such Disposition, Event of Loss or Extraordinary Receipt and all other Dispositions and Events of Loss (for the avoidance of doubt, other than business interruption insurance or workers' compensation) occurring during the Fiscal Year exceeds $500,000, then promptly upon receipt by a Credit Party and/or such Subsidiary of the Net Proceeds of such Disposition, Event of Loss or Extraordinary Receipt, the Borrowers shall deliver, or cause to be delivered, an amount equal to such excess Net Proceeds to Administrative Agent for distribution to the Lenders as a prepayment of the Loans, which prepayment shall be applied in accordance with Section 1.8(f) hereof. Notwithstanding the foregoing and provided no Event of Default has occurred and is continuing at the time of such Disposition, Event of Loss or Extraordinary Receipt, such prepayment shall not be required to the extent a Credit Party or such Subsidiary reinvests the Net Proceeds of such Disposition, Event of Loss or Extraordinary Receipt in assets of a kind then used or usable in the business of the Credit Parties, within one (1) year after the date of such Disposition or Event of Loss, or enters into a binding commitment thereof within said one (1) year period and subsequently makes such reinvestment within ninety (90) days thereafter; or

(iv) ~~upon receipt of any Net Proceeds by any Credit Party in connection with the Las Vegas Franchise Group Litigation at any time prior~~

~~to the date upon which the Delayed Draw Term Loan Commitment has been reduced to zero, the Borrowers may (i) make an optional prepayment in the amount of up to 100% of such Net Proceeds in accordance with Section 1.7 hereof and/or (ii) retain all or a portion of such Net Proceeds (in an amount not to exceed the amount of the Delayed Draw Term Loan Commitment at such time) for general working capital purposes, provided that the Delayed Draw Term Loan Commitment shall be reduced (without the notice required by Section 1.7(b)) by the amount of any such retained Net Proceeds under this clause (ii). For avoidance of doubt, all Net Proceeds of the Las Vegas Franchise Group Litigation shall be subject to mandatory prepayment once the Delayed Draw Term Loan Commitment is reduced to zero~~**[Reserved]**.

(d) Incurrence of Debt; Equity Contributions. Upon receipt by any Credit Party or any Subsidiary of any Credit Party of the Net Issuance Proceeds of (i) the incurrence of Indebtedness (other than Net Issuance Proceeds from the incurrence of Indebtedness permitted hereunder) or (ii) if Pro Forma Compliance Conditions are not satisfied, any Equity Contribution ~~including any Equity Contribution received in connection with the issuance of Stock which does not constitute Disqualified Stock~~**(other than (x) a non-cash issuance of Common Units by Holdings** in accordance with ~~clause (i)~~**the terms** of the ~~definition of Equity Recap Transactions to the extent required to cause compliance with the Pro Forma Compliance Conditions, and thereafter excluding any remaining Net Issuance Proceeds which are for an Equity Recap Distribution,~~**Viking Cake Convertible Note, and (y)** provided~~,~~ that ~~prior to such Equity Recap Distribution, the Borrowers shall deliver, or cause to be delivered, to Administrative Agent an amount equal to such Net Issuance Proceeds for application to the Loans in accordance with Section 1.8(f~~**no Default or Event of Default has occurred and is continuing, Equity Contributions made pursuant to the Cynosure 2023 Preferred Equity Agreement**).

(e) Excess Cash Flow. Within thirty (30) days after the annual financial statements and corresponding Compliance Certificate are required to be delivered pursuant to Section 4.1(a) and Section 4.2(b) hereof (each an "**ECF Payment Date**"), commencing with such annual financial statements for the Fiscal Year ending December 31, 2022, the Borrowers shall deliver to Administrative Agent, for distribution to the Lenders, an amount equal to 50% of Excess Cash Flow for the applicable Excess Cash Flow Reference Period, less the aggregate amount of voluntary prepayments of the Term Loans made during such Excess Cash Flow Reference Period, for application to the Loans in accordance with the provisions of Section 1.8(f) hereof; provided that the percentage referenced above shall be reduced to 25% of such Excess Cash Flow if the Total Net Leverage Ratio as of the last day of the applicable Fiscal Year is less than 2.50 to 1.00. Excess Cash Flow shall be calculated in the manner set forth in the Compliance Certificate.

(f) Application of Prepayments. Subject to Section 1.10(c) and except as may otherwise be set forth in any Extension, any prepayments pursuant to Section 1.8(c),

1.8(d), or 1.8(e) shall be applied to prepay all remaining installments (including the final installment thereof to be made at maturity) of the Term Loans ~~(including, for the avoidance of doubt and without limitation, each funded Delayed Draw Term Loan)~~ pro rata against all such scheduled installments based upon the respective amounts thereof ratably across each Class of Term Loans then outstanding. Amounts prepaid shall be applied first to any Base Rate Loans then outstanding and then to outstanding SOFR Rate Loans with the shortest Interest Periods remaining. Together with each prepayment under this Section 1.8, the Borrowers shall pay any amounts required pursuant to Section 10.4 hereof. Notwithstanding the foregoing, prepayments required pursuant to Section 1.8(c) and (d) attributable to Foreign Subsidiaries shall be limited to the extent such prepayments with respect to the repatriation of cash in connection therewith would (i) be prohibited or delayed by applicable law in the relevant foreign jurisdictions; provided that the Borrower Representative and its Subsidiaries shall take all commercially reasonable actions available under local law to permit such repatriation, (ii) conflict with the fiduciary duties of such Foreign Subsidiary's directors, or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer, director, employee, manager, member or management of such Foreign Subsidiary or (iii) result in adverse tax consequences as determined by the Borrower Representative in good faith; and provided further that, once the repatriation of the relevant Net Proceeds or Net Issuance Proceeds, as applicable, would no longer be limited as described above, such amounts will promptly be applied in accordance with this Section 1.8. The non-application of any prepayment amounts as a direct consequence of the foregoing provisions will not, for the avoidance of doubt, constitute a Default or Event of Default and such amounts shall be available for working capital and general corporate purposes of the Borrowers and their Subsidiaries so long as not required to be prepaid in accordance with the foregoing.

(g) No Implied Consent. Provisions contained in this Section 1.8 for the application of proceeds of certain transactions shall not be deemed to constitute consent of the Lenders to transactions that are not otherwise permitted by the terms hereof or the other Loan Documents.

(h) Declining Lenders. Upon the occurrence of any mandatory prepayment event set forth in Section 1.8(e), (d) or (e), the Borrower Representative shall provide the Administrative Agent with three (3) Business Days' prior written notice (received by 2:00 p.m. on such day) of the prepayment required hereunder, including the date and amount of such prepayment. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's pro rata share of such mandatory prepayment Notwithstanding any other provisions in this Section 1.8, any Lender may choose not to accept, in whole or in part, its pro rata share of mandatory prepayments of the Loans under Section 1.8(c), (d)(i) or (e), by providing written notice (each, a "**Rejection Notice**") to the Administrative Agent no later than 2:00 p.m., one (1) Business Day prior to the date of such prepayment as set forth in the applicable notice of prepayment; provided that, if a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above, such failure will be deemed

an acceptance by such Lender of its pro rata share of such mandatory prepayment. Any amount of a mandatory prepayment of the Loans under Section 1.8(e), (d)(i) or (e) not accepted by the Lenders shall (i) first, be offered to non-declining Lenders in accordance with their Commitment Percentages until all remaining Lenders are declining Lenders, and (ii) any remaining amounts shall be retained by the Borrowers and to be used as permitted hereunder.

(i) Bank Product Obligations Unaffected. Any repayment or prepayment made pursuant to this Section 1.8 shall not affect the Borrowers' obligation to continue to make payments under any Bank Product, which shall remain in full force and effect notwithstanding such repayment or prepayment, subject to the terms of such Bank Product.

1.9 Fees.

(a) Fees. The Borrowers shall pay to Administrative Agent (for the ratable benefit of the Lenders) on the Closing Date those fees in the amounts at the times set forth in a letter agreement among the Borrower Representative (on behalf of the Borrowers) and Agents dated as of the Closing Date (as amended, amended and restated, modified and/or supplemented from time to time in accordance with its terms, the "**Fee Letter**").

(b) ~~**Delayed Draw Term Loan Commitment Fee. The Borrowers shall pay to Agent a fee, on the last Business Day of each Fiscal Quarter (the "Delayed Draw Term Loan Commitment Fee"), for the account of each Lender having a Delayed Draw Commitment, in an amount equal to:**~~**[Reserved].**

~~**(i) the average daily balance of the Delayed Draw Term Loan Commitment of each Delayed Draw Term Lender during the preceding Fiscal Quarter,**~~

~~**(ii) multiplied by one percent (1.00%) per annum.**~~

~~**The Delayed Draw Term Loan Commitment Fee provided in this Section 1.9(b) shall accrue at all times during the period from and after the Closing Date through the last day of the Delayed Draw Availability Period.**~~

(c) [Reserved].

(d) All fees payable pursuant to this Section 1.9 shall be calculated on a 360-day year and actual days elapsed and applied in accordance with Section 1.10(a).

1.10 Payments by the Borrowers.

(a) All payments (including prepayments) to be made by each Credit Party on account of principal, interest, fees and other amounts required hereunder shall be made without set-off, recoupment, counterclaim or deduction of any kind, except as set forth in

Article X, shall, except as otherwise expressly provided herein, be made to Administrative Agent (for the ratable account of the Persons entitled thereto) to the Administrative Agent's account specified by the Administrative Agent pursuant to a written notice delivered to the Borrower Representative (or such other account as Administrative Agent may from time to time specify in accordance with Section 9.2), and shall be made in Dollars and by wire transfer in immediately available funds (which shall be the exclusive means of payment hereunder), no later than 2:00 p.m. on the date due. Any payment which is received by Administrative Agent later than 2:00 p.m. may in Administrative Agent's discretion be deemed to have been received on the immediately succeeding Business Day and any applicable interest or fee shall continue to accrue; provided that, for the avoidance of doubt, any payment which is received by the Administrative Agent later than 2:00 p.m. on the applicable due date shall not constitute a Default or an Event of Default hereunder so long as such payment is received by the Administrative Agent prior to 4:00 p.m. on such due date. Upon the occurrence and during the continuance of an Event of Default, the Borrowers and each other Credit Party hereby irrevocably waives the right to direct the application of any and all payments in respect of any Obligation and any proceeds of Collateral, provided that such payments and proceeds are applied in accordance with Section 1.10(c).

(b) Subject to the provisions set forth in the definition of "Interest Period" herein, if any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be excluded in the computation, and if applicable, payment, of interest or fees, as the case may be, on such next succeeding Business Day; provided that such extension of time shall be included in the next succeeding computation and payment of interest and fees; provided further that if the scheduled payment date is the maturity date of any Loan such extension of time shall include such interest and fees, which shall be payable on such next succeeding Business Day.

(c) During the continuance of an Event of Default, Administrative Agent may, and shall upon the direction of the Collateral Agent or the Required Lenders, apply any and all payments received by Administrative Agent in respect of any Obligation in accordance with clauses *first* through *sixth* below (but excluding any provision for payment set forth therein in respect of any Secured Obligations under or in respect of any Secured Rate Contracts or Bank Products or with respect to Secured Swap Providers or Bank Product Providers). Notwithstanding any provision herein to the contrary, all payments made by Credit Parties to Administrative Agent after any or all of the Obligations have been accelerated (so long as such acceleration has not been rescinded), including proceeds of Collateral, shall be applied in accordance with clauses first through sixth below (including, for the avoidance of doubt, any provision for payment set forth therein in respect of any Secured Obligations under or in respect of any Secured Rate Contracts or Bank Products or with respect to Secured Swap Providers or Bank Product Providers):

first, to payment of costs and expenses of each Agent (including Collateral Agent Advances, if any) and Attorney Costs payable or reimbursable by the Credit Parties under the Loan Documents;

second, to payment of costs and expenses of the Lenders payable or reimbursable by the Credit Parties under the Loan Documents;

third, to payment of all accrued unpaid interest on the Secured Obligations and fees owed to either Agent (in their capacities as Administrative Agent or Collateral Agent, as the case may be), Lenders, Secured Swap Providers and Bank Product Providers;

fourth, to payment of principal of the Obligations then due and payable and any Secured Obligations under any Secured Rate Contract or Bank Product;

fifth, to payment of any other amounts owing constituting Secured Obligations; and

sixth, any remainder, after all of the Secured Obligations have been paid in full, to the Borrowers or as the Borrower Representative shall direct, or as otherwise required by Requirement of Law.

In carrying out the foregoing, (i) amounts received to each category shall be applied in the numerical order provided until exhausted prior to the application to the immediately succeeding category, (ii) each of the Lenders or other Persons entitled to payment shall receive an amount equal to its pro rata share of amounts available to be applied pursuant to clauses second, third and fourth above and (iii) no payments by a Guarantor and no proceeds of Collateral of a Guarantor shall be applied to Excluded Rate Contract Obligations of such Guarantor. Notwithstanding the foregoing terms of this Section 1.10, only Collateral proceeds and payments under the Guaranty and Security Agreement (as opposed to ordinary course principal, interest and fee payments hereunder) shall be applied to obligations under any Bank Product or Secured Rate Contract or with respect to Bank Product Providers or Secured Swap Providers. The Administrative Agent shall have no obligation to calculate the amount to be distributed with respect to any Bank Product Debt, but may rely upon written notice of the amount (setting forth a reasonably detailed calculation) from the applicable Bank Product Provider. In the absence of such notice, the Administrative Agent may assume the amount to be distributed is the Bank Product Amount last reported to the Administrative Agent.

1.11 Payments by the Lenders to Agent; Settlement.

(a) Administrative Agent may, on behalf of Lenders, disburse funds to the Borrowers for Loans requested prior to receipt of such funds from the Lenders. Each Lender shall reimburse Administrative Agent on demand for all funds disbursed on its behalf by Administrative Agent, or if Administrative Agent so requests, each Lender will remit to Administrative Agent its Commitment Percentage of any Loan before Administrative Agent disburses same to the Borrowers. If Administrative Agent elects to require that each Lender make funds available to Administrative Agent prior to disbursement by Administrative Agent to the Borrowers, Administrative Agent shall

advise each Lender by telephone, Electronic Transmission or fax of the amount of such Lender's Commitment Percentage of the Loan requested by the Borrower Representative no later than the Business Day prior to the scheduled Borrowing date applicable thereto, and each such Lender shall pay Administrative Agent such Lender's Commitment Percentage of such requested Loan, in same day funds, by wire transfer to Administrative Agent's account designated by the Administrative Agent in writing to the Lenders from time to time, no later than 3:00 p.m. on such scheduled Borrowing date. Nothing in this Section 1.11(a) or elsewhere in this Agreement or the other Loan Documents, including the remaining provisions of Section 1.11, shall be deemed to require Administrative Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its Commitments hereunder or to prejudice any rights that Administrative Agent any Lender or the Borrowers may have against any Lender as a result of any default by such Lender hereunder.

(b) [Reserved].

(c) [Reserved].

(d) Return of Payments.

(i) If Administrative Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Administrative Agent from the Borrowers and such related payment is not received by Administrative Agent, then Administrative Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind.

(ii) If Administrative Agent determines at any time that any amount received by Administrative Agent under this Agreement or any other Loan Document must be returned to any Credit Party or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Loan Document, Administrative Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Administrative Agent on demand any portion of such amount that Administrative Agent has distributed to such Lender, together with interest at such rate, if any, as Administrative Agent is required to pay to the Borrowers or such other Person, without setoff, counterclaim or deduction of any kind, and Administrative Agent will be entitled to set-off against future distributions to such Lender any such amounts (with interest) that are not repaid on demand.

(e) Non-Funding Lenders.

(i) Responsibility. The failure of any Non-Funding Lender to make any Loan, or to fund any purchase of any participation to be made or funded by it, or to make any payment required by it under any Loan Document on the date

specified therefor shall not relieve any other Lender of its obligations to make such loan, fund the purchase of any such participation, or make any other such required payment on such date, and neither Agent nor, other than as expressly set forth herein, any other Lender shall be responsible for the failure of any Non-Funding Lender to make a loan, fund the purchase of a participation or make any other required payment under any Loan Document.

(ii) [Reserved].

(iii) Voting Rights. Notwithstanding anything set forth herein to the contrary, including Section 9.1, a Non-Funding Lender or Impacted Lender shall not have any voting or consent rights under or with respect to any Loan Document or constitute a "Lender" or a "Term Lender" (or be, or have its Loans and Commitments, included in the determination of "Required Lenders" or "Lenders directly affected" pursuant to Section 9.1) for any voting or consent rights under or with respect to any Loan Document, provided that (A) the Commitment of a Non-Funding Lender or Impacted Lender may not be increased, extended or reinstated, (B) the principal of a Non-Funding Lender's or Impacted Lender's Loans may not be reduced or forgiven, and (C) the interest rate applicable to Obligations owing to a Non-Funding Lender or Impacted Lender may not be reduced (other than resulting from a waiver of default interest otherwise applicable pursuant to Section 1.3(c) hereof, any waiver of a Default or an Event of Default having the effect of waiving such default interest), withhout the consent of such Non-Funding Lender or Impacted Lender. Moreover, for the purposes of determining Required Lenders, the Loans and Commitments held by Non-Funding Lenders or Impacted Lenders shall be excluded from the total Loans and Commitments outstanding.

(iv) Borrower Payments to a Non-Funding Lender or Impacted Lender. Administrative Agent shall be authorized to use all payments received by Administrative Agent for the benefit of any Non-Funding Lender or Impacted Lender pursuant to this Agreement to pay in full the Aggregate Excess Funding Amount to the appropriate Secured Parties entitled thereto. Administrative Agent shall be entitled to hold as cash collateral in a non-interest bearing account up to an amount equal to such Non-Funding Lender's or Impacted Lender's pro rata share, without giving effect to any reallocation pursuant to Section 1.11(e)(ii), of other funding obligations hereunder until the Facility Termination Date. Upon any such unfunded obligations owing by a Non-Funding Lender or Impacted Lender becoming due and payable, Administrative Agent shall be authorized to use such cash collateral to make such payment on behalf of such Non-Funding Lender or Impacted Lender. Any amounts owing by a Non-Funding Lender or Impacted Lender to Administrative Agent which are not paid when due shall accrue interest at the interest rate applicable during such period to Loans that are Base Rate Loans. In the event that Administrative Agent is holding cash collateral of a Non-Funding Lender or Impacted Lender that cures pursuant to

clause (v) below, ceases to be a Non-Funding Lender pursuant to the definition of Non-Funding Lender or ceases to be an Impacted Lender pursuant to the definition of Impacted Lender, Administrative Agent shall return the unused portion of such cash collateral to such Lender. The " **Aggregate Excess Funding Amount**" of a Non-Funding Lender shall be the aggregate amount of (A) all unpaid obligations owing by such Lender to Administrative Agent, and other Lenders under the Loan Documents.

(v) Cure. A Lender may cure its status as a Non-Funding Lender under clause (a) of the definition of Non-Funding Lender if such Lender fully pays to Administrative Agent, on behalf of the applicable Secured Parties, the Aggregate Excess Funding Amount, plus all interest due thereon. Any such cure shall not relieve any Lender from liability for breaching its contractual obligations hereunder.

(vi) ~~Fees. A Lender that is a Non-Funding Lender or Impacted Lender shall not earn and shall not be entitled to receive, and the Borrowers shall not be required to pay, such Lender's portion of the Delayed Draw Term Loan Commitment Fee during the time such Lender is a Non-Funding Lender or Impacted Lender.~~ **[Reserved].**

(f) Procedures. Administrative Agent is hereby authorized by each Credit Party and each other Secured Party to establish procedures (and to amend such procedures from time to time) to facilitate administration and servicing of the Loans and other matters incidental thereto. Without limiting the generality of the foregoing, Administrative Agent is hereby authorized to establish procedures to make available or deliver, or to accept, notices, documents and similar items on, by posting to or submitting and/or completion, on E-Systems.

(g) Cashless Settlement. Notwithstanding anything to the contrary contained in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans or Commitments in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower Representative, Administrative Agent and such Lender.

1.12 Benchmark Replacement Settings.

(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 (1) 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 (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 any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders. 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 and the Collateral 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) Notices; 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 notify the Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to this Section 1,12 and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent, Collateral Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 1,12, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 1.12.

(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 Adjusted Term SOFR Rate or Term SOFR) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing

that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (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 Borrowers' receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower Representative may revoke any pending request for a SOFR Loan, or conversion to or continuation of SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower Representative 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.

1.13 Rates. The Administrative Agent and the Collateral Agent do 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 Base Rate, the Adjusted Term SOFR Rate, Term SOFR Screen Rate or Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Base Rate, the Adjusted Term SOFR Rate, Term SOFR Screen Rate, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and the Collateral Agent and their respective affiliates or other related entities may engage in transactions that affect the calculation of Base Rate, Term SOFR, the Adjusted Term SOFR Rate, Term SOFR Screen Rate, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Borrowers. The Administrative Agent and the Collateral Agent may select information sources or services in their reasonable discretion to ascertain Base Rate, Term SOFR, the Adjusted Term SOFR Rate, Term SOFR Screen Rate or any other Benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrowers, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

ARTICLE II

CONDITIONS PRECEDENT

2.1 Conditions of Initial Loans. The obligation of each Lender to make its initial Loans hereunder on the Closing Date is subject to satisfaction of the following:

(a) Loan Documents. The Agents shall have received, each in form and substance reasonably satisfactory to the Agents and the Lenders: (i) counterparts of this Agreement, executed by a duly authorized officer of each party hereto, (ii) for the account of each Lender requesting a promissory note, a duly executed Note, (iii) counterparts of the Guaranty and Security Agreement and any copyright, patent or trademark security agreement, as applicable, in each case conforming to the requirements of this Agreement and executed by duly authorized officers of the Credit Parties or other Person, as applicable, (iv) counterparts of Limited Guaranty and Pledge Agreements, duly executed by each Jeffrey Hernandez, Daniel Brand, Jake Spellmeyer and Bryan Pereboom, (v) counterparts of the Holdings Pledge Agreement duly executed by Viking Cake BR, LLC, (vi) counterparts of each of the other Loan Documents (other than the Holdings Pledge Agreements of the Holdings Pledgors other than Viking Cake BR, LLCV, such additional Holdings Pledge Agreements to be delivered post-closing in accordance with Section 4.19); (vii) counterparts of the Fee Letter, (viii) incumbency and secretary's certificates, a disbursement letter and a perfection certificate, executed by the duly authorized officers and other applicable signatories of the parties thereto, and (viii) any other instruments, certificates, or documents reasonably requested by the Agents;

(b) Consents. Agents shall have received evidence that all boards of directors, governmental, shareholder and material third party consents and approvals required in connection with the entering into of this Agreement have been obtained, except, in each case, those consents and approvals that have been duly waived.

(c) Legal Opinions. Agents shall have received an opinion of counsel from Perkins Coie LLP, and such other legal counsel, if any, as may be reasonably required by the Agents, including, with respect to opinions on the Investment Company Act and non-contravention, in-house counsel to Holdings, each addressed to the Agents and each Lender, as to matters concerning the Credit Parties and the Loan Documents.

(d) Insurance. Agents shall have received (i) evidence of all policies of insurance required to be maintained hereunder and (ii) certificates naming Collateral Agent as additional insured or lenders loss payee as agent for the Lenders, or showing lender loss payable to Collateral Agent, as appropriate, in each case of clauses (i) and (ii), in form reasonably acceptable to Collateral Agent;

(e) Minimum EBITDA; Total Net Leverage Ratio; Liquidity. Agents shall have received a certificate executed by a Responsible Officer of the Borrower Representative attaching a report from an independent third-party acceptable to the Agents showing that Consolidated EBITDA of the Borrowers for the period of twelve

(12) consecutive months ended December 31, 2021 was at least $15,200,000 (the actual amount so reported being referred to as the "Closing Date EBITDA"), and demonstrating in reasonable detail that, after giving effect to the funding of the Term Loans and Existing Debt Refinancing Transactions, and payment of all costs, fees and expenses in connection therewith, (i) the Total Net Leverage Ratio (calculated using the Closing Date EBITDA) does not exceed 4.91:1.00, and (ii) the Borrowers have Liquidity of at least $7,500,000;

(f) SBA Documents. Agents shall have received that certain SBA Matters Agreement, SBA Form 1031 (U.S. Small Business Administration Portfolio Financing Report), SBA Form 480 (U.S. Small Business Administration Size Status Declaration), and SBA Form 652 (U.S. Small Business Administration Assurance of Compliance for Nondiscrimination), in each case duly completed and executed by the applicable Credit Party;

(g) Solvency Certificate. Agents shall have received a certificate executed by a Responsible Officer of Holdings, attesting to the Solvency of the Credit Parties and their Subsidiaries on a consolidated basis, taken as a whole, after giving pro forma effect to the Related Transactions and the other transactions contemplated on the Closing Date, such certificate to be in the form attached hereto as Exhibit 2.1(g);

(h) Patriot Act; Beneficial Ownership Certification. Agents and Lenders shall have received from each Credit Party, at least three (3) Business Days prior to the Closing Date (to the extent requested by Agents or Lenders in writing at least ten (10) days prior to the Closing Date), (i) a duly executed W-9 (or other applicable tax form), (ii) a duly executed Beneficial Ownership Certification, and (iii) all other documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act;

(i) Background Checks. Administrative Agent shall have completed customary individual background searches for each Credit Party's senior management and key principals required by Administrative Agent, the results of which shall be satisfactory to Agents;

(j) Fees and Expenses. All fees and expenses required to be paid on the Closing Date pursuant to this Agreement and the Fee Letter shall have been paid;

(k) UCC and Other Searches. Agents shall have received copies of UCC, tax, litigation, judgment and bankruptcy searches with respect to the Credit Parties, and other evidence reasonably satisfactory to the Agents that subject only to termination of Liens securing the Existing Debt Agreements, the Liens securing the Secured Obligations are the only Liens upon the assets of the Credit Parties, subject only to Permitted Liens;

(l) Material Adverse Effect. In the reasonable judgment of the Agents, there shall not have occurred any event or condition which could reasonably be expected to result in a Material Adverse Effect;

(m) Required Information; Diligence. (a) The Agents shall have received the Projections and a validation of pro forma, run-rate 2021 financials and the 2022 budget from a third party acceptable to the Agents in their sole discretion, each of which shall be satisfactory to the Agents in their sole discretion, and (b) the Agents shall have completed their business (including management meetings and third-party insurance diligence, legal, and collateral due diligence with respect to the Credit Parties, with results satisfactory to the Agents;

(n) Representations and Warranties; No Defaults. The following statements shall be true on the Closing Date, both immediately before and immediately after giving effect to any Loan (or other credit extensions) made on the Closing Date, and the application of the proceeds thereof:

(i) Each representation and warranty by any Credit Party contained herein or in any other Loan Document is true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true or correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date);

(ii) No Default or Event of Default has occurred and is continuing;

(o) Officer's Closing Certificate. The Agents shall have received a certificate executed by a Responsible Officer of Holdings and the Borrowers attesting that (i) the conditions set forth in Sections 2.1(l) and 2.1(n) above are satisfied, which certificate may be combined with the certificates referenced in Sections 2.1(e) and 2.1(g) above and (ii) attached thereto is are true, correct and complete copies of the form of the Franchise Agreement used by the Credit Parties as of the Closing Date;

(p) Existing Debt Refinancing Transactions.

(i) The Credit Parties shall have delivered (i) payoff letters confirming that existing Indebtedness (outstanding immediately prior to the Closing Date) under each of the Existing Debt Agreements has been, or shall be with the proceeds of the Loans, paid in full (and/or, in the case of the Subordinated Term Loan Obligations, converted to Preferred Equity) and all commitments and liens thereunder terminated, (ii) any Lien release documentation (and authorizations to file or record such release documentation or evidence that such release documentation has been filed or recorded, as applicable) necessary to terminate such Liens, and (iii) the A&R Holdings LLC Agreement, in form reasonably satisfactory to the Agents and Lenders; and

(ii) The Existing Debt Refinancing Transactions shall have been consummated, or shall be consummated substantially concurrently with the funding of the initial Loans on the Closing Date;

(q) Each Lender shall have received all necessary internal approvals; and

(r) Notice of Borrowing. The Administrative Agent shall have received a Notice of Borrowing with respect to the Term Loans to be advanced on the Closing Date.

For the purpose of determining satisfaction with the conditions specified in this Section 2.1, each Agent and each Lender that has signed and delivered this Agreement shall be deemed to have agreed that each condition under this Section 2.1 shall have been met and shall be deemed to be satisfied with the form thereof in each case, unless each Agent shall have received written notice from such Person specifying its objection thereto and provided the Borrower Representative a copy thereof, in each case, prior to the time such Person shall have released its signature pages hereto.

2.2 Conditions to Certain Borrowings. No Lender shall be obligated to fund any Loan following the Closing Date if as of the date thereof:

(a) the Agent shall have not received a Notice of Borrowing with respect to the Loans to be advanced in accordance with the provisions of this Agreement; and

(b) ~~with respect to any Delayed Draw Term Loan, the Pro Forma Compliance Conditions shall not be satisfied or any Agent shall have determined, in its reasonable discretion, that a Material Adverse Effect shall have occurred and be continuing~~[Reserved].

The request by the Borrower Representative and acceptance by the Borrowers of the proceeds of any Loan shall be deemed to constitute, as of the date thereof, (i) a representation and warranty by the Borrowers that the conditions in this Section 2.2 have been satisfied and (ii) a reaffirmation by each Credit Party of the granting and continuance of Collateral Agent's Liens, on behalf of itself and the Secured Parties, pursuant to the Collateral Documents.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

The Credit Parties, jointly and severally, represent and warrant to each Agent and each Lender that the following are, and after giving effect to the consummation of this Agreement and the other Loan Documents, the funding of the Loans hereunder and the Related Transactions will be, true, correct and complete:

3.1 Corporate Existence and Power. Each Credit Party and each of their respective Subsidiaries:

(a) is a corporation, limited liability company or limited partnership, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, as applicable;

(b) has the requisite power and authority and all necessary governmental licenses, authorizations, Permits, consents and approvals to (i) own its assets and carry on its business and (ii) execute, deliver, and perform its obligations under, the Loan Documents to which it is a party;

(c) is duly qualified as a foreign corporation, limited liability company or limited partnership, as applicable, and licensed and, if applicable, in good standing, under the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification or license; and

(d) is in compliance with all applicable Requirements of Law;

except, in each case referred to in clause (b)(i), clause (c) or clause (d), to the extent that the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.2 Corporate Authorization; No Contravention. The execution, delivery and performance by each of the Credit Parties of this Agreement and any other Loan Document to which such Person is party, (i) have been duly authorized by all necessary corporate, limited liability company or limited partnership action, as applicable, and (ii) do not and will not:

(a) contravene the terms of any of that Person's Organization Documents;

(b) conflict with or result in any material breach or contravention of, or result in the creation of any Lien (other than Liens in favor of Collateral Agent created under the Loan Documents) under, any document evidencing any Contractual Obligation that is material to the Credit Parties to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject except in each case to the extent such could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; or

(c) violate any Requirement of Law in any respect, except to the extent such violation could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.3 Governmental Authorization. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Agreement, or any other Loan Document

except (a) for recordings, filings and other perfection actions in connection with the Liens granted to Collateral Agent under the Collateral Documents, (b) those obtained or made on or prior to the Closing Date, and (c) filings required by applicable Requirements of Law in connection with the exercise of remedies by Collateral Agent.

3.4 Binding Effect. This Agreement and each other Loan Document to which any Credit Party is a party have been duly executed and delivered by such Credit Party. This Agreement and each other Loan Document to which any Credit Party is a party constitute the legal, valid and binding obligations of each such Person which is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

3.5 Litigation. Except as set forth in Schedule 3.5, there are no actions, suits, proceedings, claims or disputes pending, or to the actual knowledge of each Credit Party, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, against any Credit Party, any Subsidiary of any Credit Party or any of their respective Properties:

(a) that purport to affect or pertain in any materially adverse manner to this Agreement, any other Loan Document, or any of the transactions contemplated hereby or thereby; or

(b) that would, or that seek an injunction or other equitable relief that would, reasonably be expected to have a Material Adverse Effect.

As of the Closing Date, no Credit Party or any Subsidiary of any Credit Party has been notified that it is the subject of an audit or, to each Credit Party's knowledge, any review or investigation by any Governmental Authority (excluding the IRS and other taxing authorities) concerning the violation or possible violation of any Requirement of Law.

3.6 No Default or Event of Default. No Default or Event of Default exists or would result immediately from the incurring of any Obligations by any Credit Party or the grant or perfection of Collateral Agent's Liens on the Collateral or the consummation of the Related Transactions. No Credit Party and no Subsidiary of any Credit Party is in default under or with respect to any Contractual Obligation in any respect which, individually or together with all such defaults, could reasonably be expected to have a Material Adverse Effect.

3.7 Compliance with Laws; ERISA Compliance.

(a) Each Credit Party is in compliance with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Schedule 3.7 sets forth, as of the Closing Date, a complete and correct list of, and that separately identifies, (a) all Title IV Plans and (b) all Multiemployer Plans.

Each Title IV Plan intended to qualify for tax exempt status under Section 401 of the Code has received a favorable determination letter as to its qualified status or is comprised of a master or prototype plan that has received a favorable opinion letter from the IRS. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (x) each Title IV Plan is in compliance with applicable provisions of ERISA, the Code and other Requirements of Law, (y) there are no existing or pending (or to the knowledge of any Credit Party, threatened in writing) claims (other than routine claims for benefits in the normal course), sanctions, actions or lawsuits involving any Title IV Plan or, to the knowledge of any Credit Party, any Multiemployer Plan with respect to which any Credit Party or any Subsidiary of a Credit Party has incurred or otherwise has or would be reasonably expected to have an obligation or any Liabilities, and (z) no ERISA Event has occurred or is reasonably expected to occur.

3.8 Use of Proceeds; Margin Regulations. The proceeds of the Loans are intended to be and shall be used solely for the purposes set forth in and permitted by Section 4.10, and are intended to be and shall be used in compliance with Section 5.8. No Credit Party and no Subsidiary of any Credit Party is primarily engaged in the business of purchasing or selling Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock. Proceeds of the Loans shall not be used for the purpose of purchasing or carrying Margin Stock. As of the Closing Date, except as set forth on Schedule 3.8, no Credit Party and no Subsidiary of any Credit Party owns any Margin Stock.

3.9 Ownership of Property; Liens; Principal Place of Business. (a) As of the Closing Date, the Real Estate listed in Schedule 3.9 constitutes all of the Real Estate of each Credit Party and each of their respective Subsidiaries. Each of the Credit Parties and each of their respective Subsidiaries has, subject to Permitted Liens, good record and marketable title in fee simple to, or valid leasehold interests in, all material Real Estate, and good and valid title to all material owned personal property and valid leasehold interests in all leased personal property, in each instance, necessary or material to the ordinary conduct of its respective businesses. As of the Closing Date, Schedule 3.9 also describes any purchase options, rights of first refusal or other similar contractual rights pertaining to any Real Estate. All Permits required to have been issued to enable the Real Estate to be lawfully occupied and used for all of the purposes for which it is currently occupied and used have been lawfully issued and are in full force and effect, except to the extent failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Holdings and each Borrower's principal place of business is located at 9170 E. Bahia Drive, Suite 101, Scottsdale, Arizona 85260 (the **"Principal Place of Business"**). All books and records relating to the operations of Holdings and the Borrowers are located solely at the Principal Place of Business.

3.10 Taxes. All federal income Tax returns, reports and statements and all other material Tax returns, reports and statements (collectively, the "**Tax Returns**") required to be filed by any Tax Affiliate within the past six years have been filed, and all material Taxes

reflected therein or otherwise due and payable have been paid, except for those contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves are maintained on the books of the appropriate Tax Affiliate in accordance with GAAP. To the knowledge of any Credit Party, as of the Closing Date, no material Tax Return of any Credit Party is under audit or examination by any Governmental Authority and no notice of any audit or examination or any assertion in writing of any claim for material Taxes has been received by any Credit Party from any Governmental Authority.

3.11 Financial Condition.

(a) The Pro Forma Financial Statements were prepared in good faith by or on behalf of Holdings.

(b) Since December 31, ~~2021~~**2022** there has been no Material Adverse Effect or any event or circumstance that could reasonably be expected to result in a Material Adverse Effect.

(c) The Projections represent Holdings and the Borrowers' good faith estimate of future financial performance and are based on assumptions believed by Holdings and the Borrowers to be fair and reasonable in light of then current market conditions, in each case, at the time prepared, it being acknowledged and agreed by Agents and Lenders that uncertainty is inherent in any forecasts or projections, projections as to future events or conditions are not to be viewed as facts and that the actual results during the period or periods covered by the Projections may differ materially from the projected results.

3.12 Environmental Matters. Except where any failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (a) the operations of each Credit Party and each Subsidiary of each Credit Party are and have been for the past three (3) years in compliance with all applicable Environmental Laws, including obtaining, maintaining and complying with all Permits required of any Credit Party or any Subsidiary thereof by any applicable Environmental Law, (b) no Credit Party and no Subsidiary of any Credit Party is party to, and no Real Estate currently (x) owned or (y) to the knowledge of any Credit Party, leased, subleased or operated by or for any such Person is subject to or the subject of, any Contractual Obligation or any pending (or threatened in writing) written order, investigation, suit, proceeding, audit, written claim or demand, or written notice of violation of, or potential liability under, any applicable Environmental Law, (c) no Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities has attached to any Property of any Credit Party or any Subsidiary of any Credit Party and, to the knowledge of any Credit Party, no facts, circumstances or conditions exist that would reasonably be expected to result in any such Lien attaching to any such Property, (d) no Credit Party and no Subsidiary of any Credit Party has caused a Release of Hazardous Materials at, to or from any Real Estate except in compliance with Environmental Laws, (e) to the knowledge of any Credit Party, no Release of Hazardous Materials has occurred at, to or from any Real Estate currently owned, leased, subleased or otherwise operated by any Credit Party or any of their Subsidiaries except in compliance with Environmental Laws, and (f) no Credit Party and no Subsidiary of any Credit Party (i) is engaged in, or has knowingly permitted any current tenant to engage in,

operations in violation of any Environmental Law or (ii) knows of any facts, circumstances or conditions reasonably constituting notice of a violation of any Environmental Law by such Credit Party or Subsidiary, including receipt of any information request or notice of potential responsibility under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) or similar Environmental Laws.

3.13 Regulated Entities. None of any Credit Party, any Person controlling any Credit Party, or any Subsidiary of any Credit Party, is (a) an "investment company" within the meaning of the Investment Company Act of 1940 or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any state public utilities code, or any other federal or state statute, rule or regulation limiting its ability to incur Indebtedness, pledge its assets or perform its obligations under the Loan Documents.

3.14 Solvency. Immediately after giving effect to (a) the Loans made and Letters of Credit Issued on or prior to the date this representation and warranty is made or remade, (b) the disbursement of the proceeds of such Loans to or as directed by the Borrower Representative, (c) the consummation of the Related Transactions, and (d) the payment and accrual of all transaction costs in connection with the foregoing, the Credit Parties on a consolidated basis are Solvent.

3.15 Labor Relations. There are no strikes, work stoppages, slowdowns or lockouts existing, pending (or, to the knowledge of any Credit Party, threatened in writing) against or involving any Credit Party or any Subsidiary of any Credit Party, except for those that could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Except as set forth on Schedule 3.15, as of the Closing Date, (a) there is no collective bargaining or similar agreement with any union, labor organization, works council or similar representative covering any employee of any Credit Party or any Subsidiary of any Credit Party, (b) no petition for certification or election of any such representative is existing or pending with respect to any employee of any Credit Party or any Subsidiary of any Credit Party and (c) to the knowledge of any Credit Party, no such representative has sought certification or recognition with respect to any employee of any Credit Party or any Subsidiary of any Credit Party.

3.16 Intellectual Property. Each Credit Party and each Subsidiary of each Credit Party owns, is licensed to use or otherwise has the right to use, all Intellectual Property necessary to conduct its business as currently conducted except for such Intellectual Property the failure of which to own or license could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; provided, however, that the foregoing representation and warranty in this Section 3.16 shall not constitute or be deemed or construed as any representation or warranty with respect to infringement, misappropriation, dilution or violation of any Intellectual Property (which is addressed in the following sentence). To the knowledge of each Credit Party, (a) the conduct and operations of the businesses of each Credit Party and each Subsidiary of each Credit Party does not infringe, misappropriate, dilute or violate any Intellectual Property owned by any other Person and (b) as of the Closing Date, no other Person is contesting in writing any right, title or interest of any Credit Party or any Subsidiary of any Credit Party in any Intellectual Property, other than, in each case, as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.17 Brokers' Fees; Transaction Fees. Except as disclosed on Schedule 3.17 and except for fees payable to Agents and Lenders, none of the Credit Parties or any of their respective Subsidiaries has any obligation to any Person in respect of any finder's, broker's or investment banker's fee in connection with the transactions contemplated by this Agreement to occur on or around the Closing Date.

3.18 Insurance. Each of the Credit Parties and each of their respective Subsidiaries and their respective Properties are insured with financially sound and reputable insurance companies which are not Affiliates of the Credit Parties, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses of the similar size and character as the business of the Credit Parties and, to the extent relevant, owning similar Properties in localities where such Person operates. A true and complete listing of such insurance, including issuers, coverages and deductibles, as of the Closing Date, is listed on Schedule 3.18.

3.19 Ventures, Subsidiaries and Affiliates; Outstanding Stock. Except as set forth in Schedule 3.19, as of the Closing Date, no Credit Party and no Subsidiary of any Credit Party (a) has any Subsidiaries, or (b) is engaged in any joint venture or partnership with any other Person. All issued and outstanding Stock and Stock Equivalents of each of the Credit Parties and each of their respective Subsidiaries, that, in each case, constitute Collateral, are duly authorized and validly issued, fully paid, non-assessable (if applicable), and, with respect to the Stock and Stock Equivalents of Holdings, the Borrowers and other Subsidiaries of the Borrowers that, in each case, constitute Collateral, free and clear of all Liens other than those in favor of Collateral Agent, for the benefit of the Secured Parties, and Permitted Liens arising by operation of law. All such securities were issued in compliance with all applicable state and federal laws concerning the issuance of securities. All of the issued and outstanding Stock of each Credit Party (other than Holdings) and each Subsidiary of each Credit Party, in each case, as of the Closing Date and after giving effect to the Related Transactions, is owned by each of the Persons and in the amounts set forth in Schedule 3.19. Except as set forth in Schedule 3.19, as of the Closing Date, there are no pre-emptive or other outstanding rights to purchase, options, warrants or similar rights or agreements pursuant to which any Credit Party may be required to issue, sell, repurchase or redeem any of its Stock or Stock Equivalents or any Stock or Stock Equivalents of its Subsidiaries. Set forth in Schedule 3.19 is a true and complete organizational chart of Holdings and all of its Subsidiaries as of the Closing Date after giving effect to the Related Transactions.

3.20 Jurisdiction of Organization; Chief Executive Office. Schedule 3.20 lists each Credit Party's jurisdiction of organization, legal name and organizational identification number, if any, and the location of such Credit Party's chief executive office or sole place of business, in each case as of the Closing Date.

3.21 Deposit Accounts and Other Accounts. Schedule 3.21 lists all banks and other financial institutions, securities intermediary or commodity intermediary at which any Credit Party maintains deposit, securities, commodities or other similar accounts as of the Closing Date, and such Schedule correctly identifies the name, address and telephone number with respect to

each depository or intermediary, the name in which the account is held, a description of the purpose of the account, and the complete account number therefor.

3.22 Bonding. Except as set forth in Schedule 3.22, as of the Closing Date, no Credit Party is a party to or bound by any surety bond agreement, indemnification agreement therefor or bonding requirement with respect to products or services sold by it.

3.23 Status as Senior Indebtedness. All Obligations, shall constitute "Senior Indebtedness" pursuant to (i) the Subordination Agreement, and (ii) any intercreditor or subordination agreements related to Subordinated Indebtedness (other than the Subordinated Term Loan Obligations).

3.24 Full Disclosure. None of the written statements about any Credit Party or any of its Subsidiaries, in each case, contained in any report, written statement or certificate (other than any statement which constitutes projections, forward looking statements, budgets, estimates or general market data) furnished by or on behalf of any Credit Party or any of their Subsidiaries to the Agents or any Lender in connection with the Loan Documents (excluding representations of information of a general or industry-specific nature and excluding financial projections, forecasts, budgets or other forward-looking statements), taken as a whole, contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not materially misleading as of the time when made or delivered (other than any general industry information, budgets and projections delivered to Agents and/or the Lenders in accordance with the terms hereof).

3.25 Foreign Assets Control Regulations; Anti-Money Laundering; Anti-Corruption Practices.

(a) Each Credit Party and each Subsidiary of each Credit Party is in compliance in all material respects with all U.S. economic sanctions laws, Executive Orders and implementing regulations ("**Sanctions**") as administered by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**") and the U.S. State Department. No Credit Party and no Subsidiary of a Credit Party (i) is a Person on the list of the Specially Designated Nationals and Blocked Persons (the "**SDN List**"), (ii) is a person who is otherwise the target of U.S. economic sanctions laws such that a U.S. person cannot deal or otherwise engage in business transactions with such person, (iii) is a Person organized or resident in a country or territory subject to comprehensive Sanctions (a "**Sanctioned Country**"), or (iv) is owned or controlled by (including by virtue of such Person being a director or owning voting shares or interests), or acts, directly or indirectly, for or on behalf of, any Person on the SDN List or a government of a Sanctioned Country such that the entry into, or performance under, this Agreement or any other Loan Document would be prohibited by U.S. law.

(b) Each Credit Party and each Subsidiary of each Credit Party is in compliance with all applicable laws related to terrorism or money laundering including: (i) all applicable requirements of the Currency and Foreign Transactions Reporting Act of

1970 (31 U.S.C. 5311 et. seq., (the Bank Secrecy Act)), as amended by Title III of the USA Patriot Act, (ii) the Trading with the Enemy Act, (iii) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (66 Fed. Reg. 49079), any other enabling legislation, executive order or regulations issued pursuant or relating thereto and (iv) other applicable federal or state laws relating to "know your customer" or anti-money laundering rules and regulations. No action, suit or proceeding by or before any court or Governmental Authority with respect to compliance with such anti-money laundering laws is pending or threatened in writing to the knowledge of each Credit Party and each Subsidiary of each Credit Party.

(c) Each Credit Party and each Subsidiary of each Credit Party is in compliance in all material respects with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act of 1977 ("**FCPA**") and the U.K. Bribery Act 2010 ("**Anti-Corruption Laws**"). None of the Credit Parties or any Subsidiary, nor to the knowledge of any Credit Party, any director, officer, agent, employee, or other person acting on behalf of such Credit Party or any Subsidiary, has taken any action, directly or indirectly, that would result in a violation by such Credit Party or any Subsidiary of applicable Anti-Corruption Laws. The Credit Parties and each Subsidiary will, to the extent necessary or applicable to their business, maintain policies and procedures designed to promote compliance with applicable Anti-Corruption Laws.

3.26 Leases. There is a Lease in force for each Unit Location which is ground leased or space leased by any Credit Party. No default by any party exists under any such Lease that could reasonably be expected to result in termination of such Lease, nor has any event occurred which, with the passage of time or the giving of notice, or both, would constitute such a default, except in each case, to the extent any such default could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Schedule 3.26 is a complete and correct listing of all Leases as of the Closing Date.

3.27 Store Locations; Franchised Store Locations. Part (a) of Schedule 3.27 sets forth a complete and accurate list of all Store locations owned or operation by any Credit Party or any Subsidiary of a Credit Party as of the Closing Date. Part (b) of Schedule 3.27 sets forth a complete and accurate list of all Franchised Store Locations franchised by any Franchisor to any Franchisee as of the Closing Date.

3.28 Franchise Agreements.

(a) Schedule 3.28 sets forth a complete and accurate list of all Franchise Agreements as of the Closing Date.

(b) Each Franchise Agreement is in full force and effect, except to the extent the failure of any such Franchise Agreement to remain in full force and effect, either individually or in the aggregate with all other such failures with respect to Franchise Agreements, could not reasonably be expected to have a Material Adverse Effect, without any amendment or modification from the form delivered to the Agents on the Closing

Date, except for amendments permitted hereunder and which do not materially and adversely affect the rights of the Lenders.

3.29 SBA Matters. Holdings and each other Credit Party acknowledges that certain of the Lenders are or may from time to time be or become a Small Business Investment Company (as defined in the SBIA), subject to the rules and regulations contained in and promulgated under the SBIA. As of the Closing Date, each Credit Party, together with its "affiliates" (for purposes of this paragraph only, as that term is defined in Title 13, Code of Federal Regulations, § 121.103), is a Small Business Concern (as defined in the SBIA). Neither Holdings nor any of its Subsidiaries presently engages in, and shall not hereafter engage in any activities for which a Small Business Concern is prohibited from engaging in under the SBIA, no shall any such Person use directly or indirectly the proceeds of the Loans for any purpose for which a Small Business Investment Company is prohibited from providing funds by the SBIA.

ARTICLE IV

AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date **(it being understood and agreed that, without in any way limiting the covenants and other agreements in the Founder Group Members Pledge Agreements, for purposes of this Article IV, the term "Credit Party" will not include any Founder Group Members)**:

4.1 Financial Statements. Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, a system of accounting established and administered in accordance with sound business practices to permit the preparation of financial statements in conformity with GAAP (provided that unaudited interim financial statements shall not be required to have footnote disclosures and are subject to normal year-end adjustments). The Borrower Representative shall deliver to Administrative Agent (for delivery to each Lender) by Electronic Transmission and, solely with respect to Section 4.1(b), in customary form or otherwise in detail reasonably satisfactory to each Agent:

(a) as soon as available, but in any event not later than one hundred twenty (120) days after the end of each Fiscal Year, a copy of the audited consolidated balance sheets of Holdings and its Subsidiaries as at the end of such Fiscal Year and the related consolidated statements of income or operations, shareholders' equity and cash flows for such Fiscal Year, setting forth commencing with the audited financial statements for the 2022 Fiscal Year, in each case, in comparative form the figures for the previous Fiscal Year, and accompanied by the report of any "Big Four" independent certified public accounting firm (or any other independent certified public accounting firm reasonably acceptable to Agent) which report shall (i) state that such consolidated financial statements (solely with respect to the financial statements and not comparisons) present fairly in all material respects the financial position for the periods indicated in conformity with GAAP applied on a basis consistent with prior years ending after the Closing Date (except for such year to year inconsistencies as may arise due to a change in GAAP permitted hereunder) and (ii) be unqualified as to scope and going concern;

(b) as soon as available, but in any event not later than forty-five (45) days after the end of each Fiscal Quarter of each Fiscal Year, a copy of the unaudited consolidated balance sheet of Holdings and its Subsidiaries, and the related consolidated statements of income and cash flows as of the end of such Fiscal Quarter and for the portion of the Fiscal Year then ended, all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrowers as being complete and correct in all material respects and fairly presenting, in all material respects and in accordance with GAAP, the financial position and the results of operations of Holdings and its Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures; ~~and~~

(c) as soon as available, but in any event not later than thirty (30) days after the end of each of the first two Fiscal Months of each Fiscal Quarter (other than with respect to the Fiscal Months of May, 2022 and July, 2022, in which case, not later than forty-five (45) days after the end of each such Fiscal Month), **(i) Qualified Cash Summary in the form set forth on Exhibit 4.2(b), and (ii)** a copy of the unaudited consolidated balance sheets of Holdings and its Subsidiaries, and the related consolidated statements of income and cash flows as of the end of such Fiscal Month and for the portion of the Fiscal Year then ended, setting forth in each case in comparative form the figures for the corresponding Fiscal Month of the previous Fiscal Year and the corresponding Fiscal Month set forth in the applicable annual budget delivered to the Agents pursuant to the terms hereof and the corresponding portion of the previous Fiscal Year and the corresponding portion of the Fiscal Year as set forth in the applicable annual budget delivered pursuant to Section 4.2(d), all in reasonable detail, and all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrowers as being complete and correct in all material respects and fairly presenting, in all material respects, in accordance with GAAP, the financial position and the results of operations of Holdings and its Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures; provided that, if as of the last day of the applicable Fiscal Month, there is no principal outstanding with respect to the Loans, the Credit Parties shall not be required to deliver any financial statements pursuant to this Section 4.1(e) with respect to such Fiscal Month**; and**

(d) Together with each quarterly report submitted pursuant to Section 4.1(b) and each monthly report submitted by Section 4.1(c), a month-end Qualified Cash Summary for the immediately preceding month, such report to break out each account having a Qualified Cash balance of $250,000 or more at any time during such preceding month, all with such backup as any Agent may from time to time reasonably request.

4.2 Certificates; Other Information. The Borrower Representative shall furnish to Administrative Agent (copies of which shall be delivered or otherwise made available by Administrative Agent to each Lender) by Electronic Transmission:

(a) (i) concurrently with the delivery of the financial statements referred to in Sections 4.1(a) and 4.1(b), a management discussion and analysis report, in reasonable detail, signed by the chief financial officer (or, if there is no chief financial officer, other financial officer that is a Responsible Officer of the Borrowers) of the Borrowers, describing the operations and financial condition of the Credit Parties and their Subsidiaries for the Fiscal Quarter and the portion of the Fiscal Year then ended, (ii) concurrently with the delivery of the financial statements referred to in Section 4.1(b) and 4.1(c), a report setting forth in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year and, if applicable, the corresponding figures from the most recent projections for the current Fiscal Year delivered pursuant to Section 4.2(d) and discussing the reasons for any significant variations, (iii) in the case of the financial statements referred to in Section 4.1(c), same store sales in comparative form and (iv) in the case of the financial statements referred to in Section 4.1(b), an updated Development Overview Report;

(b) concurrently with the delivery of the financial statements referred to in Sections 4.1(a) and 4.1(b), a fully and properly completed certificate in the form of Exhibit 4.2(b) (a "**Compliance Certificate**"), certified on behalf of the Borrowers by a Responsible Officer of the Borrowers, which shall include a list of, if any, (1) changes to any Credit Party's or any of its Subsidiaries' legal name, jurisdiction of incorporation, organization or formation or organizational form, (2) ~~**Permitted Acquisition or**~~ formation of a Subsidiary or acquisitions by a Credit Party or any of its Subsidiaries of all or substantially all of the assets of, or mergers or consolidations of a Credit Party or any of its Subsidiaries with or into, a Person, (3) the occurrence of any event described in Section 1.8(c) or (d), (4) changes to any Credit Party's principal place of business or chief executive office or acquisitions by a Credit Party of fee simple title to any real property with a fair market value in excess of $1,000,000 and (5) changes, with respect to any Material Intellectual Property (as defined in the Guaranty and Security Agreement), in the information of the type required to be set forth on Schedule 5 of the Guaranty and Security Agreement on the Closing Date for such Grantor, except for changes that have been disclosed in prior Compliance Certificates delivered to Administrative Agent;

(c) promptly after the same are filed, copies of all financial statements and regular, periodic or special reports which any Credit Party or any Subsidiary of a Credit Party may make to, or file with, the Securities and Exchange Commission or any successor or similar Governmental Authority;

(d) as soon as available and in any event no later than thirty (30) days after the last day of each Fiscal Year of the Borrowers, an annual budget and projections of the Credit Parties (and their Subsidiaries) consolidated financial performance for such Fiscal Year on a month-by-month basis, including assumptions made in the build-up of the budget, along with the related consolidated statements of income, shareholders' equity and cash flows for such Fiscal Year and a calculation of the financial covenants set forth in Section 6.1 for each Fiscal Quarter contained therein (it being acknowledged and agreed by Agents and Lenders that uncertainty is inherent in any forecasts or projections,

projections as to future events or conditions are not to be viewed as facts and that the actual results and financial covenants during the period or periods covered by the projections may differ materially from the projected results);

(e) promptly upon receipt thereof, copies of all final management reports submitted by the Borrowers' certified public accountants in connection with each annual audit to the extent permitted by such accountants and subject to a customary non-reliance letter;

(f) from time to time, if Collateral Agent reasonably determines that obtaining appraisals is necessary in order for Agents or any Lender to comply with applicable laws or regulations (including any appraisals required to comply with FIRREA), Collateral Agent may, or may require the Borrowers to, in either case at the Borrowers' reasonable expense (but in no event more than one time in any Fiscal Year: provided, however, that the foregoing limitation shall not apply if an Event of Default has occurred and is continuing), obtain appraisals in form and substance (it being understood that "substance" shall not include the value of the collateral being appraised, which value shall not be subject to satisfaction of Agents or any Lender) and from appraisers reasonably satisfactory to Collateral Agent stating the then current fair market value of all or any portion of the personal property of any Credit Party or any Subsidiary of any Credit Party and the fair market value or such other value as determined by Collateral Agent (for example, replacement cost for purposes of Flood Insurance) of any Real Estate of any Credit Party or any Subsidiary of any Credit Party; provided that if the Collateral Agent obtains any appraisal pursuant to this Section 4.2(f), the Collateral Agent shall, upon the request of the Borrowers, provide or otherwise make available a copy of such appraisal to the Borrowers; and

(g) [Reserved];

(h) promptly following either Agent's written request therefor, such additional business or financial information and updated perfection certificate as such Agent may from time to time reasonably request; provided that the Agents shall not request an updated perfection certificate more than one time per Fiscal Year; provided, however, that the foregoing limitation shall not apply if an Event of Default has occurred and is continuing.

4.3 Notices. The Borrowers shall promptly notify each Agent of each of the following (and, except as otherwise specifically set forth in clauses (e)(ii) and (e)(iii) **and in clause (i)** below, in no event later than five (5) Business Days) after a Responsible Officer becoming aware thereof:

(a) the occurrence or existence of any Default or Event of Default;

(b) any dispute, litigation, investigation, proceeding or suspension which may exist at any time between any Credit Party or any Subsidiary of any Credit Party and any

Governmental Authority which could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(c) the commencement of, or any material development in, any litigation or proceeding affecting any Credit Party or any Subsidiary of any Credit Party or its respective property (i) in which the amount of monetary damages claimed is $500,000 or more, (ii) which, if adversely determined, could reasonably be expected to have a Material Adverse Effect, or (iii) in which the relief sought is an injunction or other stay of the performance of this Agreement, or any other Loan Document;

(d) (i) the receipt by any Credit Party of any written notice of material violation of or potential liability or similar written notice under Environmental Law which could reasonably be expected to result in (A) a Material Adverse Effect or (B) monetary liability in excess of $500,000, (ii)(A) unpermitted Releases by any Credit Party on or from the Real Estate in violation of Environmental Law, (B) the existence of any condition that would reasonably be expected to result in violations by any Credit Party or any Subsidiary of a Credit Party of Environmental Law or Environmental Liabilities or (C) the commencement of, or any material change to, any action, investigation, suit, proceeding, audit, claim, demand or dispute alleging a violation by any Credit Party or any Subsidiary of a Credit Party of Environmental Law or Environmental Liability which in the case of clauses (A), (B) and (C) above, could reasonably be expected to result in (1) monetary liability in excess of $500,000 or (2) a Material Adverse Effect and (iii) the receipt by any Credit Party of written notification that any Property of any Credit Party is subject to any Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities that could reasonably be expected to result in (A) monetary liability in excess of $500,000 or (B) a Material Adverse Effect;

(e) (i) upon any filing by any Credit Party or any Subsidiary of a Credit Party, or promptly upon a Credit Party obtaining knowledge of the filing by an ERISA Affiliate, of any notice of (A) any reportable event under Section 4043 of ERISA (other than reportable events with respect to which the 30-day notice requirement has been duly waived under the applicable regulations) with respect to any Title IV Plan or (B) intent to terminate any Title IV Plan, which in the case of either clause (A) or (B) above, could reasonably be expected to result in (1) monetary liability in excess of $500,000 or (2) a Material Adverse Effect, a copy of such notice, (ii) promptly, and in any event within ten (10) days, after any officer of any Credit Party or any Subsidiary of a Credit Party knows or has reason to know that a request for a minimum funding waiver under Section 412 of the Code has been filed with respect to any Title IV Plan, a notice describing such waiver request and any action that any Credit Party proposes to take with respect thereto, together with a copy of any notice filed with the PBGC or the IRS pertaining thereto; and (iii) promptly, and in any event within ten (10) days, after any officer of any Credit Party or any Subsidiary of a Credit Party knows or has reason to know that an ERISA Event has occurred that could, either individually or in the aggregate, result in (A) monetary liability in excess of $1,500,000 or (B) a Material Adverse Effect, a notice describing

such ERISA Event, together with a copy of any notices received from or filed with the PBGC, IRS or Multiemployer Plan pertaining thereto;

(f) any Material Adverse Effect subsequent to the date of the most recent audited financial statements of Holdings and its Subsidiaries delivered to Administrative Agent pursuant to this Agreement;

(g) any material change in accounting policies or financial reporting practices by any Credit Party or any Subsidiary of any Credit Party; and

(h) any labor controversy resulting in, or which would reasonably be expected to result in, any strike, work stoppage, boycott, shutdown or other labor disruption against or involving any Credit Party or any Subsidiary of any Credit Party if the same could, either individually or in the aggregate, reasonably be expected to result in (i) monetary liability in excess of $500,000 or (ii) a Material Adverse Effect.

Each notice pursuant to this Section 4.3 shall be in electronic form accompanied by a statement by a Responsible Officer of the Borrowers, setting forth reasonable details of the occurrence referred to therein, and, if applicable, stating what action the Borrowers or other Person proposes to take with respect thereto and at what time. Each notice under Section 4.3(a) shall describe with particularity any provisions of this Agreement or other Loan Document that have been breached or violated to the extent such breach or violation constitutes a Default or an Event of Default.

4.4 Preservation of Corporate Existence, Etc. Each Credit Party shall, and shall cause each of its Subsidiaries to:

(a) preserve and maintain in full force and effect its organizational existence and good standing under the laws of its jurisdiction of incorporation, organization or formation, as applicable, except as permitted by Section 5.3;

(b) preserve and maintain in full force and effect all rights, privileges, qualifications, permits, licenses and franchises necessary in the normal conduct of its business except as permitted by Sections 5.2 and 5.3 and except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(c) preserve or renew all of its registered Trademarks, Patents and Copyrights the non-preservation of which could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; and

(d) conduct its business and affairs without knowingly infringing or violating any Intellectual Property of any other Person in any material respect and comply in all material respects with the terms of its IP Licenses except in each case as could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.5 Maintenance of Property. Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, and preserve all its Property (other than abandoned Property left on leased premises following the termination of a Lease) which is necessary for the operation of the business of the Borrowers and their Subsidiaries in good working order and condition, ordinary wear and tear, casualty and condemnation excepted and shall make all reasonably necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.6 Insurance.

(a) Each Credit Party shall, and shall cause each of its Subsidiaries to, (i) maintain or cause to be maintained in full force and effect all policies of insurance of any kind with respect to the Property and businesses of the Credit Parties and such Subsidiaries with financially sound and reputable insurance companies or associations (in each case that are not Affiliates of the Borrowers) of a nature and providing such coverage as is customarily carried by businesses of the size and character of the business of the Credit Parties and (ii) cause all such insurance (other than workers' compensation insurance, directors and officers insurance and employee health and welfare insurance) relating to any Property or business of any Credit Party to name Collateral Agent as additional insured or lenders loss payee as agent for the Lenders, as appropriate. All policies of insurance on real and personal Property of the Credit Parties will contain an endorsement, in form and substance reasonably acceptable to Collateral Agent, naming Collateral Agent as lenders loss payee as agent for the Lenders (with such endorsement, or an independent instrument furnished to Collateral Agent, providing that the insurance companies will give Collateral Agent at least thirty (30) days' (or ten (10) days' in the case of non-payment) prior written notice before any such policy or policies of insurance shall be altered or canceled and that no act or default of the Credit Parties or any other Person shall affect the right of Collateral Agent to recover under such policy or policies of insurance in case of loss or damage). If any insurance proceeds are paid by check, draft or other instrument payable to any Credit Party and Collateral Agent jointly, during the occurrence and continuance of an Event of Default Agent may endorse such Credit Party's name thereon and do such other things as Collateral Agent may deem advisable to reduce the same to cash. In addition to the obligations set forth in Sections 4.6(a) and 4.13, within thirty (30) days after written notice from Collateral Agent to the Credit Parties that any improved Real Estate is located in a Special Flood Hazard Area in the United States, the Credit Parties shall satisfy the Federal Flood Insurance requirements of Section 4.6(a).

(b) Unless the Credit Parties provide Collateral Agent with evidence of the insurance coverage required by this Agreement annually prior to the expiration of each such policy and in any event within ten (10) Business Days of Collateral Agent's request after such expiration, Collateral Agent may in its reasonable business judgment and upon written notice to the Borrower Representative purchase insurance at the Credit Parties' expense necessary (as reasonably determined by Collateral Agent) to protect Collateral

Agent's and Lenders' interests, including interests in the Credit Parties' and their Subsidiaries' properties. This insurance may, but need not, protect the Credit Parties' and their Subsidiaries' interests. The coverage that Collateral Agent purchases may not pay any claim that any Credit Party or any Subsidiary of any Credit Party makes or any claim that is made against such Credit Party or any Subsidiary in connection with said Property. The Borrower Representative may later cancel any insurance purchased by Collateral Agent, but only after providing Collateral Agent with evidence that there has been obtained insurance as required by this Agreement. If Collateral Agent purchases insurance, the Credit Parties will be responsible for the reasonable and documented costs of that insurance, including interest and any other charges Collateral Agent may impose in connection with the placement of insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance shall be added to the Obligations. The costs of the insurance may be more than the cost of insurance the Borrowers may be able to obtain on its own.

4.7 Payment of Taxes. Each Credit Party shall, and shall cause each of its Subsidiaries to, pay, discharge or otherwise satisfy as the same shall become due and payable (after giving effect to any cure periods, if applicable), all material Tax liabilities, assessments and governmental charges or levies upon it or its Property, unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the enforcement of any Lien and for which adequate reserves in accordance with GAAP are being maintained by such Person.

4.8 Compliance with Laws. Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.9 Inspection of Property and Books and Records. Each Credit Party shall maintain and shall cause each of its Subsidiaries to maintain proper books of record and account, in which full, true and correct entries in all material respects and in conformity with GAAP consistently applied (except as disclosed therein) shall be made of all material financial transactions and material matters involving the assets and business of such Person. Each Credit Party shall, and shall cause each of its Subsidiaries to, with respect to each owned, leased, or controlled property, during normal business hours and upon reasonable advance notice (unless an Event of Default shall have occurred and be continuing, in which event no notice shall be required and Agents shall have access at any and all times during the continuance thereof): (a) provide access to such property to Agents and any of their respective Related Persons, as frequently as either Agent reasonably determines to be appropriate but, unless an Event of Default shall have occurred and be continuing, Agents or any of its related Persons shall only be permitted to make one such visit per year hereunder, without material disruption to the business or causing material undue burden on such Credit Party; and (b) permit Agents and any of their respective Related Persons to conduct field examinations, audit, inspect, and make extracts and copies from all of such Credit Party's books and records, and evaluate and make physical verifications and appraisals of the Inventory and other Collateral in any manner and through any medium that either Agent

reasonably considers advisable, in each instance, at the Credit Parties' reasonable expense; provided that, so long as no Default or Event of Default has occurred and is continuing, (i) the Credit Parties shall only be obligated to reimburse Agents for the expenses of one (1) such field examination, audit and inspection per calendar year in accordance with Section 9.5 and (ii) during such field examination, no contact shall be made by either Agent, any Lender or any of their Related Persons with the Account Debtors of any of the Credit Parties or their Subsidiaries in their capacities as Account Debtors of Credit Parties or their Subsidiaries. Any Lender may accompany Agents or their respective Related Persons in connection with any inspection at such Lender's expense.

4.10 Use of Proceeds.

(a) The Borrowers shall use the proceeds of the Term Loan A (i) on the Closing Date (1) to finance the Existing Debt Refinancing Transactions, or (2) to pay fees and expenses associated with the funding of the Loans and the Related Transactions and required to be paid pursuant to Section 2.1, or (ii) after the Closing Date, to provide for working capital and other general corporate purposes;

(b) ~~The Borrowers shall use proceeds of the Delayed Draw Term Loans for Permitted Acquisitions, new Store development costs, capital expenditures and working capital~~[Reserved];

(c) [Reserved];

(d) [Reserved].

(e) Each Credit Party shall ensure that no Credit Party shall suffer or permit any of its Subsidiaries to, use any portion of the Loan proceeds, directly or indirectly, to purchase or carry Margin Stock or repay or otherwise refinance Indebtedness of any Credit Party incurred to purchase or carry Margin Stock, or otherwise in any manner which is in material contravention of any material Requirement of Law.

4.11 Cash Management Systems. Within sixty (60) days after the Closing Date (as such date may be extended by the Agents in their sole discretion), each Credit Party shall enter into, and cause each depository bank, securities intermediary or other financial institution to enter into, Control Agreements with respect to each of the deposit or securities accounts of such Credit Party (other than (a) any payroll account, payroll tax account, benefit account, other employee wage and benefit account or zero balance account, (b) petty cash and other bank and securities accounts, amounts on deposit in which do not exceed $500,000 in the aggregate at any one time, and (c) withholding tax and fiduciary accounts, escrow accounts, accounts containing customer funds and other accounts in which any Credit Party solely holds funds on behalf of any third party (such excluded accounts, "**Excluded Accounts**"), and other than as may be agreed by the Collateral Agent in writing in its sole discretion). It is agreed and understood that the Credit Parties shall have until the date that is sixty (60) days following the closing date of any Acquisition or other Investment permitted hereby (or such later date as may be agreed to by Agents in their sole discretion) with regard to accounts (other than Excluded Accounts) acquired

by the Credit Parties in connection with such ~~Permitted~~ Acquisition or other Investment to comply with the provisions of this Section 4.11 with respect to each deposit, securities or commodity account of such Credit Party and maintained by such Person (other than any Excluded Account). **The Credit Parties shall give the Collateral Agent prompt notice of the establishment of any new deposit and/or securities account(s) (other than Excluded Accounts) established by any Credit Party, and shall enter into and shall cause the depositary institution maintaining such account(s) to enter into a Control Agreement in form and substance reasonably satisfactory to the Collateral Agent over such account(s), within sixty (60) days following the establishment of such account(s) (except, for the avoidance of doubt, with respect to those accounts listed in Section 7 of that certain Third Amendment to Credit Agreement, by and among, among others, the Credit Parties and the Collateral Agent (the "Third Amendment"), the Borrowers shall use commercially reasonable efforts to obtain such Control Agreements following the Third Amendment Effective Date (as defined in the Third Amendment)).**

4.12 Further Assurances.

(a) Promptly, but in any event subject to the express limitations set forth in the Loan Documents, upon reasonable request by Agent, the Credit Parties shall (and, subject to the limitations set forth herein and in the Collateral Documents, shall cause each of their Subsidiaries to) take such additional actions and execute such documents as either Agent may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement or any other Loan Document, (ii) to subject to the Liens created by any of the Collateral Documents any of the Properties, rights or interests covered by any of the Collateral Documents, (iii) ~~to, subject to customary "Funds Certain Provisions" acceptable to Collateral Agent~~ with respect to perfection of Liens on assets acquired in ~~a Permitted~~**an** Acquisition or other Investment permitted hereunder, perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and the Liens intended to be created thereby, and (iv) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to the Agents the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document. Without limiting the generality of the foregoing and except as otherwise approved in writing by Required Lenders, the Credit Parties shall cause each of their Subsidiaries (other than Excluded Subsidiaries), within thirty (30) days (or such later date as may be agreed by Agents in their sole discretion) after formation or acquisition thereof (or, in the event of any Excluded Subsidiary ceasing to constitute an Excluded Subsidiary, the date of such event), to guaranty the Obligations and to cause each such Subsidiary to grant to Collateral Agent, for the benefit of the Secured Parties, a security interest in, subject to the limitations set forth herein and in the Collateral Documents, all or substantially all of such Subsidiary's Property to secure such guaranty. Furthermore and except as otherwise approved in writing by Required Lenders, each Credit Party shall pledge all of the outstanding Stock and Stock Equivalents (other than Excluded Equity (as defined in the Guaranty and Security Agreement)) of its Subsidiaries, in each instance, to Agent, for the benefit of the Secured Parties, to secure the Obligations, within the time period required by the Guaranty and Security Agreement.

The Credit Parties shall deliver, or cause to be delivered, to Agents, appropriate resolutions, secretary certificates, certified Organization Documents and, if requested by Agents, customary legal opinions relating to the matters described in this Section 4.12 (which opinions shall be in form and substance reasonably acceptable to Agents) in each instance with respect to each Credit Party formed or acquired after the Closing Date. In connection with each pledge of Stock and Stock Equivalents, the Credit Parties shall deliver, or cause to be delivered, to Collateral Agent, irrevocable proxies and stock powers and/or assignments, as applicable, duly executed in blank, within the time period required by the Guaranty and Security Agreement. In the event any Credit Party acquires fee title to any Real Estate with a fair market value in excess of $1,000,000, within sixty (60) days after (or such later date as may be agreed by Agent in its sole discretion) such acquisition, such Person shall execute and/or deliver, or cause to be executed and/or delivered to Collateral Agent, (x) an appraisal complying with FIRREA (to the extent such appraisal is required by FIRREA or other Requirement of Law), (y) a fully executed Mortgage, in form and substance reasonably satisfactory to Collateral Agent and (z) to the extent reasonably requested by the Collateral Agent, (I) an A.L.T.A. lender's title insurance policy issued by a title insurer reasonably satisfactory to Collateral Agent, in form and substance and in an amount reasonably satisfactory to Collateral Agent insuring that the Mortgage is a valid and enforceable first priority Lien on the respective property, free and clear of all defects, encumbrances and Liens other than Permitted Liens, (II) then current A.L.T.A. surveys, certified to Collateral Agent by a licensed surveyor sufficient to allow the issuer of the lender's title insurance policy to issue such policy without a survey exception and (III) to the extent reasonably requested in writing by the Collateral Agent, an environmental site assessment prepared by a qualified firm reasonably acceptable to Collateral Agent, in form reasonably satisfactory to Collateral Agent. In addition to the obligations set forth in Section 4.6(a), within sixty (60) days (or such later date as may be agreed by Agent in its sole discretion) after written notice from Collateral Agent to the Credit Parties that any improved Real Estate is located in a Special Flood Hazard Area, the Credit Parties shall promptly take such action as is necessary to satisfy the Flood Insurance requirements of Section 4.6(a).

(b) Within ten (10) Business Days (or such later date as may be agreed by the Agents in their sole discretion) after ~~any order(s) entered in connection with the Roasters Litigation which prohibit BRSO PNW from granting liens on its assets is no longer effective,~~ **take actions and execute such documents as either Agent may reasonably require from time to time in order to cause BRSO PNW to (i) comply with all provisions of** ~~the Guaranty and Security Agreement~~ **relating to granting Liens on all or substantially all of its assets and (ii) take any other such actions as the Collateral Agent may require in its sole discretion to perfect the Liens of the Collateral Agent.**

~~(c)~~ Notwithstanding the foregoing, Holdings and its Subsidiaries shall not be required to grant or perfect the Collateral Agent's security interest under any foreign law unless required by the Agent in its reasonable discretion.

4.13 Environmental Matters. Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with, and maintain its Real Estate to the extent required of any Credit Party or Subsidiary thereof under applicable Environmental Law or Contractual Obligation, whether owned, leased, subleased or operated, in compliance with, all applicable Environmental Laws (including by implementing any Remedial Action required of such Credit Party or such Subsidiary necessary to achieve such compliance), except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Without limiting the foregoing, if an Event of Default is continuing and Agent has a reasonable basis to believe that there exist material violations of Environmental Laws by any Credit Party or any Subsidiary of any Credit Party or that there exists any Material Adverse Effect resulting therefrom, then each Credit Party shall, promptly upon receipt of request from Agent, cause the performance of, and allow Agent and its Related Persons access to such Real Estate for the purpose of conducting, such environmental audits and assessments, including subsurface sampling of soil and groundwater to the extent not prohibited under any Contractual Obligation with regard to any leased or subleased Real Estate, and cause the preparation of such reports, in each case as Agent may from time to time reasonably request. Such audits, assessments and reports, to the extent not conducted by Agent or any of its Related Persons, shall be conducted and prepared by reputable environmental consulting firms reasonably acceptable to Agents and shall be in form and substance reasonably acceptable to Agents.

4.14 Landlord Agreements. Within sixty (60) days after the Collateral Agent's request therefor, with respect to any lease, warehouse agreement or other arrangement (a) at any location where Collateral having a fair market value in excess of $100,000 (as determined in good faith by the Borrower Representative) is or may be stored or located, (b) material books and records are or will be stored or located, (c) where primary roasting facilities are located, or (d) where the business headquarters of a Credit Party is located, each Credit Party shall, at the written request of the Collateral Agent, use commercially reasonable efforts to obtain a Collateral Access Agreement from the lessor of each leased property or bailee in possession of any Collateral for which Collateral Agent has requested a Collateral Access Agreement.

4.15 Compliance with Terms of Franchise Agreements. Each Credit Party shall, and shall cause each of its Subsidiaries to, (a) make all payments and otherwise perform all obligations in respect of Franchise Agreements to which any Credit Party or Subsidiary is a party, (b) keep such Franchise Agreements in full force and effect, (c) not allow such Franchise Agreements to lapse or be terminated or any rights to renew such Franchise Agreements to be forfeited or cancelled and (d) notify the Agents of any default by any party with respect to such Franchise Agreements and promptly cure any such default, other than, in each case of clauses (a) through (d) where the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.16 Compliance with Terms of Leases. Each Credit Party shall, and shall cause each of its Subsidiaries to, (a) make all payments and otherwise perform all obligations in respect of all Leases to which any Credit Party or Subsidiary is a party, (b) keep all such Leases in full force and effect, (c) not allow such Leases to lapse or be terminated or any rights to renew such Leases to be forfeited or cancelled, and (d) notify the Collateral Agent of any default by any

party with respect to such Leases and promptly cure any such default, except, in any case, where the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect.

4.17 Board Observation Rights. Agents shall have the right to, from time to time, designate (e-mail designation to the Borrower Representative being sufficient for the following purposes) one (1) representative for both Agents to: (a) receive prior written notice of all meetings (both regular and special) of the board of directors (or equivalent governing body) of each Credit Party and each committee thereof (such notice to be given in the same manner and at the same time as notice is given to the members of such body and/or committee); (b) be entitled to attend (or, at the option of such representative, monitor by telephone) all such meetings; and (c) receive all notices, information and reports which are furnished or made available to the members of such body and/or committee at the same time and in the same manner as the same is furnished or made available to such members, except that these observers may be excluded from access to any meeting or portion thereof (as well as the distribution of materials and minutes related thereto) if the applicable Credit Party determines in good faith upon advice of counsel that such exclusion is reasonably necessary to preserve the attorney-client privilege or if matters of conflict of interest to the Agents or any Lender are being discussed. If any action is proposed to be taken by such board of directors (or equivalent governing body) and/or committee by written consent in lieu of a meeting, the Borrower Representative will provide the Administrative Agent (and the Administrative Agent agrees to provide to the Collateral Agent) with prior written notice thereof (such notice to be given in the same manner and at the same time as notice is given to the members of such body and/or committee) and, upon either Agent's request, furnish or cause to be furnished to such representative a copy of each such written consent promptly after it has become effective, unless the applicable Credit Party determines in good faith that such provision is reasonably likely to affect the attorney-client privilege upon advice of counsel or that such matter involves a conflict of interest with any Agent or Lender. Such representative shall not constitute a member of such body and/or committee and shall not be entitled to vote on any matters presented at meetings of such body and/or committee or to consent to any matter as to which the consent of any such body and/or committee shall have been requested. The Credit Parties will pay (or reimburse) upon request by any such representative for all reasonable out-of-pocket expenses incurred by such representative in connection with attending such meetings.

4.18 SBA Matters.

(a) Upon the request of any Lender that is a Small Business Investment Company (as defined in the SBIA), repay such Lender's Loan in full (including the applicable prepayment fee), in immediately available funds, in the event that any Borrower or any other Credit Party changes the nature of its business within one year after the Closing Date (or, if applicable, any later borrowing date hereunder in a manner that would cause such Lender to have provided funds to such Borrower or any other Credit Party pursuant to this Agreement or any other Loan Documents in violation of 13 C.F.B. §§ 107.700-107.760 (as amended from time to time).

(b) Upon the request of any Lender that is a Small Business Investment Company (as defined in the SBIA) or the SBA, (i) submit to such Lender and/or the SBA timely and accurate compliance reports at such times and in such form and containing such information as the SBA may determine to be necessary to enable the SBA to ascertain whether Holdings and each other Credit Party have complied or are complying with 13 C.F.R. Part 112 ("Part 112"), (ii) submit to such Lender such information as may be necessary to enable such Lender to meet its reporting requirements under Part 112, and (iii) permit the SBA to have access with advance written notice and during normal business hours to such of its books, records, accounts and other sources of information, and its facilities as may be pertinent to ascertain compliance with Part 112. Where any information required of Holdings or any other Credit Party is in the exclusive possession of any other agency, institution or Person and such agency, institution or Person shall fail or refuse to furnish this information, Holdings and each other Credit Party shall so certify in its report and shall set forth what efforts it has made to obtain this information.

4.19 Post-Closing Obligations. Each Credit Party agrees to deliver or to cause to be delivered to Agents, in form and substance reasonably satisfactory to Agent, the items described below and on Schedule 4.19 on or before the dates specified with respect to such items, or such later dates as may be agreed to by Agents, in their sole discretion. On or before May 30, 2022, the Credit Parties shall deliver or cause to be delivered to the Collateral Agent:

(i) the duly executed Holdings Pledge Agreements of each of the Holdings Pledgors (other than Viking Cake BR, LLC which shall deliver its Holdings Pledge Agreement on the Closing Date), each substantially in the form delivered by Viking Cake BR, LLC on the Closing Date;

(ii) an opinion of counsel to the Holdings Pledgors acceptable to the Agents in their sole discretion, as to the due authorization, execution and delivery of each of the Holdings Pledge Agreements, the enforceability thereof, no conflicts with the underlying trust agreements, perfection of the Lien of the Collateral Agent on the Pledged Collateral described therein, and such other matters as may reasonably be required by the Collateral Agent; and

(iii) payment of all fees and expenses incurred by the Collateral Agent (including reasonable legal fees and expenses) in connection with items covered by this Section 4.19 (including Schedule 4.19) **.**

4.20 BRSO PNW. Within fifteen (15) days (or such longer period to which the Agents may agree in their sole discretion) after the date upon which any order(s) entered in connection with the Roasters Litigation which prohibit BRSO PNW from granting liens on its assets is no longer effective, **the Borrowers will cause BRSO PNW, at the Borrowers' election, to either (x) execute a joinder to** the Guaranty and Security Agreement **and such other Collateral Documents as may be designated by the Agents, and take such actions as may be designated by the Agents to perfect first priority Liens in favor of the Collateral Agent on all assets of BRSO PNW, or (y) transfer one hundred percent (100%) of the assets of BRSO PNW (including cash and Cash Equivalents) to BRSO and dissolve the legal**

existence of BRSO PNW, all evidenced by documentation delivered and satisfactory to the Agents.

ARTICLE V

NEGATIVE COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date **(it being understood and agreed that, without in any way limiting the covenants and other agreements in the Founder Group Members Pledge Agreements, for purposes of this Article V, the term "Credit Party" will not include any Founder Group Members)**:

5.1 Limitation on Liens. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, directly or indirectly, make, create, incur, assume or suffer to exist any Lien upon or with respect to any part of its Property, whether now owned or hereafter acquired, other than the following ("**Permitted Liens**"):

(a) any Lien existing on the Property of a Credit Party or a Subsidiary of a Credit Party on the Closing Date and set forth in Schedule 5.1, including extensions and renewals thereof and replacement Liens on the Property currently subject to such Liens;

(b) any Lien created under any Loan Document, Secured Rate Contract or Bank Product;

(c) Liens for Taxes, fees, assessments or other governmental charges (i) which are not past due or remain payable without penalty, or (ii) the non-payment of which is permitted by Section 4.7;

(d) carriers', warehousemen's, mechanics', landlords', contractors', materialmen's, repairmen's or other similar Liens and arising in the Ordinary Course of Business which are not delinquent for more than ninety (90) days or remain payable without penalty or remedy or which are being contested in good faith and by appropriate proceedings diligently prosecuted, which proceedings have the effect of preventing the forfeiture or sale of the Property subject thereto and for which adequate reserves in accordance with GAAP are being maintained;

(e) Liens (other than any Lien imposed by ERISA) consisting of pledges or deposits required in the Ordinary Course of Business in connection with (i) workers' compensation, unemployment insurance and other social security legislation or to secure the performance of tenders, statutory obligations, performance, surety, stay, customs and appeals bonds, bids, leases, governmental contract, trade contracts, performance and return of money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money) or to secure liability to insurance carriers and (ii) obligations in respect of letters of credit or bank guarantees that have been posted by the Borrowers or any of their Subsidiaries to support payment of items set forth in clause (i) above;

(f) Liens consisting of judgment or judicial attachment liens (other than for payment of Taxes); provided that (i) the enforcement of such Liens is (1) effectively stayed or (2) is fully covered by a valid and binding policy of insurance between the defendant and the insurer covering full payment thereof and such insurer has been notified, and has not disputed the claim made for payment or the amount of such judgment and (ii) the existence of such judgment does not give rise to an Event of Default;

(g) easements, servitudes, rights-of-way, zoning and other restrictions, minor defects or other irregularities in title, and other similar encumbrances which, either individually or in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the Property subject thereto or interfere in any material respect with the ordinary conduct of the business of any Credit Party or any Subsidiary thereof;

(h) Liens on any Property acquired or held by any Credit Party or any Subsidiary of any Credit Party securing Indebtedness incurred or assumed for the purpose of financing (or refinancing) all or any part of the cost of acquiring such Property and permitted under Section 5.5(d); provided that (i) any such Lien attaches to such Property concurrently with or within sixty (60) days after the acquisition thereof, (ii) such Lien attaches solely to the Property so acquired in such transaction and the proceeds thereof, and (iii) the principal amount of the debt secured thereby does not exceed 100% of the cost of such Property as determined at the time such Lien initially attaches to such Property plus fees and expenses incurred in connection with the acquisition thereof;

(i) Liens securing, and interests and title of lessors in respect of, Capital Lease Obligations permitted under Section 5.5(d);

(j) any interest or title of a lessor, sublessor, licensor, sublicensor, franchisor or similar person granted under any lease, sublease, license, sublicense, grant, franchise or permit in the Ordinary Course of Business not prohibited by this Agreement;

(k) Liens arising from precautionary uniform commercial code (or personal property security law) financing statements filed under any lease not prohibited by this Agreement;

(l) non-exclusive licenses and sublicenses granted by a Credit Party or any Subsidiary of a Credit Party (including any non-exclusive license or sublicense of Intellectual Property) and leases and subleases (by a Credit Party or any Subsidiary of a Credit Party as lessor or sublessor) to third parties in the Ordinary Course of Business not interfering in a material respect with the business of any Credit Party or any Subsidiary thereof;

(m) Liens (i) in favor of collecting banks arising by operation of law under Section 4-210 of the UCC or, with respect to collecting banks located in the State of New York, under Section 4-208 of the UCC, or (ii) relating to pooled deposit or sweep

accounts to permit satisfaction of overdraft or similar obligations incurred in the Ordinary Course of Business;

(n) Liens (including the right of set-off) in favor of a bank or other depository institution arising as a matter of law encumbering deposits and Liens that are granted by contract (including contractual rights of set-off) relating to the establishment of depository and cash management relations with banks not given in connection with the issuance of Indebtedness and which are customary to the banking industry;

(o) Liens (i) in favor of customs and revenue authorities arising as a matter of law which secure payment of customs duties in connection with the importation of goods in the Ordinary Course of Business or (ii) on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods in the Ordinary Course of Business;

(p) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 5.4;

(q) Liens pursuant to Secured Rate Contracts to secure obligations thereunder to the extent such Secured Rate Contracts are permitted hereunder;

(r) Liens arising out of consignment or similar arrangements for the sale of goods permitted by this Agreement and entered into by the Borrowers or any Subsidiary of the Borrowers in the Ordinary Course of Business;

(s) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to cash and Cash Equivalents on deposit in one or more accounts maintained by any Credit Party, in each case granted in the Ordinary Course of Business and are customary in the banking industry in favor of the bank or banks with which such accounts are maintained, securing amounts owing to such bank or banks with respect to cash management and operating account arrangements;

(t) Liens arising on any Real Estate as a result of any eminent domain, condemnation or similar proceeding being commenced with respect to such Real Estate;

(u) receipt of progress payments and advances from customers in the Ordinary Course of Business to the extent the same creates a Lien;

(v) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto to the extent permitted under Section 5.5(i);

(w) Liens attaching solely to cash earnest money deposits in connection with Investments permitted under Section 5.4 (including any letter of intent related thereto);

(x) Liens on Property, and only such Property, which is the subject of a proposed asset disposition permitted hereunder, which Liens secure the obligation of a Credit Party or any Subsidiary of a Credit Party under the relevant asset purchase agreement;

(y) Liens on Property acquired pursuant to a Permitted Acquisition or on property or assets of a Subsidiary of the Borrowers in existence at the time such Subsidiary is acquired pursuant to ~~a Permitted~~**an** Acquisition; provided that (x) any Indebtedness secured by such Liens is permitted to exist under Section 5.5(o) and (y) such Liens are not incurred in connection with, or in contemplation or anticipation of, such ~~Permitted~~ Acquisition and do not attach to any other Property of Holdings or any of its Subsidiaries other than the proceeds or products thereof; and

(z) Liens on cash posted as cash collateral in favor of any issuer of letters of credit issued for the account of the Credit Parties or their Subsidiaries securing reimbursement obligations permitted under Section 5.5(s); provided that the amount of cash collateral subject to such Liens shall not exceed the amount of reimbursement obligations permitted to be incurred under Section 5.5(s).

5.2 Disposition of Assets. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, directly or indirectly, sell, assign, lease, convey, transfer or otherwise dispose of (whether in one or a series of transactions) any Property (including the Stock of any Subsidiary of any Credit Party, whether in a public or private offering or otherwise, and accounts and notes receivable, with or without recourse), except:

(a) dispositions of Inventory and non-exclusive licenses and sublicenses of Intellectual Property and dispositions or abandonment of obsolete, worn-out or surplus equipment no longer used or useful in the business of the Borrowers and their Subsidiaries, taken as a whole, all in the Ordinary Course of Business;

(b) dispositions not otherwise permitted hereunder which are made for fair market value; provided that the Credit Parties will not sell or otherwise dispose of Intellectual Property (except in transactions entered into in the Ordinary Course of Business and permitted by Section 5.1(j) or 5.1(l)), without the consent of the Agents, and (i) at the time of any disposition, no Default or Event of Default shall exist or shall immediately result from such disposition, (ii) not less than 75% of the aggregate sales price from such disposition shall be paid in cash, (iii) the aggregate fair market value of all assets sold by the Credit Parties and their Subsidiaries pursuant to this clause (b), together, shall not exceed $500,000 in any Fiscal Year, and (iv) on a pro forma basis after giving effect to any such disposition, the Credit Parties are in compliance with the financial covenants set forth in Section 6.1, in each case as recomputed for the most recently ended Measurement Period;

(c) (i) conversions of Cash Equivalents into cash or other Cash Equivalents and cash into Cash Equivalents and (ii) the use of cash in the Ordinary Course of Business or transactions permitted hereunder;

(d) transactions permitted under Section 5.1(j) or 5.1(l);

(e) cancellation, termination or surrender by any Credit Party or any Subsidiary of any Credit Party of any lease in the Ordinary Course of Business;

(f) voluntary termination of Rate Contracts permitted under this Agreement;

(g) dispositions resulting from any casualty, other insured damage, or any taking under power of eminent domain or by condemnation or similar proceeding;

(h) the lapse or abandonment of any registrations or applications for registration of any Intellectual Property owned by or filed in the name of any Credit Party and deemed by any Credit Party, in its reasonable business judgment, to no longer be material to the conduct of the business of the Borrowers and their Subsidiaries, taken as a whole, or to the extent no longer economically desirable in the conduct of their business;

(i) the sale, assignment, lease, conveyance, transfer or other disposition of Property by (i) Holdings or any of its Subsidiaries to any Credit Party (other than Holdings), and (ii) any Subsidiary of Holdings that is not a Credit Party to any Subsidiary of Holdings (other than Holdings);

(j) (i) any disposition or issuance by Holdings of its own Stock or Stock Equivalents (other than to the extent resulting in an Event of Default pursuant to Section 7.1(k)) and (ii) dispositions or issuances by any Subsidiary of its own Stock and Stock Equivalent to qualify directors if and to the extent required by applicable law;

(k) to the extent constituting dispositions, Liens expressly permitted by Section 5.1, Investments expressly permitted under Section 5.4, Restricted Payments expressly permitted under Section 5.8 or a transaction expressly permitted under Section 5.3, in each case, to the extent not otherwise permitted by this Section 5.2 or with general reference hereto;

(l) the termination or unwinding of any permitted Rate Contract in accordance with its terms;

(m) dispositions of delinquent Accounts in the Ordinary Course of Business in connection with the compromise, settlement or collection thereof (and not as part of any financing transaction), including the sales, forgiveness or discounting of past due accounts or the settlement of delinquent accounts;

(n) the liquidation, wind up or dissolution of any Subsidiary so long as all the assets of such liquidating, winding up or dissolving Subsidiary are transferred to a Credit Party that is not liquidating, winding up or dissolving;

(o) dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement

property or (ii) all or substantially all of the proceeds of such disposition are reasonably promptly applied to the purchase price of such replacement property;

(p) disposition of leased Real Estate in the Ordinary Course of Business;

(q) any settlement, surrender or waiver of contractual rights or litigation claims in the Ordinary Course of Business;

(r) dispositions of equity interests in joint ventures pursuant to the documentation governing such joint ventures;

(s) non-exclusive licenses, sublicenses, leases or subleases granted to third parties in the Ordinary Course of Business; and

(t) other dispositions of assets not material or necessary to the business of a Credit Party or a Subsidiary with a fair market value not in excess of $500,000 in the aggregate in any Fiscal Year.

5.3 Consolidations and Mergers. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, (x) merge, consolidate with or into, or (y) convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of the assets (whether now owned or hereafter acquired) of the Credit Parties and their Subsidiaries, taken as a whole, to or in favor of any Person, except that (a) any Subsidiary of a Borrower may merge with, or dissolve or liquidate into, such Borrower or any Subsidiary of such Borrower; provided that, to the extent a Borrower or another Credit Party is a party to such transaction, the Borrower or such other Credit Party, as applicable, shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent, shall have been completed, (b) any Excluded Subsidiary may merge or dissolve or liquidate into another Excluded Subsidiary or any Domestic Subsidiary of a Borrower to the extent if a Domestic Subsidiary (other than an Excluded Subsidiary), is a party to such transaction, such Domestic Subsidiary shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent shall have been completed, and (c) any Subsidiary may merge with and into any other Person in order to effectuate an acquisition or Disposition permitted by Section 5.2 and/or Section 5.4; provided that, in connection with any acquisition, if such Subsidiary is a Credit Party, such Subsidiary shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent, shall have been completed.

5.4 Loans and Investments. No Credit Party shall and no Credit Party shall suffer or permit any of its Subsidiaries to (i) purchase or acquire any Stock or Stock Equivalents, or any obligations or other securities of, or any interest in, any Person, or (ii) make any Acquisitions, including by way of merger, consolidation or other combination or (iii) make, purchase or acquire, or commit to make, purchase or acquire, any advance, loan, extension of credit or capital

contribution to or any other investment in, any Person including the Borrowers, any Affiliate of the Borrowers or any Subsidiary of a Borrower (the items described in clauses (i), (ii) and (iii) are referred to as "**Investments**"), except for:

(a) Investments in cash and Cash Equivalents;

(b) Investments consisting of (i) capital contributions or other Investments by Holdings in the Borrowers, (ii) extensions of credit, capital contributions or other Investments by any Credit Party to or in any other then existing Credit Party (other than Holdings); provided that, until such time as BRSO PNW shall have granted a Lien on all of its assets to the Collateral Agent and otherwise complied with the provisions of Section ~~4.12(b)~~4.20, Investments described in this clause (ii) to or in BRSO PNW shall not exceed $200,000 at any one time outstanding, (iii) extensions of credit or capital contributions by the Borrowers or any other Credit Party to or in any Subsidiary of a Borrower that is not a Credit Party not to exceed $500,000 in the aggregate at any time outstanding for all such extensions of credit and capital contributions; provided that, if the Investments described in foregoing clauses (i), (ii) and (iii) are evidenced by notes, to the extent required under the Guaranty and Security Agreement, such notes shall be pledged to Collateral Agent, for the benefit of the Secured Parties, (iv) extensions of credit or capital contributions by a Foreign Subsidiary of a Borrower to or in other Foreign Subsidiaries of such Borrower and (v) extensions of credit by any Subsidiary to any Credit Party (other than Holdings); provided that any such extension of credit by a Subsidiary that is not a Credit Party to a Credit Party shall be subordinated to the Obligations on terms reasonably acceptable to the Collateral Agent;

(c) loans and advances to employees, officers and directors in the Ordinary Course of Business not to exceed $100,000 in the aggregate at any time outstanding;

(d) Investments received as the non-cash portion of consideration received in connection with transactions permitted pursuant to Section 5.2(b);

(e) Investments acquired in connection with the settlement of delinquent Accounts in the Ordinary Course of Business or in connection with the bankruptcy or reorganization of suppliers or customers;

(f) Investments consisting of non-cash loans made by a Credit Party to officers, directors and employees of a Credit Party which are used by such Persons to purchase contemporaneously Stock or Stock Equivalents of Holdings;

(g) Investments existing on the Closing Date and set forth on Schedule 5.4 and any modifications, renewals or extensions thereof (in each case other than any increase in the amount thereof);

(h) Investments comprised of Contingent Obligations permitted by Section 5.5(b);

(i) ~~Permitted Acquisitions~~[Reserved];

(j) advances of payroll payments to employees in the Ordinary Course of Business;

(k) Investments by Holdings and its Subsidiaries in their respective Subsidiaries existing as of the Closing Date;

(l) guaranty obligations in respect of leases (other than Capital Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the Ordinary Course of Business;

(m) Investments in deposit accounts and securities accounts opened in the Ordinary Course of Business and in compliance with Section 4.11;

(n) (i) endorsements for collection or deposit in the Ordinary Course of Business consistent with past practice, (ii) extensions of trade credit (other than to Affiliates of the Borrowers) arising or acquired in the Ordinary Course of Business, and (iii) Investments received in settlement in the Ordinary Course of Business of such extensions of trade credit;

(o) to the extent constituting Investments, pledges and deposits in the Ordinary Course of Business to the extent expressly permitted by Section 5.1;

(p) Investments in Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation;

(q) Investments consisting of loans or advances to Holdings in lieu of any Restricted Payments permitted under Section 5.8 at the time of any such loan or advance; provided that such loans or advances shall count against any caps or limitations set forth in the applicable clause of Section 5.8;

(r) ~~Investments held by a Target which is acquired in connection with an Acquisition permitted hereby so long as such Investments were not created in anticipation of such Acquisition~~[Reserved];

(s) Investments consisting of trade payables incurred in the Ordinary Course of Business;

(t) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable (including, without limitation, bank notes issued to and in favor of a Borrower and their Subsidiaries by local banking institutions as additional credit support for such receivables in connection with foreign operations) arising from the grant of trade credit in the Ordinary Course of Business**;**

(u) Holdings may use proceeds of the issuance of Preferred Equity pursuant to the Cynosure 2023 Preferred Equity Agreement to make a loan to

Viking Cake BR, LLC in an amount not to exceed $5,000,000 for the purpose specified in the A&R Holdings LLC Agreement and

(v) ~~(u)~~ other Investments in an aggregate amount not to exceed $500,000 in the aggregate at any time outstanding; provided that no Default or Event of Default has occurred and is continuing or would arise as a result of such Investment.

In determining the amount of Investments permitted under this Section 5.4, the amount of any Investment outstanding at such time shall be the aggregate cash Investment by the applicable Person at the time such Investment is made, less all cash dividends or other cash distributions on equity or returns on capital (but, in each case, only to the extent actually received in cash) received by such Person with respect to that particular Investment.

5.5 Limitation on Indebtedness. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, create, incur, assume, permit to exist, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

(a) the Secured Obligations;

(b) Contingent Obligations of any Credit Party with respect to Indebtedness of any Credit Party (other than Holdings) otherwise permitted under this Section 5.5;

(c) Indebtedness existing on the Closing Date and set forth in Schedule 5.5 and Permitted Refinancings thereof;

(d) Indebtedness of the Credit Parties and their Subsidiaries consisting of Capital Leases or Indebtedness incurred to provide all or a portion of the purchase price of an asset and any Permitted Refinancings thereof; provided that (i) such Indebtedness when incurred shall not exceed the purchase price of such asset and (ii) the total amount of all such Indebtedness shall not exceed $1,000,000 at any time outstanding;

(e) unsecured intercompany Indebtedness permitted pursuant to Section 5.4;

(f) Except as set forth in Schedule 5.5(f), Indebtedness consisting of Contingent Acquisition Consideration, which, together with clause (q) hereof, shall not exceed $2,500,000 at any one time outstanding;

(g) unsecured Indebtedness of Holdings or any of its Subsidiaries to former, future or current officers, directors, consultants or employees of Holdings or any of its Subsidiaries or their respective estates to finance the purchase or redemption of Stock of Holdings and any Permitted Refinancings thereof; provided that the applicable Restricted Payment is permitted by Section 5.8;

(h) Indebtedness in respect of bank overdrafts or returned items, netting services, automatic clearinghouse arrangements, employee credit card programs, drafts payable for payroll and other cash management and similar arrangements incurred in the Ordinary Course of Business;

(i) Indebtedness consisting of unpaid insurance premiums owing to insurance companies and insurance brokers incurred in connection with the financing of insurance premiums in the Ordinary Course of Business;

(j) to the extent constituting Indebtedness, unsecured deferred compensation to employees of Holdings and its Subsidiaries incurred in the Ordinary Course of Business;

(k) to the extent constituting Indebtedness, obligations under Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation;

(l) customary reimbursement or indemnity obligations incurred in the Ordinary Course of Business with respect to (x) appeal bonds, performance bonds, bids, trade contracts, governmental contracts and leases (other than for the repayment of Indebtedness) in an aggregate amount not to exceed $100,000 at any one time outstanding, for obligations described in this clause (x), and (y) statutory obligations, workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance;

(m) non-cash accruals of interest, accretion or amortization of original issue discount and/or pay-in-kind interest with respect to Indebtedness permitted under this Section 5.5;

(n) Indebtedness outstanding under corporate credit cards or corporate charge cards for expenditures made in the Ordinary Course of Business;

(o) Indebtedness of a Target existing at the time the Target is acquired (by acquisition, merger, consolidation or otherwise) pursuant to an Acquisition permitted hereby, or Indebtedness assumed by a Borrower or its Subsidiaries in respect of assets acquired by such Person pursuant to such Acquisition, but only to the extent such Indebtedness (i) existed at the time such Acquisition was consummated and was not incurred in connection with, as a result of, or in contemplation of, such Acquisition, (ii) to the extent secured, is only secured by Property acquired in connection with such Acquisition (and is not secured by a blanket lien on all or substantially all such Property) and (iii) does not exceed an amount equal to $1,000,000 in the aggregate at any time outstanding for all such Indebtedness and any Permitted Refinancings thereof;

(p) Indebtedness arising from the endorsement of negotiable instruments for collection in the ordinary course of business;

(q) to the extent constituting Indebtedness, the obligations to make purchase price adjustments, indemnities, earn-outs, non-competition, deferred compensation, working capital adjustments or similar adjustments incurred in connection with any Acquisition, any other Investment or any disposition, in each case, permitted hereunder,

which, together with clause (f) hereof, shall not exceed $2,500,000 at any one time outstanding;

(r) so long as no Default or Event of Default exists at the time any such Indebtedness is incurred, other unsecured Indebtedness not exceeding $1,000,000 in the aggregate at any time outstanding;

(s) Indebtedness in respect of reimbursement obligations in favor of any issuer of letters of credit issued for the account of the Credit Parties or their Subsidiaries in an amount not exceeding $100,000 in the aggregate at any time outstanding;

(t) Indebtedness arising under indemnity agreements to title insurers to cause such title insurers to issue to Collateral Agent title insurance policies; ~~and~~

(u) [Reserved];

(v) ~~[Reserved];~~**the Viking Cake Convertible Note; and**

(w) to the extent constituting Indebtedness, the Preferred Equity Obligations.

Notwithstanding the foregoing, no Subsidiary that is a not Credit Party will guarantee any Indebtedness for borrowed money of a Credit Party unless such Subsidiary becomes a Guarantor.

5.6 Transactions with Affiliates. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, enter into any transaction with any Affiliate of the Borrowers or of any such Subsidiary, except:

(a) transactions (i) solely among and between Credit Parties not prohibited by this Agreement and (ii) transactions solely among Subsidiaries that are not Credit Parties;

(b) transactions pursuant to the reasonable requirements of the business of such Credit Party or such Subsidiary upon fair and reasonable terms no less favorable to such Credit Party or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of the Borrowers or such Subsidiary;

(c) employment, indemnity and severance arrangements (stock option and other compensation plans and benefit programs) between any Credit Party or their Subsidiaries and their members of management, officers and employees in the Ordinary Course of Business;

(d) solely to the extent not otherwise permitted by this Section 5.6, transactions with Affiliates expressly referred to and permitted by Section 5.8;

(e) ~~[reserved];~~**Indebtedness of Holdings evidenced by the Viking Cake Convertible Note in a principal amount not to exceed $7,500,000;**

(f) the loan transaction between Holdings and Viking Cake BR, LLC described in Section 5.4(u);

(g) ~~**(f)**~~ subject to compliance with the requirements of the Guaranty and Security Agreement, issuances of Stock or Stock Equivalents (other than Disqualified Stock) that do not cause an Event of Default; and

(h) ~~**(g)**~~ the Related Transactions.

5.7 Inventory Locations. The Borrowers will not permit Inventory or any other Collateral having a fair market value in excess of $20,000 to be stored or located at any location including premises owned or leased by any Credit Party or with a bailee, consignee or other Person, except the roasting facilities located at 3004 NE 112th Avenue, Suite A, Vancouver, Washington 98682 and 1102 West Geneva Drive, Tempe, Arizona 85282.

5.8 Restricted Payments. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to (i) make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any Stock or Stock Equivalent, (ii) purchase, redeem or otherwise acquire for value any Stock or Stock Equivalent now or hereafter outstanding, (iii) make any payment or prepayment of principal of, premium, if any, interest, fees, redemption, exchange, purchase, retirement, defeasance, sinking fund or similar payment with respect to Subordinated Indebtedness (including the Preferred Equity Obligations), (iv) make any payment on account of any return of capital to its stockholders, partners or members (or the equivalent Persons thereof) ~~**or,**~~ (v) make any payment or prepayment of Contingent Acquisition Consideration**, or (vi) directly or indirectly make any payment or distribution of any kind or nature** to or for the benefit of **Viking Cake (other than, to the extent Viking Cake becomes a member of Holdings, payments or distributions permitted to be made to members under this Section 5.8) or otherwise repay the Viking Cake Convertible Note or any outstanding loans on behalf of Viking Cake except as expressly permitted under clause (e) and Section 5.18** (the items described in clauses (i), (ii), (iii), (iv) ~~**and,**~~ (v) **and (vi)** above are referred to as "**Restricted Payments**"), except that:

(a) Holdings may declare and make dividend payments or other distributions payable solely in its Stock or Stock Equivalents;

(b) the Borrowers make distributions, directly or indirectly, to Holdings, which are promptly used by Holdings to redeem from current or former officers, directors and employees (or their current or former spouses, heirs, estates, estate planning vehicles and family members) (or to pay amounts owing under promissory notes issued in connection with the prior redemption from any such person), but excluding, in all cases, Founder Group Members, Stock and Stock Equivalents (including to repurchase fractional shares) provided all of the following conditions are satisfied:

(i) the aggregate Restricted Payments permitted (x) in any Fiscal Year of the Borrowers shall not exceed $250,000 per Fiscal Year (with unused amounts in any Fiscal Year carried forward and available in succeeding Fiscal Years) and

(y) during the term of this Agreement shall not exceed $1,000,000 unless such Restricted Payments are funded solely with the Net Issuance Proceeds of any substantially concurrent issuance of Stock or Stock Equivalents (other than issuances of Disqualified Stock) or with the proceeds of any substantially concurrent contribution of cash to one or more Borrowers made by Holdings; and

(ii) the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions at the time of making such Restricted Payment;

(c) in the event the Borrowers file a consolidated, combined, unitary or similar type income Tax return with Holdings, the Borrowers may make distributions to Holdings (and Holdings may make distributions to its equity owners) in an amount equal to the amount that would have been payable by the Borrowers and their Subsidiaries had the Borrowers not filed a consolidated, combined, unitary or similar type return with Holdings;

(d) the Credit Parties may make payments, as and when due and payable, on (i) Contingent Acquisition Consideration described in Schedule 5.8 and (ii) other Contingent Acquisition Consideration if, with respect to clause (ii), after giving effect to such payment or distribution on a pro forma basis, the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions;

(e) ~~[reserved];~~**so long as no Default or Event of Default has occurred and is continuing, or would result from any such distribution, and subject to Section 5.18 below, any Subsidiaries of Holdings may make distributions to Holdings from (i) proceeds of the Las Vegas Franchisee Group Litigation and/or the Roasters Litigation (which proceeds may include, without limitation, proceeds from judgments, settlements, insurance payments, indemnity payments, sale of claims, or similar forms of recovery), and (ii) an aggregate amount of Qualified Cash not to exceed $1,000,000, which proceeds and Qualified Cash may be used by Holdings to pay amounts owed under the Viking Cake Convertible Note to the extent permitted under the A&R Holdings LLC Agreement; provided that any such payments reduce the amount owed under the Viking Cake Convertible Note on a dollar-for-dollar basis;**

(f) ~~**Upon (i) consummation of the Equity Recap Transactions, and (ii) concurrent satisfaction of the Pro Forma Compliance Conditions, as certified by a Responsible Officer of the Borrower Representative in a certificate addressed to the Agents setting forth in reasonable detail the calculations demonstrating such compliance, Holdings may make (and to the extent necessary, the Borrowers may make distributions to Holdings in amounts sufficient to enable Holdings to pay) the following distributions in an aggregate amount not to exceed the amount of net proceeds to Holdings of the Equity Recap Transactions: (1) pay to the holders of Series A-1 Preferred Units (as defined in the A&R Holdings LLC Agreement) an amount up to the amount necessary to fully redeem the Series A-1 Preferred Units; and (2) next, to the extent of any remaining net proceeds of the Equity Recap**~~

~~Transactions and so long as the foregoing distribution to the holders of the Series A-1 Preferred Units under clause (1) reduced the Series A-1 Aggregate Liquidation Preference Amount (as defined in the A&R Holdings LLC Agreement) to less than or equal to $65,000,000 to consummate some or all of the Existing Preferred Unit Redemption; and/or make a distribution in accordance with the A&R Holdings LLC Agreement (the distributions referred to in clauses 1 and 2 are collectively referred to as the "Equity Recap Distributions").~~**so long as no Default or Event of Default has occurred and is continuing, and subject to (x) payment in full of amounts referenced in clauses (i) and (ii) of the preceding clause (e), and (y) satisfaction of the Pro Forma Compliance Conditions before and after giving effect to any such redemption, Holdings may use excess proceeds of the Roasters Litigation and Las Vegas Franchisee Group Litigation to redeem Common Units to the extent permitted by the A&R Holdings LLC Agreement;**

(g) Holdings may (and, to the extent necessary, the Borrowers may make distributions, to Holdings in amounts sufficient to enable Holdings to pay) Restricted Payments to one or more of the Founder Group Members and holders of the Series A-2 Preferred Units in accordance with the A&R Holdings LLC Agreement, provided all of the following conditions are satisfied: (i) the amount of such Restricted Payments do not exceed an aggregate of $600,000 per Fiscal Year and (ii) the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions at the time of making each such Restricted Payment and after giving effect thereto;

(h) (i) any Credit Party may make dividends and distributions to any other Credit Party (other than Holdings), and (ii) any Subsidiary of a Credit Party may make dividends and distributions to a Credit Party (other than Holdings);~~ and~~

(i) ~~So~~**so** long as no Default or Event of Default has occurred and is continuing, or would result from any such payment, the Borrowers may make distributions to Holdings to enable Holdings to (x) make Tax Advances (as defined in, and in accordance with, Section 7.04 of the A&R Holdings LLC Agreement) and (y) pay or reimburse certain costs of members of Holdings in accordance with the terms of the A&R Holdings LLC Agreement as in effect on the date hereof**; and**

(j) so long as no Default or Event of Default has occurred and is continuing, or would result from any such payment, BRCR and BRSO 67th may make distributions to their members that are neither Credit Parties nor Founder Group Members in an aggregate amount not to exceed $150,000 per Fiscal Year.

5.9 Change in Business; Status as Holding Company. (a) No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in any line of business substantially different from those lines of business carried on by the Credit Parties and their Subsidiaries on the Closing Date and activities reasonably related or complementary thereto, and (b) Holdings shall not (i) engage in any business activities or own any Property other than (A) ownership of the Stock and Stock Equivalents of the Borrowers, (B) activities and contractual rights incidental to maintenance of its organizational existence, (C) the execution and delivery of,

and performance of its obligations under, and the Loan Documents to which it is a party, (D) activities expressly permitted under Sections 5.3, 5.4(b)(iii), 5.6 and 5.8, (E) participating in tax, accounting and other administrative activities as the parent of the consolidated group of companies, including the Credit Parties (including providing indemnification to directors, officers, employees, and consultants), (F) guarantees of Indebtedness and other obligations permitted under Loan Documents, (G) granting of non-consensual Liens arising by operation of law that are permitted by Section 5.1, (H) activities necessary or advisable to consummate the Related Transactions and comply with the documentation related thereto and (I) activities incidental or related to the business or activities described in clause (A) through (I) above, and (ii) not permit the Credit Parties and their Subsidiaries to expand their business by opening new Stores to be owned or operated by any Excluded Subsidiaries; it being understood and agreed that, from and after the Closing Date, all expansion of the business of the Credit Parties and their Subsidiaries, such as the opening of new Stores shall be undertaken by Credit Parties.

5.10 Changes in Organization Documents; Name and Jurisdiction of Organization. Except as expressly permitted under Section 5.3, no Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to amend any of its Organization Documents in any respect that is materially adverse to Agents or Lenders. No Credit Party shall (i) change its name as it appears in official filings in its jurisdiction of organization or (ii) change its jurisdiction of organization or the location of its chief executive office or sole place of business, in each case without providing prior written notice to Collateral Agent within twenty (20) days before such change (or such shorter period as Agents may agree in their sole discretion). The Credit Parties agree not to effect or permit any change referred to in the preceding sentence unless all filings have been made (or arrangements have been approved by Agent for such filings to be made) under the UCC or otherwise that are required in order for Agent to continue at all times following such change to have a valid, legal and perfected Liens in all the Collateral and, thereafter, taking all actions reasonably determined by Collateral Agent as necessary to continue the perfection of its Liens.

5.11 Changes in Accounting. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, (a) without the consent of the Agent, make any significant change in accounting treatment or reporting practices, except as required by GAAP or (b) change the Fiscal Year or method for determining Fiscal Quarters of any Credit Party or of any consolidated Subsidiary of any Credit Party; provided that the fiscal year of a Target under an Acquisition may be changed to conform to the same Fiscal Year of the Credit Parties.

5.12 Amendments to Certain Indebtedness. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries, directly or indirectly, to change or amend the terms of any Subordinated Indebtedness, except to the extent permitted by the applicable subordination agreement (including, with respect to the Preferred Equity Obligations, the Subordination Agreement).

5.13 No Negative Pledges. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual restriction or encumbrance of any kind on the ability of any Credit Party or Subsidiary to pay dividends to a Credit Party or make any other distribution to a Credit Party

on any of such Credit Party's or Subsidiary's Stock or Stock Equivalents or to pay fees, including management fees, or make other payments and distributions to the Borrowers or any other Credit Party except, in each case, pursuant to the Loan Documents. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, enter into, assume or become subject to any Contractual Obligation prohibiting or otherwise restricting the existence of any Lien upon any of its assets in favor of Collateral Agent, whether now owned or hereafter acquired, except in connection with (i) any document or instrument governing Liens permitted pursuant to Section 5.1; provided that any such restriction contained therein relates only to the asset or assets financed by the underlying secured obligations, (ii) customary provisions restricting subletting or assignment of any lease governing a leasehold interest, (iii) with respect to third party contracts, customary limitations on the ability of a party thereto to assign its interest in the underlying contract without the consent of the other party thereto, (iv) restrictions and conditions contained in agreements relating to the sale of assets permitted hereunder (or to be consummated in connection with the payment in full of the Obligations and termination of the Commitments or anticipated modification of the Loan Documents to permit such action); provided that such restrictions are limited to the assets being sold, (v) licenses and contracts entered into in the Ordinary Course of Business which by their terms prohibit the assignment of such agreements (to the extent such prohibition is enforceable by law) or the granting of Liens on the rights contained therein; provided that such licenses and contracts (other than shrink-wrap software licenses) are not, in the aggregate, material to the business of such Credit Party and are not related to any material Property, and (vi) customary provisions in joint venture agreements and similar agreements that restrict the transfer of Stock of, or assets in, joint ventures.

5.14 OFAC; USA Patriot Act; Anti-Corruption Laws.

(a) No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to fail to comply with the laws, regulations and executive orders referred to in Section 3.25.

(b) No Credit Party or Subsidiary, nor to the knowledge of the Credit Party, any director, officer, agent, employee, or other person acting on behalf of the Credit Party or any Subsidiary, will use the proceeds of any Loan, directly or, indirectly, for any payments to any Person, including any government official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, or otherwise take any action, directly or indirectly, that would result in a violation of any Anti-Corruption Laws.

(c) Furthermore, the Credit Parties will not, and will not permit any of their Subsidiaries to, directly or indirectly, use the proceeds of the Loans to lend, contribute or otherwise make available such proceeds to any Subsidiary, Affiliate, joint venture partner or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions, or in any other

manner, in each case, that will result in a violation by any Credit Party or its Subsidiaries of any Sanctions.

5.15 Sale-Leasebacks. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in a sale leaseback, synthetic lease or similar transaction involving any of its assets.

5.16 Hazardous Materials. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, cause or suffer to exist any Release of any Hazardous Material at, to or from any Real Estate that would violate any Environmental Law or form the basis for any Environmental Liabilities (whether or not owned by any Credit Party or any Subsidiary of any Credit Party), other than such violations and Environmental Liabilities that could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

5.17 Compliance with ERISA. No Credit Party shall cause or suffer to exist (a) any event that would reasonably be expected to result in the imposition of a Lien on any asset of a Credit Party or a Subsidiary of a Credit Party with respect to any Title IV Plan or Multiemployer Plan securing obligations in excess of $500,000 or (b) any other ERISA Event, that could, in the aggregate with such other ERISA Events, have a Material Adverse Effect.

5.18 ~~New Store Construction Expenses. During the period from the Closing Date to the date of consummation of the Equity Recap Transactions, forecasted new Store expenses shall not exceed $750,000, and actual new Store expenses shall not exceed $750,000 by more than five percent (5.0%), in either instance without the consent (which may be granted by email) of the Agents, provided, that this Section 5.18 shall not apply to the 1) ATX – Star Ranch, 2) STX – Blanco Rd, 3) DTX W Parker Rd, Plano, 4) HTX – Spencer & Watters, 5) DTX – Highland Village, TX, 6) HTX – 9540 Hwy 6 and 7) TA2 – 1st and Grant RBTS.~~**Viking Cake Convertible Note. No Credit Party shall make any cash payment on the Viking Cake Convertible Note, except upon satisfaction of the following conditions: (i) no Default or Event of Default has occurred and is continuing at the time of such payment or after giving effect thereto, (ii) such payment is permitted by the terms of the A&R Holdings LLC Agreement and shall reduce the amount owed under the Viking Cake Convertible Note on a dollar-for-dollar basis, and (iii) such payment is made solely using funds distributed to Holdings pursuant to Section 5.8(e), provided, that any payment made using funds distributed to Holdings pursuant to Section 5.8(e)(ii) will be subject to minimum Liquidity of $5,000,000 before and after giving effect to such distribution.**

5.19 ~~New Store Rental Expenses. During the period from the Closing Date to the date of consummation of the Equity Recap Transactions, forecasted annual Rental Expense at any new Store shall not exceed 10% of the average annual gross sales for all existing Stores located within the same state that have been open for more than twelve months~~**[Reserved]**.

5.20 Growth Capital Expenditure Available Amount. The Borrowers will not use amounts designated as the "Growth Capital Expenditure Available Amount" on any Compliance Certificate and deposited in a segregated account in accordance with the definition thereof in

Annex B of Exhibit 4.2(b) for any purpose other than financing Growth Capital Expenditures (as defined in such Annex B).

ARTICLE VI

FINANCIAL COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date:

6.1 Financial Covenants.

(a) Total Net Leverage Ratio. The Credit Parties shall not permit the Total Net Leverage Ratio for the Measurement Period ending on the last day of any Fiscal Quarter (commencing with the Fiscal Quarter ending ~~September~~June 30, ~~2022~~2023) to be greater than the ratio set forth in the table below opposite the last day of such Fiscal Quarter (which level shall apply to any pro forma calculation of the Total Net Leverage Ratio prior to such date):

Quarter Ending	Total Net Leverage Ratio
~~September 30, 2022~~	~~4.00 to 1.00~~
~~December 31, 2022~~	~~4.00 to 1.00~~
~~March 31, 2023~~ June 30, 2023	~~3.75 to 1.00~~ ~~3.75~~ 5.75 to 1.00
September 30, 2023	~~3.50~~5.50 to 1.00
December 31, 2023	~~3.50~~5.25 to 1.00
March 31, 2024	~~3.25~~5.00 to 1.00
June 30, 2024	~~3.25~~4.75 to 1.00
September 30, 2024	~~3.00~~4.50 to 1.00
December 31, 2024	~~3.00~~4.25 to 1.00
March 31, 2025	~~2.75~~4.00 to 1.00

(b) Fixed Charge Coverage Ratio. The Credit Parties shall not permit the Fixed Charge Coverage Ratio for the Measurement Period ending on the last day of any Fiscal Quarter (commencing with the Fiscal Quarter ending ~~September~~June 30, ~~2022~~2023) to be less than (i) 1.10 to 1.00~~. "Fixed Charge Coverage Ratio" shall be calculated in the manner set forth in Exhibit 4.2~~ if Daily Average Qualified Cash (as defined below) as of the last Business Day of such Fiscal Quarter was greater than $5,000,000, or (~~b~~ii) 1.25 to 1.00 if Daily Average Qualified Cash as of the last Business Day of such Fiscal Quarter was less than or equal to $5,000,000.

ARTICLE VII

EVENTS OF DEFAULT

7.1 Event of Default. Any of the following shall constitute an "**Event of Default**":

(a) Non-Payment. Any Credit Party fails (i) to pay when and as required to be paid herein, any amount of principal of any Loan, or (ii) to pay within three (3) Business Days after the same shall become due, interest on any Loan, any fee payable hereunder or pursuant to any other Loan Document or (iii) to pay or reimburse Agent or Lenders for any other Obligations not described in the preceding clause (i) or (ii), within ten (10) Business Days following the due date therefor (or, if there is no due date therefor, within ten (10) Business Days following Agent's demand for any such payment or reimbursement); or

(b) Representation or Warranty. Any representation, warranty or certification by or on behalf of any Credit Party or any of its Subsidiaries made or deemed made herein, in any other Loan Document, or which is contained in any certificate or financial statement (other than projections, estimates, other forward looking information or general economic or industry information) by any such Person, or their respective Responsible Officers, furnished at any time under this Agreement, or in or under any other Loan Document, shall prove to have been incorrect in any material respect (without duplication of other materiality qualifiers contained therein) on or as of the date made or deemed made; or

(c) Specific Defaults. Any Credit Party fails to perform or observe any term, covenant or agreement contained in (i) any of Sections 4.3(a), 4.4(a) (with respect to Borrowers), 4.9, 4.10, 4.11, 4.19 or Article V or Article VI or (ii) any of Sections 4.1, 4.2(a), 4.2(b), 4.3 (other than as set forth in clause (i) above) or 4.6 and, with respect to this clause (ii), such failure shall not have been cured within five (5) Business Days; or

(d) Other Defaults. Any Credit Party or Subsidiary of any Credit Party makes any payment in respect of Subordinated Indebtedness other than payments permitted under any subordination agreement, including the Subordination Agreement, or otherwise fails to perform or observe any other term, covenant or agreement contained in this Agreement or any other Loan Document (other than any provision covered by any other clause of this Section 7.1), and such default shall continue unremedied for a period of thirty (30) days after the earlier to occur of (i) the date upon which a Responsible Officer of any Credit Party has actual knowledge of such default and (ii) the date upon which written notice thereof is given to the Borrower Representative by an Agent or Required Lenders; or

(e) Cross-Default. Any Credit Party or any Subsidiary of any Credit Party (i) fails to make any payment in respect of any Indebtedness (other than the Obligations or any obligation owed by any Credit Party to another Credit Party) or Contingent Obligation (other than the Obligations or any obligation owed by any Credit Party to

another Credit Party) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than $500,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure continues after the applicable grace or notice period, if any, specified in the document relating thereto on the date of such failure; or (ii) fails to perform or observe any other condition or covenant (after applicable grace periods), or any other event shall occur or condition exist (after applicable grace periods), under any agreement or instrument relating to any such Indebtedness or Contingent Obligation (other than Contingent Obligations owing by one Credit Party with respect to the obligations of another Credit Party permitted hereunder), including any agreement, instrument or certificate relating to the Preferred Equity, if the effect of such failure, event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause such Indebtedness to be declared to be due and payable (or otherwise required to be prepaid, redeemed, purchased or defeased) prior to its stated maturity (without regard to any subordination terms with respect thereto), or such Contingent Obligation to become payable or cash collateral in respect thereof to be demanded; provided that this clause (e)(ii)) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer or other disposition of the property or assets securing such Indebtedness, if such sale, transfer or disposition is permitted hereunder and under the documents providing for such Indebtedness and such Indebtedness is repaid when required under the documents providing for such Indebtedness, to the extent such prepayment is permitted hereunder; or

(f) Insolvency; Voluntary Proceedings. Any Credit Party or any Subsidiary of any Credit Party: (i) generally fails to pay, or admits in writing its inability to pay, its debts as they become due, subject to applicable grace periods, if any, whether at stated maturity or otherwise; (ii) except as expressly permitted under Section 5.3, voluntarily ceases to conduct its business in the ordinary course; (iii) commences any Insolvency Proceeding with respect to itself; or (iv) takes any action to effectuate or authorize any of the foregoing; or

(g) Involuntary Proceedings. (i) Any involuntary Insolvency Proceeding is commenced or filed against any Credit Party or any Subsidiary of any Credit Party, or any writ, judgment, warrant of attachment, execution or similar process, is issued or levied against a substantial part of any such Person's Properties, and any such proceeding or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or fully bonded within forty-five (45) days after commencement, filing or levy; (ii) any Credit Party or any Subsidiary of any Credit Party admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (iii) any Credit Party or any Subsidiary of any Credit Party acquiesces in the appointment of a receiver, trustee, custodian, conservator,

liquidator, mortgagee in possession (or agent therefor), or other similar Person for itself or a substantial portion of its Property or business; or

(h) Monetary Judgments. One or more judgments, non-interlocutory orders, decrees or arbitration awards shall be entered against any one or more of the Credit Parties or any of their respective Subsidiaries involving in the aggregate a liability of $50,000 or more (excluding amounts covered ~~(i)~~ by insurance to the extent the relevant independent third-party insurer has not denied coverage therefor ~~or (ii) in escrow under the relevant agreements for a Permitted Acquisition or other Investment permitted herein or otherwise subject to indemnity coverage reasonably acceptable to Agents and, in each case, available to the Credit Parties for payment of such liabilities~~), and the same shall remain unsatisfied, unvacated and unstayed pending appeal for a period of thirty (30) days after the entry thereof; or

(i) Non-Monetary Judgments. One or more non-monetary judgments, orders or decrees shall be rendered against any one or more of the Credit Parties or any of their respective Subsidiaries which has could reasonably be expected to have a Material Adverse Effect, and there shall be any period of thirty (30) consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(j) Collateral. Any material provision of any Loan Document shall for any reason (other than pursuant to the express terms hereof or thereof) cease to be valid and binding on or enforceable against any Credit Party or any Subsidiary of any Credit Party **that is** party thereto or any Credit Party or any Subsidiary of any Credit Party **that is** party thereto shall so state in writing or bring an action to limit its obligations or liabilities thereunder; or any Collateral Document shall for any reason (other than pursuant to the terms thereof and other than in respect of any Collateral sold or otherwise disposed of in accordance with the terms of this Agreement) cease to create a valid security interest in Collateral purported to be covered thereby with a fair market value in excess of $500,000 or such security interest shall for any reason (other than failure of the Collateral Agent to take any action within its control) cease to be a perfected (to the extent required by the Loan Documents) and first priority security interest subject only to Permitted Liens, except to the extent that any such loss of perfection or priority results from the failure of the Collateral Agent to maintain possession of certificates or other possessory collateral actually delivered to it representing securities or other collateral pledged under the Collateral Documents or to file UCC financing statements, continuation statements or equivalent filings and except, as to Collateral consisting of Real Estate, to the extent that such losses are sufficiently covered by a solvent insurer under title insurance policy with respect thereto, if any; or

(k) Ownership. At any time ~~on or after the date which is 30 days after the Closing Date,~~ (i) Holdings Pledgors at any time cease to own, collectively, (x) at least fifty-one percent (51%) of the issued and outstanding Common Units (as defined in the A&R Holdings LLC Agreement) of Holdings (as the same may be adjusted for any

combination, recapitalization or reclassification into a greater or smaller number of shares, interests or other unit of equity security) and (y) Units sufficient to elect the majority of the Board (as defined in the A&R Holdings LLC Agreement as in effect on the ~~date hereof~~**Third Amendment Effective Date), in each case other than on account of the occurrence of a "Control Period" pursuant to the A&R Holdings LLC Agreement (the occurrence of which shall not constitute a Default or Event of Default under this Agreement or the other Loan Documents),** or (ii) Holdings ceases to own, directly or indirectly, (a) one hundred percent (100%) of the issued and outstanding Stock and Stock Equivalents of the Borrowers (other than BRSO 67th or BRCR) or (b) less than fifty-one percent (51%) of the issued and outstanding Stock and Stock Equivalents of BRSO 67th or BRCR; or

(l) Invalidity of Subordination Provisions. The subordination provisions of the Subordination Agreement or any other agreement or instrument governing any Subordinated Indebtedness shall for any reason be revoked or invalidated by the lenders under the applicable Subordinated Indebtedness, or otherwise cease to be in full force and effect, or any Credit Party or any of its Subsidiaries or any holder of any Subordinated Indebtedness shall contest in writing the validity or enforceability thereof or deny that it has any further liability or obligation thereunder; or

(m) ERISA Event. One or more ERISA Events shall have occurred, that, either individually or in the aggregate with other such ERISA Events, could reasonably be expected to result in (i) monetary liability in excess of $500,000 or (ii) a Material Adverse Effect; or

(n) Subordination Agreement. (i) The Subordination Agreement shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect (other than in accordance with its terms), or any Credit Party, any Founder Group Member or any holder of Preferred Equity shall contest in any manner the validity or enforceability thereof or deny that such Person has any further liability or obligation thereunder, or (ii) any party (other than the Agents or any Lender) to the Subordination Agreement fails to perform or observe any material term, covenant or agreement contained in the Subordination Agreement; or

(o) A&R Holdings LLC Agreement. A Material Breach Event or Sale Event shall occur under and as defined in the A&R Holdings LLC Agreement.

7.2 Remedies. Upon the occurrence and during the continuance of any Event of Default, either Agent may, and shall at the request of the Required Lenders:

(a) declare all or any portion of any one or more of the Commitments of each Lender to make Loans to be suspended or terminated, whereupon all or such portion of such Commitments shall forthwith be suspended or terminated;

(b) declare all or any portion of the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable

hereunder or under any other Loan Document to be immediately due and payable; without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by each Credit Party; and/or

(c) may, or at the request of the Required Lenders shall, exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law;

provided, however, that upon the occurrence of any Event of Default specified in Sections 7.1(f) or 7.1(g) above (in the case of clause (i) of Section 7.1(g) upon expiration of the thirty (30) day period mentioned therein), the obligation of each Lender to make Loans shall automatically terminate and the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable without further act of either Agent or any Lender.

7.3 Rights Not Exclusive. The rights provided for in this Agreement and the other Loan Documents are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising.

ARTICLE VIII

AGENTS

8.1 Appointment and Duties.

(a) Appointment of Agents. (i) Each Lender hereby appoints RCS (together with any successor Agent pursuant to Section 8.9) as Administrative Agent hereunder and authorizes Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Credit Party, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Administrative Agent (or to either Agent) under this Agreement and the other Loan Documents and (iii) exercise such powers as are reasonably incidental thereto. Administrative Agent represents that it is a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1.

Each Lender hereby appoints TCW (together with any successor Agent pursuant to Section 8.9) as Collateral Agent hereunder and authorizes Collateral Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Credit Party, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Collateral Agent (or to either Agent) under this Agreement and the other Loan Documents and (iii) exercise such powers as are reasonably incidental thereto. Collateral Agent represents that it is a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1.

(b) Duties as Administrative and Collateral Agents. (i) Administrative Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (x) act as the disbursing and collecting agent for the Lenders with respect to all payments and collections arising in connection with the Loan Documents (including in any proceeding described in Sections 7.1(f) or 7.1(g) or any other bankruptcy, insolvency or similar proceeding), and each Person making any payment in connection with any Loan Document to any Secured Party is hereby authorized to make such payment to Administrative Agent, (y) file and prove claims and file other documents necessary or desirable to allow the claims of the Secured Parties with respect to any Secured Obligation in any proceeding described in Section 7.1(f) or (g) or any other bankruptcy, insolvency or similar proceeding (but not to vote, consent or otherwise act on behalf of such Person), and (ii) Collateral Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (w) act as collateral agent for each Secured Party for purposes of the perfection of all Liens created by such agreements and all other purposes stated therein, (x) manage, supervise and otherwise deal with the Collateral, (y) take such other action as is necessary or desirable to maintain the perfection and priority of the Liens created or purported to be created by the Loan Documents, (z) except as may be otherwise specified in any Loan Document, exercise all remedies given to Agent and the other Secured Parties with respect to the Credit Parties and/or the Collateral, whether under the Loan Documents, applicable Requirements of Law or otherwise and (iii) each Agent may execute any amendment, consent or waiver under the Loan Documents on behalf of any Lender that has consented in writing to such amendment, consent or waiver; provided, however, that Collateral Agent hereby appoints, authorizes and directs each Lender to act as collateral sub-agent for Agent and the Lenders for purposes of the perfection of all Liens with respect to the Collateral, including any deposit account maintained by a Credit Party with, and cash and Cash Equivalents held by, such Lender, and may further authorize and direct the Lenders to take further actions as collateral sub-agents for purposes of enforcing such Liens or otherwise to transfer the Collateral subject thereto to Agent and each Lender hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed.

(c) Limited Duties. Under the Loan Documents, each Agent (i) is acting solely on behalf of the Secured Parties (except to the limited extent provided in Section 1.4(b) with respect to the Register), with duties that are entirely administrative in nature, notwithstanding the use of the defined term "Agent", the terms "agent", "Administrative Agent" and "Collateral Agent" and similar terms in any Loan Document to refer to Agent in any such capacity, which terms are used for title purposes only, (ii) is not assuming any obligation under any Loan Document other than as expressly set forth therein or any role as agent, fiduciary or trustee of or for any Lender or any other Person and (iii) shall have no implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document, and each Secured Party, by accepting the benefits of the Loan Documents, hereby waives and agrees not to assert any claim against Agent based on the roles, duties and legal relationships expressly disclaimed in clauses (i) through (iii) above.

8.2 Binding Effect. Each Secured Party, by accepting the benefits of the Loan Documents, agrees that (i) any action taken (or omitted to be taken) by any Agent or the Required Lenders (or, if expressly required hereby, a greater proportion of the Lenders) in accordance with the provisions of the Loan Documents, (ii) any action taken (or omitted to be taken) by any Agent in reliance upon the instructions of Required Lenders (or, where so required, such greater proportion) and (iii) the exercise by any Agent or the Required Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Secured Parties.

8.3 Use of Discretion.

(a) No Action without Instructions. Agents shall not be required to exercise any discretion or take, or to omit to take, any action, including with respect to enforcement or collection, except any action it is required to take or omit to take (i) under any Loan Document or (ii) pursuant to instructions from the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders).

(b) Right Not to Follow Certain Instructions. Notwithstanding clause (a) above, Agents shall not be required to take, or to omit to take, any action (i) unless, upon demand, such Agent receives an indemnification satisfactory to it from the Lenders (or, to the extent applicable and acceptable to such Agent, any other Person) against all Liabilities that, by reason of such action or omission, may be imposed on, incurred by or asserted against such Agent or any Related Person thereof or (ii) that is, in the opinion of such Agent or its counsel, contrary to any Loan Document or applicable Requirement of Law.

(c) Exclusive Right to Enforce Rights and Remedies. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Credit Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, Agents in accordance with the terms set forth herein and in the other Loan Documents for the benefit of all the Lenders; provided that the foregoing shall not prohibit (i) each Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents, (ii) any Lender from exercising setoff rights in accordance with Section 9.11 or (iii) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Credit Party under any bankruptcy or other debtor relief law, but in the case of this clause (iii) if, and solely if, an Agent has not filed such proof of claim or other instrument of similar character in respect of the Secured Obligations within five (5) days before the expiration of the time to file the same; and provided further that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (A) the Required Lenders shall have the rights otherwise ascribed to Agent pursuant to Section 7.2 and (B)

in addition to the matters set forth in clauses (ii), (iii) and (iv) of the preceding proviso and subject to Section 9.11, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

8.4 Delegation of Rights and Duties. Each Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Loan Document by or through any trustee, co-agent, employee, attorney-in-fact and any other Person (including any Secured Party). Any such Person shall benefit from this Article VIII to the extent provided by an Agent.

8.5 Reliance and Liability.

(a) Administrative Agent may, without incurring any liability hereunder, (i) treat the payee of any Note as its holder until such Note has been assigned in accordance with Section 9.9, (ii) rely on the Register to the extent set forth in Section 1.4, (iii) consult with any of its Related Persons and, whether or not selected by it, any other advisors, accountants and other experts (including advisors to, and accountants and experts engaged by, any Credit Party) and (iv) rely and act upon any document and information (including those transmitted by Electronic Transmission) and any telephone message or conversation, in each case believed by it to be genuine and transmitted, signed or otherwise authenticated by the appropriate parties.

(b) Neither any Agent nor its Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Secured Party, Holdings, the Borrowers and each other Credit Party hereby waive and shall not assert (and each of Holdings and the Borrowers shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action based thereon, except to the extent of liabilities resulting from the gross negligence, bad faith or willful misconduct of Agent or, as the case may be, such Related Person (each as determined in a final, non-appealable judgment by a court of competent jurisdiction) in connection with the duties expressly set forth herein. Without limiting the foregoing, each Agent and its Related Persons:

(i) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of the Required Lenders or for the actions or omissions of any of its Related Persons selected with reasonable care (other than employees, officers and directors of Agent, when acting on behalf of Agent);

(ii) shall not be responsible to any Lender or other Person for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document;

(iii) makes no warranty or representation, and shall not be responsible, to any Lender or other Person for any statement, document, information, representation or warranty made or furnished by or on behalf of any Credit Party or any Related Person of any Credit Party in connection with any Loan Document or any transaction contemplated therein or any other document or information with respect to any Credit Party, whether or not transmitted or (except for documents expressly required under any Loan Document to be transmitted to the Lenders) omitted to be transmitted by Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by Agent in connection with the Loan Documents;

(iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document, whether any condition set forth in any Loan Document is satisfied or waived, as to the financial condition of any Credit Party or as to the existence or continuation or possible occurrence or continuation of any Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from the Borrower Representative or any Lender describing such Default or Event of Default clearly labeled "notice of default" (in which case Agent shall promptly give notice of such receipt to all Lenders); and

(v) shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Excluded Persons. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is an Excluded Person or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Excluded Person,

and, for each of the items set forth in clauses (i) through (iv) above, each Lender, Holdings and the Borrowers hereby waive and agree not to assert (and each of Holdings and the Borrowers shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action it might have against Agent based thereon.

8.6 Agents Individually. Agents and their Affiliates may make loans and other extensions of credit to engage in any kind of business with, any Credit Party or Affiliate thereof as though it were not acting as Agent and may receive separate fees and other payments therefor. To the extent Agents or any of their Affiliates makes any Loan or otherwise becomes a Lender hereunder, it shall have and may exercise the same rights and powers hereunder and shall be subject to the same obligations and liabilities as any other Lender and the terms "**Lender**", "**Required Lender**", "and any similar terms shall, except where otherwise expressly provided in any Loan Document, include, without limitation, Agents or such Affiliates, as the case may be, in its individual capacity as Lender, or as one of the Required Lenders, respectively.

8.7 Lender Credit Decision.

(a) Each Lender acknowledges that it shall, independently and without reliance upon Agent, any Lender or any of their Related Persons or upon any document (including any offering and disclosure materials in connection with the syndication of the Loans) solely or in part because such document was transmitted by Agent or any of its Related Persons, conduct its own independent investigation of the financial condition and affairs of each Credit Party and make and continue to make its own credit decisions in connection with entering into, and taking or not taking any action under, any Loan Document or with respect to any transaction contemplated in any Loan Document, in each case based on such documents and information as it shall deem appropriate. Except for documents expressly required by any Loan Document to be transmitted by Agent to the Lenders, Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, Property, financial and other condition or creditworthiness of any Credit Party or any Affiliate of any Credit Party that may come in to the possession of Agent or any of its Related Persons.

(b) If any Lender has elected to abstain from receiving MNPI concerning the Credit Parties or their Affiliates, such Lender acknowledges that, notwithstanding such election, Agent and/or the Credit Parties will, from time to time, make available syndicate-information (which may contain MNPI) as required by the terms of, or in the course of administering the Loans to the credit contact(s) identified for receipt of such information on the Lender's administrative questionnaire who are able to receive and use all syndicate-level information (which may contain MNPI) in accordance with such Lender's compliance policies and contractual obligations and applicable law, including federal and state securities laws; provided, that if such contact is not so identified in such questionnaire, the relevant Lender hereby agrees to promptly (and in any event within one (1) Business Day) provide such a contact to Agent and the Credit Parties upon request therefor by Agent or the Credit Parties. Notwithstanding such Lender's election to abstain from receiving MNPI, such Lender acknowledges that if such Lender chooses to communicate with Agent, it assumes the risk of receiving MNPI concerning the Credit Parties or their Affiliates.

8.8 Expenses; Indemnities; Withholding.

(a) Each Lender agrees to reimburse each Agent and each of its Related Persons (to the extent not reimbursed by any Credit Party) promptly upon demand, severally and ratably, for any costs and expenses (including fees, charges and disbursements of financial, legal and other advisors and Other Taxes paid in the name of, or on behalf of, any Credit Party) that may be incurred by Agent or any of its Related Persons in connection with the preparation, syndication, execution, delivery, administration, modification, consent, waiver or enforcement of, or the taking of any other action (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding (including, without limitation, preparation

for and/or response to any subpoena or request for document production relating thereto) or otherwise) in respect of, or legal advice with respect to, its rights or responsibilities under, any Loan Document.

(b) Each Lender further agrees to indemnify Agent, and each of their respective Related Persons (to the extent not reimbursed by any Credit Party), severally and ratably, from and against Liabilities (including, to the extent not indemnified pursuant to Section 8.8(c), Taxes, interests and penalties imposed for not properly withholding or backup withholding on payments made to or for the account of any Lender) that may be imposed on, incurred by or asserted against Agent or any of their respective Related Persons in any matter relating to or arising out of, in connection with or as a result of any Loan Document, any Related Document or any other act, event or transaction related, contemplated in or attendant to any such document, or, in each case, any action taken or omitted to be taken by Agent or any of their respective Related Persons under or with respect to any of the foregoing; provided, however, that no Lender shall be liable to Agent or any of its Related Persons to the extent such liability has resulted from the gross negligence, bad faith or willful misconduct of Agent or, as the case may be, such Related Person, as determined by a court of competent jurisdiction in a final non-appealable judgment or order.

(c) To the extent required by any Requirement of Law, Administrative Agent may withhold from any payment to any Lender under a Loan Document an amount equal to any applicable withholding Tax (including withholding Taxes imposed under Chapters 3 and 4 of Subtitle A of the Code). If the IRS or any other Governmental Authority asserts a claim that Agent did not properly withhold Tax from amounts paid to or for the account of any Lender (because the appropriate certification form was not delivered, was not properly executed, or fails to establish an exemption from, or reduction of, withholding Tax with respect to a particular type of payment, or because such Lender failed to notify Agent or any other Person of a change in circumstances which rendered the exemption from, or reduction of, withholding Tax ineffective, failed to maintain a Participant Register or for any other reason), or Agent reasonably determines that it was required to withhold Taxes from a prior payment but failed to do so, such Lender shall promptly indemnify Agent fully for all amounts paid, directly or indirectly, by Agent as Tax or otherwise, including penalties and interest, and together with all expenses incurred by Agent, including legal expenses, allocated internal costs and out-of-pocket expenses. Agent may offset against any payment to any Lender under a Loan Document, any applicable withholding Tax that was required to be withheld from any prior payment to such Lender but which was not so withheld, as well as any other amounts for which Agent is entitled to indemnification from such Lender under this Section 8.8(c).

8.9 Resignation of Agent.

(a) Either Agent may resign at any time by delivering written notice of such resignation to the Lenders and the Borrower Representative, effective on the date set forth in such notice or, if no such date is set forth therein, upon the date such notice shall

be effective in accordance with the terms of this Section 8.9. If Agent delivers any such notice, the Required Lenders shall have the right to appoint a successor Agent, who shall be a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1, with the consent of the Borrower Representative (which consent shall not be unreasonably withheld, conditioned or delayed and shall not be required during the existence of an Event of Default). If, after 30 days after the date of the retiring Agent's notice of resignation, no successor Agent that has been appointed by the Required Lenders has accepted such appointment, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent from among the Lenders. Each appointment under this clause (a) shall be subject to the prior written consent of the Borrower Representative, which may not be unreasonably withheld but shall not be required during the continuance of an Event of Default.

(b) Effective immediately upon its resignation, (i) the retiring Agent shall be discharged from its duties and obligations under the Loan Documents, (ii) the Required Lenders shall assume and perform all of the duties of such retiring Agent until a successor Agent shall have accepted a valid appointment hereunder, (iii) the retiring Agent and its Related Persons shall no longer have the benefit of any provision of any Loan Document other than with respect to any actions taken or omitted to be taken while such retiring Agent was, or because such Agent had been, validly acting as Agent under the Loan Documents and (iv) subject to its rights under Section 8.3, the retiring Agent shall take such action as may be reasonably necessary to assign to the successor Agent its rights as Agent under the Loan Documents. Effective immediately upon its acceptance of a valid appointment as Agent, a successor Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Agent under the Loan Documents.

8.10 Release of Collateral or Guarantors. Each Lender hereby consents to the release and hereby directs Collateral Agent to, and Collateral Agent shall, release (or, in the case of clause (b)(ii) below, release or subordinate) the following:

(a) any Subsidiary of a Borrower from its guaranty of any Secured Obligation if all of the Stock and Stock Equivalents of such Subsidiary owned by any Credit Party are sold or transferred in a transaction permitted under the Loan Documents (including pursuant to a waiver or consent) or such Subsidiary becomes an Excluded Domestic Subsidiary, to the extent that, after giving effect to such transaction, such Subsidiary would not be required to guaranty any Secured Obligations pursuant to Section 4.12; and

(b) any Lien held by Collateral Agent for the benefit of the Secured Parties against (i) any Collateral that is sold, transferred, conveyed or otherwise disposed of by a Credit Party in a transaction permitted by the Loan Documents (including pursuant to a valid waiver or consent), to the extent all Liens required to be granted in such Collateral pursuant to Section 4.12 after giving effect to such transaction have been granted, (ii) any Property subject to a Lien permitted hereunder in reliance upon Section 5.1(h) or (i), (iii) Property that does not constitute Collateral, (iv) Property owned by a Subsidiary that is

released in accordance with clause (a) above and (v) all of the Collateral and all Credit Parties, upon the occurrence of the Facility Termination Date.

Each Lender hereby directs Collateral Agent, and Agent hereby agrees, upon receipt of reasonable advance notice from the Borrower Representative, to execute and deliver or file such documents and to perform other actions reasonably necessary to release the guaranties and Liens when and as directed in this Section 8.10, in each case, at the Borrowers' expense.

8.11 Additional Secured Parties. The benefit of the provisions of the Loan Documents directly relating to the Collateral or any Lien granted thereunder shall extend to and be available to any Secured Party that is not a Lender party hereto as long as, by accepting such benefits, such Secured Party agrees, as among Collateral Agent and all other Secured Parties, that such Secured Party is bound by (and, if requested by Collateral Agent, shall confirm such agreement in a writing in form and substance acceptable to Agent) this Article VIII, Section 9.3, Section 9.9(a), Section 9.10, Section 9.11, Section 9.17 and Section 9.24 and the decisions and actions of Agent and the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders or other parties hereto as required herein) to the same extent a Lender is bound; provided, however, that, notwithstanding the foregoing, (a) such Secured Party shall be bound by Section 8.8 only to the extent of Liabilities, costs and expenses with respect to or otherwise relating to the Collateral held for the benefit of such Secured Party, in which case the obligations of such Secured Party thereunder shall not be limited by any concept of pro rata share or similar concept, (b) each of Collateral Agent, the Lenders party hereto shall be entitled to act at its sole discretion, without regard to the interest of such Secured Party, regardless of whether any Secured Obligation to such Secured Party thereafter remains outstanding, is deprived of the benefit of the Collateral, becomes unsecured or is otherwise affected or put in jeopardy thereby, and without any duty or liability to such Secured Party or any such Secured Obligation and (c) except as otherwise set forth herein, such Secured Party shall not have any right to be notified of, consent to, direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under any Loan Document.

8.12 Intercreditor Agreements. The Agents are authorized by the other Secured Parties to enter into subordination agreements (including any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to such agreements in connection with the incurrence by an Credit Party of any permitted Subordinated Indebtedness in order to permit such Indebtedness to be subordinated), intercreditor and similar agreements in respect of debt and/or liens contemplated by this Agreement or referenced in Section 8.10 and the parties hereto acknowledge that any such agreement (if entered into) will be binding upon them.

8.13 Lead Arranger and Other Agents. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document, the Lead Arrangers, and agents (other than the Agent), if any, shall not have any duties or responsibilities in their respective capacities as such, nor shall the Lead Arrangers and such agents have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other

Loan Document or otherwise exist against the Lead Arrangers or such agents. At any time that any Lender serving (or whose Affiliate is serving) as an agent hereunder shall have transferred to any other Person (other than any Affiliates) all of its interests in the Loans ~~and the Delayed Draw Term Loan Commitment~~, such Lender (or an Affiliate of such Lender acting as an agent) shall be deemed to have concurrently resigned as such agent.

8.14 Credit Bid. Each of the Lenders hereby irrevocably authorizes (and by entering into a Secured Rate Contract or Bank Product (as applicable), each Secured Swap Provider and Bank Product Provider (as applicable) hereby authorizes and shall be deemed to authorize) Collateral and/or Administrative Agent, on behalf of all Secured Parties, to take any of the following actions upon the instruction of the Collateral Agent or the Required Lenders following the occurrence and during the continuance of any Event of Default:

(a) consent to the disposition of all or any portion of the Collateral free and clear of the Liens securing the Secured Obligations in connection with any disposition pursuant to the applicable provisions of the Bankruptcy Code, including Section 363 thereof;

(b) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any disposition of all or any portion of the Collateral pursuant to the applicable provisions of the Bankruptcy Code, including under Section 363 thereof;

(c) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any disposition of all or any portion of the Collateral pursuant to the applicable provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC;

(d) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any foreclosure or other disposition conducted in accordance with applicable law, including by power of sale, judicial action or otherwise; and/or

(e) estimate the amount of any contingent or unliquidated Secured Obligations of such Lender or other Secured Party;

it being understood that no Secured Party shall be required to fund any amount (other than by means of offset) in connection with any purchase of all or any portion of the Collateral by Agent pursuant to the foregoing clauses (b), (c) or (d) without its prior written consent.

Each Secured Party agrees that Agent is under no obligation to credit bid any part of the Secured Obligations or to purchase or retain or acquire any portion of the Collateral; provided that, in connection with any credit bid or purchase described underclauses (b), (c) or (d) of the

preceding paragraph, the Secured Obligations owed to all of the Secured Parties (other than with respect to contingent or unliquidated liabilities as set forth in the next succeeding paragraph) may be, and shall be, credit bid by Agent on a ratable basis.

With respect to each contingent or unliquidated claim that is a Secured Obligation, Agent is hereby authorized, but is not required, to estimate the amount thereof for purposes of any credit bid or purchase described in the second preceding paragraph so long as the estimation of the amount or liquidation of such claim would not unduly delay the ability of Agent to credit bid the Secured Obligations or purchase the Collateral in the relevant disposition. In the event that Agent, in its sole and absolute discretion, elects not to estimate any such contingent or unliquidated claim or any such claim cannot be estimated without unduly delaying the ability of Agent to consummate any credit bid or purchase in accordance with the second preceding paragraph, then any contingent or unliquidated claims not so estimated shall be disregarded, shall not be credit bid, and shall not be entitled to any interest in the portion or the entirety of the Collateral purchased by means of such credit bid.

Each Secured Party whose Secured Obligations are credit bid under clauses (b), (c) or (d) of the third preceding paragraph shall be entitled to receive interests in the Collateral or any other asset acquired in connection with such credit bid (or in the Stock of the acquisition vehicle or vehicles that are used to consummate such acquisition) on a ratable basis in accordance with the percentage obtained by dividing (x) the amount of the Secured Obligations of such Secured Party that were credit bid in such credit bid or other disposition, by (y) the aggregate amount of all Secured Obligations that were credit bid in such credit bid or other disposition.

For purposes of this Section 8.14, "disposition" shall means (a) the sale, lease, conveyance or other disposition of Property and (b) the sale or transfer by a Borrower or any Subsidiary of a Borrower of any Stock issued by any Subsidiary of such Borrower.

8.15 Collateral Agent Advances. (a) The Collateral Agent may from time to time make such disbursements and advances (collectively "Collateral Agent Advances") in an aggregate amount not to exceed $5,000,000 at any time outstanding which the Collateral Agent, in its sole discretion, deems necessary or desirable to preserve, protect, prepare for sale or lease or dispose of the Collateral or any portion thereof, to enhance the likelihood or maximize the amount of repayment by the Borrowers of the Loans and other Obligations or to pay any other amount chargeable to the Borrowers pursuant to the terms of this Agreement, including, without limitation, costs, fees and expenses as described in Section 9.5. The Collateral Agent Advances shall be repayable on demand and be secured by the Collateral and shall bear interest at a rate per annum equal to the rate then applicable to Loans that are Base Rate Loans. The Collateral Agent Advances shall constitute Obligations hereunder. The Collateral Agent shall notify each Lender and the Borrower Representative in writing of each such Collateral Agent Advance, which notice shall include a description of the purpose of such Collateral Agent Advance. Each Lender agrees that it shall make available to the Collateral Agent, upon the Collateral Agent's demand, in Dollars in immediately available funds, the amount equal to such Lender's Commitment Percentage of each such Collateral Agent Advance. If such funds are not made available to the Collateral Agent by such Lender, the Collateral Agent shall be entitled to recover such funds on

demand from such Lender, together with interest thereon for each day from the date such payment was due until the date such amount is paid to the Collateral Agent, at the Federal Funds Rate for three Business Days following such demand and thereafter at the Base Rate.

ARTICLE IX

MISCELLANEOUS

9.1 Amendments and Waivers.

(a) Subject to the provisions of Section 9.1(f) hereof, no amendment, waiver, supplement or other modification of any provision of this Agreement or any other Loan Document (other than the Fee Letter, any Collateral Documents (other than the Guaranty and Security Agreement), or any landlord, bailee or mortgagee agreement, which, in each case, may be amended as provided therein and, if not provided therein, by each of the parties thereto), and no consent with respect to any departure by any Credit Party therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by the Agents with the consent of the Required Lenders), and the Borrowers and then such waiver, modification or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver, modification or consent shall, unless in writing and signed by all the Lenders directly and adversely affected thereby (or by the Agents with the consent of all the Lenders directly and adversely affected thereby), in addition to the Required Lenders (or by the Agents with the consent of the Required Lenders) and the Borrowers, do any of the following:

(i) increase or extend the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 7.2(a));

(ii) postpone or delay any date fixed for, or reduce or waive, any scheduled installment of principal or any payment of interest (other than default rate interest, which may be postponed, delayed, reduced or waived by the Required Lenders), fees or other amounts (other than principal) due to the Lenders (or any of them) hereunder or under any other Loan Document (for the avoidance of doubt, mandatory prepayments pursuant to Section 1.8 (other than scheduled installments under Section 1.8(a)) may be postponed, delayed, reduced, waived or modified with the consent of Required Lenders);

(iii) reduce the principal of, or the rate of interest (other than default rate interest, which may be postponed, delayed or waived by the Required Lenders) specified herein (it being agreed that any waiver or reduction of the default interest margin shall only require the consent of Required Lenders) or the amount of interest payable in cash specified herein on any Loan, or of any fees or other amounts payable hereunder or under any other Loan Documents;

(iv) amend, modify or waive (A) the order in which Secured Obligations are paid or (B) the pro rata sharing of payments by and among the Lenders, in each case in accordance with Section 1.10(c) or any other Section of this Agreement (including voluntary and mandatory prepayments), except in connection with Extended Term Loans as specified in Section 9.1(f)(iii);

(v) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans which shall be required for the Lenders or any of them to take any action hereunder;

(vi) amend this Section 9.1 (other than Section 9.1(e) or, subject to the terms of this Agreement, the definition of Required Lenders, or any provision providing for consent or other action by all Lenders;

(vii) discharge any Credit Party from its respective payment Obligations under the Loan Documents (other than in connection with the release of any Credit Party pursuant to a transaction expressly permitted hereunder or under any other Loan Document), or release all or substantially all of the Collateral, except as otherwise may be provided in this Agreement or the other Loan Documents; or

(viii) subordinate any Loan or any Lien on Collateral to any other Indebtedness or Lien other than as expressly permitted by Section 8.10 hereof.

It being agreed that all Lenders shall be deemed to be directly and adversely affected by an amendment or waiver of the type described in the preceding clauses (v), (vi) and (vii). It being further agreed that the Agents shall receive copies of all final amendments or waivers of this Agreement or any other Loan Documents.

(b) No amendment, waiver or consent shall, unless in writing and signed by Agents, in addition to the Required Lenders or all Lenders directly and adversely affected thereby, as the case may be (or by the Agents with the consent of the Required Lenders or all the Lenders directly and adversely affected thereby, as the case may be), affect the rights or duties of the Agent under this Agreement or any other Loan Document. No amendment, modification or waiver of this Agreement or any Loan Document (i) altering the ratable treatment of Secured Obligations arising under Secured Rate Contracts or Bank Products (as applicable) resulting in such Secured Obligations being junior in right of payment to principal on the Loans or resulting in Secured Obligations owing to any Secured Swap Provider or Bank Product Provider (as applicable) becoming unsecured (other than releases of Liens permitted in accordance with the terms hereof) or (ii) to the definitions of "Secured Obligations", "Rate Contract", "Secured Rate Contract", "Bank Product", "Bank Product Debt" or "Bank Product Provider" (in each case, but only to the extent any such Bank Product Provider has previously provided, to the extent required by the terms of this Agreement, a notice to the Administrative Agent), in each case in a manner adverse to any Secured Swap Provider or Bank Product Provider (as applicable), shall be effective without the written consent of such Secured Swap Provider or such Bank Product Provider (as applicable) (other than in accordance with Section 9.1(a)(vii)).

(c) [Reserved].

(d) This Agreement may be amended with the written consent of the Agents, the Borrower and the Required Lenders to (i) add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the outstanding principal and accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the accrued interest and fees in respect thereof and (ii) include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

(e) Notwithstanding anything to the contrary contained in this Section 9.1, (i) the Borrowers may amend Schedules 3.19 and 3.21 upon notice to the Agents, (ii) Agents may amend Schedules 1.1(a), and 1.1(b) to reflect Sales entered into pursuant to Section 9.9, (iii) Agents and the Borrowers may amend or modify this Agreement and any other Loan Document to (1) cure any ambiguity, omission, defect or inconsistency therein, (2) grant a new Lien for the benefit of the Secured Parties, extend an existing Lien over additional Property for the benefit of the Secured Parties or join additional Persons as Credit Parties, and (3) [Reserved], and (iv) Agents and Borrowers may amend or modify this Agreement or any other Loan Document to reflect any conforming amendments permitted under Section 5.12.

(f) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "**Extension Offer**") made from time to time by Borrower Representative to all Lenders holding Term Loans with a like maturity date on a pro rata basis (based on the aggregate outstanding principal amount of such respective Term Loans) and on the same terms to each such Lender, Borrowers are hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms contained in any such Extension Offers to extend the maturity date and/or commitment termination of each such Lender's Term Loans and, subject to the terms hereof, otherwise modify the terms of such Term Loans pursuant to the terms of the relevant Extension Offer (including by increasing the interest rate and/or fees payable in respect of such Term Loans (and related outstandings) and/or modifying the amortization schedule in respect of such Lender's Term Loans) (each, an "**Extension**"; and each group of Term Loans, so extended, as well as the original Term Loans not so extended, being a separate Class), so long as the following terms are satisfied:

(i) no Default or Event of Default shall have occurred and be continuing at the time the applicable Extension Offer is delivered to the Lenders;

(ii) [Reserved];

(iii) except as to interest rates, original issue discount, fees, amortization, final maturity date, premium, required prepayment dates and participation in prepayments (which shall, subject to immediately succeeding clauses (iv), (v) and (vi), be determined by Borrower Representative and set forth

in the relevant Extension Offer, subject to acceptance by the Extending Term Lenders), the Term Loans of any Term Lender that agrees to an Extension (such commitment, an "**Extended Term Loan Commitment**") with respect to such Term Loans owed to it (an "**Extending Term Lender**") extended pursuant to any Extension ("**Extended Term Loans**") shall have the same terms as the Class of Term Loans subject to such Extension Offer (except for covenants or other provisions contained therein applicable only to periods after the then Latest Maturity Date of the Term Loans extended thereby);

(iv) the final maturity date of any Extended Term Loans shall be no earlier than the Latest Maturity Date of the Term Loans extended thereby and the amortization schedule applicable to Loans pursuant to Section 1.8(a) for periods prior to the original maturity date of the Term Loans shall not be increased;

(v) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the Weighted Average Life to Maturity of the Term Loans extended thereby;

(vi) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not greater than pro rata basis) with non-extended Classes of Term Loans in any voluntary or mandatory prepayments hereunder, in each case as specified in the respective Extension Offer; and

(vii) if the aggregate principal amount of Term Loans (calculated on the outstanding principal amount thereof) in respect of which Term Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans offered to be extended by Borrower Representative pursuant to such Extension Offer, then the Term Loans of such Term Lenders shall be extended ratably up to such maximum amount based on the respective principal or commitment amounts with respect to which such Term Lenders have accepted such Extension Offer.

With respect to all Extensions consummated by Borrowers pursuant to this Section 9.1(f), (i) such Extensions shall not constitute voluntary or mandatory payments or prepayments for purposes of Sections 1.7 or 1.8 and (ii) no Extension Offer is required to be in any minimum amount or any minimum increment; provided that Borrower Representative may at its election specify as a condition to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in Borrower Representative's sole discretion and may be waived by Borrower) of Term Loans of any or all applicable Classes be tendered. Agents and the Lenders hereby consent to the transactions contemplated by this Section (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Term Loans on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit or conflict with any such Extension or any other transaction contemplated by this Section 9.1(f). Any Lender that does not respond to an

Extension Offer by the applicable due date shall be deemed to have rejected such Extension Offer.

No consent of either Agent or any Lender shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Term Loans (or a portion thereof). All Extended Term Loans and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents and secured by the Collateral on a pari passu basis with all other applicable Obligations. The Lenders hereby irrevocably authorize Agents to enter into amendments to this Agreement and the other Loan Documents with Borrowers (on behalf of all Credit Parties) as may be necessary in order to establish new Classes or sub-Classes in respect of Term Loans so extended and such technical amendments as may be necessary in the reasonable opinion of Agents and Borrowers in connection with the establishment of such new Classes or sub-Classes, in each case on terms consistent with this Section 9.1(f). Without limiting the foregoing, in connection with any Extensions the applicable Credit Parties shall (at their expense) amend (and Collateral Agent is hereby directed by the Lenders to amend) any Mortgage that has a maturity date prior to the later of the then latest maturity date of the Term Loans, so that such maturity date referenced therein is extended to the Latest Maturity Date of the Term Loans. Collateral Agent shall promptly notify each Lender of the effectiveness of each such amendment.

In connection with any Extension, Borrower Representative shall provide Agents at least five (5) Business Days (or such shorter period as may be agreed by Agents) prior written notice thereof, and shall agree to such procedures (including regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, Agent, in each case acting reasonably to accomplish the purposes of this Section 9.1(f).

This Section 9.1(f) shall supersede any provisions of this Section 9.1 or Section 9.11 to the contrary.

9.2 Notices.

(a) Addresses. All notices and other communications required or expressly authorized to be made by this Agreement shall be given in writing, unless otherwise expressly specified herein, and (i) addressed to the address set forth on the applicable signature page hereto, (ii) posted to Syndtrak (to the extent such system is available and set up by or at the direction of Agents prior to posting) in an appropriate location by uploading such notice, demand, request, direction or other communication to www.syndtrak.com or using such other means of posting to Syndtrak as may be available and reasonably acceptable to Agents prior to such posting, (iii) posted to any other E-System approved by or set up by or at the direction of Agents or (iv) addressed to such other address as shall be notified in writing (A) in the case of the Borrowers and Agents, to the other parties hereto and (B) in the case of all other parties, to the Borrowers and Agents. Transmissions made by electronic mail or E-Fax to Agents shall be effective only (x) for notices where such transmission is specifically authorized by this Agreement, (y) if such transmission is delivered in compliance with procedures of Agents applicable

at the time and previously communicated to the Borrowers, and (z) if receipt of such transmission is acknowledged by Agents.

(b) Effectiveness.

(i) All communications described in clause (a) above and all other notices, demands, requests and other communications made in connection with this Agreement shall be effective and be deemed to have been received (i) if delivered by hand, upon personal delivery, (ii) if delivered by overnight courier service, one (1) Business Day after delivery to such courier service, (iii) if delivered by mail, three (3) Business Days after deposit in the mail, (iv) if delivered by facsimile (other than to post to an E-System pursuant to clause (a)(ii) or (a)(iii) above), upon sender's receipt of confirmation of proper transmission, (v) if delivered by posting to any E-System, on the later of the Business Day of such posting and the Business Day access to such posting is given to the recipient thereof in accordance with the standard procedures applicable to such E-System and (vi) if delivered by electronic mail, pursuant to sub-clauses (y) and (z) of clause (a) above; provided, however, that no communications to either Agent pursuant to Article I shall be effective until received by such Agent.

(ii) The posting, completion and/or submission by any Credit Party of any communication pursuant to an E-System shall constitute a representation and warranty by the Credit Parties that any representation, warranty, certification or other similar statement required by the Loan Documents to be provided, given or made by a Credit Party in connection with any such communication is true, correct and complete in all material respects except as expressly noted in such communication or E-System.

(c) Each Lender shall notify the Agents in writing of any changes in the address to which notices to such Lender should be directed, of addresses of its Lending Office, of payment instructions in respect of all payments to be made to it hereunder and of such other administrative information as Agent shall reasonably request.

9.3 Electronic Transmissions.

(a) Authorization. Subject to the provisions of Section 9.2(a), each of Agent, Lenders, each Credit Party and each of their Related Persons, is authorized (but not required) to transmit, post or otherwise make or communicate, in its sole discretion, Electronic Transmissions in connection with any Loan Document and the transactions contemplated therein. Each Credit Party and each Secured Party hereto acknowledges and agrees that the use of Electronic Transmissions is not necessarily secure and that there are risks associated with such use, including risks of interception, disclosure and abuse and each indicates it assumes and accepts such risks by hereby authorizing the transmission of Electronic Transmissions.

(b) Signatures. Subject to the provisions of Section 9.2(a), (i)(A) no posting to any E-System shall be denied legal effect merely because it is made electronically, (B) each E-Signature on any such posting shall be deemed sufficient to satisfy any requirement for a "signature" and (C) each such posting shall be deemed sufficient to satisfy any requirement for a "writing", in each case including pursuant to any Loan Document, any applicable provision of any UCC, the federal Uniform Electronic Transactions Act, the Electronic Signatures in Global and National Commerce Act and any substantive or procedural Requirement of Law governing such subject matter, (ii) each such posting that is not readily capable of bearing either a signature or a reproduction of a signature may be signed, and shall be deemed signed, by attaching to, or logically associating with such posting, an E-Signature, upon which Agents, each other Secured Party and each Credit Party may rely and assume the authenticity thereof, (iii) each such posting containing a signature, a reproduction of a signature or an E-Signature shall, for all intents and purposes, have the same effect and weight as a signed paper original and (iv) each party hereto or beneficiary hereto agrees not to contest the validity or enforceability of any posting on any E-System or E-Signature on any such posting under the provisions of any applicable Requirement of Law requiring certain documents to be in writing or signed; provided, however, that nothing herein shall limit such party's or beneficiary's right to contest whether any posting to any E-System or E-Signature has been altered after transmission.

(c) Separate Agreements. All uses of an E-System shall be governed by and subject to, in addition to Section 9.2 and this Section 9.3, the separate terms, conditions and privacy policy posted or referenced in such E-System (or such terms, conditions and privacy policy as may be updated from time to time, including on such E-System) and related Contractual Obligations executed by Agents and Credit Parties in connection with the use of such E-System.

(d) LIMITATION OF LIABILITY. ALL E-SYSTEMS AND ELECTRONIC TRANSMISSIONS SHALL BE PROVIDED "AS IS" AND "AS AVAILABLE". NONE OF AGENTS, ANY LENDER OR ANY OF THEIR RELATED PERSONS WARRANTS THE ACCURACY, ADEQUACY OR COMPLETENESS OF ANY E-SYSTEMS OR ELECTRONIC TRANSMISSION AND DISCLAIMS ALL LIABILITY FOR ERRORS OR OMISSIONS THEREIN. NO WARRANTY OF ANY KIND IS MADE BY AGENTS, ANY LENDER OR ANY OF THEIR RELATED PERSONS IN CONNECTION WITH ANY E-SYSTEMS OR ELECTRONIC COMMUNICATION, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS. Each of the Borrowers, each other Credit Party executing this Agreement and each Secured Party agrees that Agents have no responsibility for maintaining or providing any equipment, software, services or any testing required in connection with any Electronic Transmission or otherwise required for any E-System.

9.4 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of Agents or any Lender, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. No course of dealing between any Credit Party, any Affiliate of any Credit Party, Agents or any Lender shall be effective to amend, modify or discharge any provision of this Agreement or any of the other Loan Documents.

9.5 Costs and Expenses. Any action taken by any Credit Party under or with respect to any Loan Document, even if required under any Loan Document or at the request of Agent or Required Lenders, shall be at the expense of such Credit Party, and neither Agent nor any other Secured Party shall be required under any Loan Document to reimburse any Credit Party or any Subsidiary of any Credit Party therefor except as expressly provided therein. In addition, the Borrowers agree to pay or reimburse promptly following written demand (a) each Agent for all reasonable and documented out-of-pocket costs and expenses incurred by it or any of its Related Persons, in connection with the investigation, development, preparation, negotiation, syndication, execution, interpretation or administration of, any modification of any term of or termination of, any Loan Document, any commitment or proposal letter therefor, any other document prepared in connection therewith or the consummation and administration of any transaction contemplated therein, in each case including (and in the case of legal counsel, limited to) Attorney Costs, (b) subject to Section 4.9, if applicable, each Agent for all reasonable and documented out-of-pocket costs and expenses incurred by it or any of its Related Persons in connection with field examinations and Collateral examinations (which shall be reimbursed, in addition to the reasonable, documented out-of-pocket costs and expenses of such examiners, at the per diem rate per individual charged by Agent for its examiners), (c) each Agent, its Related Persons for all reasonable and documented out-of-pocket costs and expenses (provided that legal fees shall be limited to Attorney Costs) incurred in connection with (i) the creation, perfection and maintenance of the perfection of Collateral Agent's Liens upon the Collateral, including Lien search, filing and recording fees, (ii) any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out", (iii) the enforcement or preservation of any right or remedy under any Loan Document, any Obligation, with respect to the Collateral or any other related right or remedy or any attempt to inspect, verify, protect insure, collect, sell, liquidate or otherwise dispose of any Collateral or (iv) the commencement, defense, conduct of, intervention in, or the taking of any other action (including preparation for and/or response to any subpoena or request for document production relating thereto) with respect to, any proceeding (including any bankruptcy or insolvency proceeding) related to any Credit Party, any Subsidiary of any Credit Party, Loan Document, Obligation or Related Transactions, including Attorney Costs, (d) the cost of purchasing insurance that the Credit Parties fail to obtain as required by the Loan Documents to the extent an Event of Default has resulted therefrom and shall be continuing at the time of such purchase and (e) all reasonable and invoiced fees and out-of-pocket disbursements of one external counsel, any necessary local counsel in each relevant jurisdiction (and, solely in the event of a conflict of interest, one additional primary legal counsel (and, if necessary, one additional local external counsel in each relevant jurisdiction)) on behalf of all Lenders and, if necessary, each Agent, taken as a whole, incurred in connection with any of the matters referred to in clause (c)(ii) through (iv) above.

9.6 Indemnity.

(a) Each Credit Party agrees to indemnify, hold harmless and defend each Agent, and each Lender, and each of their respective Related Persons (each such Person being an "**Indemnitee**") from and against all actual, out-of-pocket Liabilities (including, and in the case of legal fees, limited to Attorney Costs) that may be imposed on, incurred by or asserted against any such Indemnitee (whether brought by a Credit Party, an Affiliate of a Credit Party or any other Person) including any actual or prospective investigation, litigation or other proceeding, whether or not brought by any such Indemnitee or any of its Related Persons, any holders of securities or creditors (and including Attorney Costs), whether or not any such Indemnitee, Related Person, holder or creditor is a party thereto, and whether or not based on any securities or commercial law or regulation or any other Requirement of Law or theory thereof, including common law, equity, contract, tort or otherwise, in each case, in any matter relating to or arising out of, in connection with or as a result of (i) any Loan Document, any commitment letter or fee letter (including the Fee Letter) executed in connection with any Loan Document or any financial accommodation contemplated by a Loan Document, any Obligation (or the repayment thereof), the use or intended use of the proceeds of any Loan or any securities filing of, or with respect to, any Credit Party or (ii) any other act, event or transaction related, contemplated in or attendant to any of the foregoing (collectively, the "**Indemnified Matters**"); provided, however, that no Credit Party shall have any liability under this Section 9.6 to an Indemnitee with respect to any Indemnified Matter, and such Indemnitee shall have any liability with respect to any Indemnified Matter other than (to the extent otherwise liable), to the extent (i) such liability, as determined by a court of competent jurisdiction in a final non-appealable judgment or order, has resulted directly from (A) the gross negligence, bad faith or willful misconduct of such Indemnitee, (B) a material breach by such Indemnitee of its obligations under the Loan Documents or applicable Requirement of Law or (C) a dispute solely among Indemnitees that does not directly involve or result from any act or omission by a Credit Party or its Subsidiaries or Affiliates, or (ii) any settlement of any pending or threatened claim, litigation, investigation or proceeding is effected without the Borrowers' consent (which shall not be unreasonably withheld, conditioned or delayed). Furthermore, each of the Borrowers and each other Credit Party executing this Agreement waives and agrees not to assert against any Indemnitee, and shall cause each other Credit Party to waive and not assert against any Indemnitee, any right of contribution with respect to any Liabilities that may be imposed on, incurred by or asserted against any Related Person. This Section 9.6(a) shall not apply with respect to Taxes other than any Taxes that represent Liabilities arising from any non-Tax claim. Without limiting the foregoing indemnity for Indemnified Matters that include claims for punitive, exemplary, consequential or indirect damages, no party hereto or any of its respective Affiliates, or, as applicable, Approved Funds, shall be liable for any punitive, exemplary, consequential or indirect damages alleged in connection with, arising out of, or relating to, any Liabilities, the Loan Documents, the Loans and Commitments, the use or the proposed use of the proceeds thereof, the Related Transactions, or any other transaction contemplated by this Agreement.

(b) Without limiting the foregoing, "**Indemnified Matters**" includes all Environmental Liabilities imposed on, incurred by or asserted against any Indemnitee, including those arising from, or otherwise involving, any Property of any Credit Party or any Related Person of any Credit Party or any actual, alleged or prospective damage to Property or natural resources or harm or injury alleged to have resulted from any Release of Hazardous Materials on, upon or into such Property or natural resource or any Property on or contiguous to any Real Estate of any Credit Party or any Related Person of any Credit Party, whether or not, with respect to any such Environmental Liabilities, any Indemnitee is a mortgagee pursuant to any leasehold mortgage, a mortgagee in possession, the successor-in-interest to any Credit Party or any Related Person of any Credit Party or the owner, lessee or operator of any Property of any Related Person through any foreclosure action, in each case except to the extent such Environmental Liabilities (i) are incurred solely following foreclosure by Collateral Agent or following Collateral Agent or any Lender having become the successor-in-interest to any Credit Party or any Related Person of any Credit Party and (ii) are attributable solely to acts of such Indemnitee.

9.7 Marshaling; Payments Set Aside. No Secured Party shall be under any obligation to marshal any Property in favor of any Credit Party or any other Person or against or in payment of any Secured Obligation. To the extent that any Secured Party receives a payment from the Borrower, from any other Credit Party, from the proceeds of the Collateral, from the exercise of its rights of setoff, any enforcement action or otherwise, and such payment is subsequently, in whole or in part, invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not occurred.

9.8 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that any assignment by any Lender shall be subject to the provisions of Section 9.9, and provided further that neither the Borrowers nor Holdings may assign or transfer any of its respective rights or obligations under this Agreement without the prior written consent of Agent and each Lender.

9.9 Binding Effect; Assignments and Participations.

(a) Binding Effect. This Agreement shall become effective when it shall have been executed by Holdings, the Borrowers, the other Credit Parties signatory hereto and each Agent and when Administrative Agent shall have been notified by each Lender that such Lender has executed it. Thereafter, it shall be binding upon and inure to the benefit of, but only to the benefit of, Holdings, the Borrowers, the other Credit Parties hereto, each Agent, and each Lender receiving the benefits of the Loan Documents and, to the extent provided in Section 8.11, each other Secured Party and, in each case, their respective successors and permitted assigns. Except as expressly provided in any Loan Document (including in Sections 5.3 and 8.9), none of Holdings, the Borrowers, any

other Credit Party, or any Agent shall have the right to assign any rights or obligations hereunder or any interest herein.

(b) Right to Assign. Each Lender may sell, transfer, negotiate or assign (a "**Sale**") all or a portion of its rights and obligations hereunder (including all or a portion of its Commitments and its rights and obligations with respect to Loans and Letters of Credit) to:

(i) any existing Lender (other than a Non-Funding Lender, Impacted Lender or Excluded Person);

(ii) any Affiliate or Approved Fund of any existing Lender (other than a Non-Funding Lender, Impacted Lender or Excluded Person); or

(iii) any other Person (other than a natural person and, so long as no Event of Default is continuing, an Excluded Person) acceptable (which acceptance shall not be unreasonably withheld or delayed) to Agents (each an "**Eligible Assignee**"); provided, however, that:

(A) [Reserved];

(B) for each Loan, the aggregate outstanding principal amount (determined as of the effective date of the applicable Assignment) of the Loans and Commitments subject to any such Sale shall be in a minimum amount of $1,000,000, unless such Sale is made to an existing Lender or an Affiliate or Approved Fund of any existing Lender, is of the assignor's (together with its Affiliates and Approved Funds) entire interest in such facility or is made with the prior consent of the Borrower Representative (to the extent the Borrower Representative's consent is otherwise required) and Agents;

(C) interest accrued, other than any interest that is payable-in-kind, prior to and through the date of any such Sale may not be assigned; and

(D) such Sales by Lenders who are Non-Funding Lenders due to clause (a) of the definition of Non-Funding Lender shall be subject to Agents' prior written consent in all instances, unless in connection with such sale, such Non-Funding Lender cures, or causes the cure of, its Non-Funding Lender status as contemplated in Section 1.11(e)(v) and shall not be an Impacted Lender.

Agents' refusal to accept a Sale to a holder of Subordinated Indebtedness or a Person that would be a Non-Funding Lender or an Impacted Lender, or the imposition of conditions or limitations (including limitations on voting) upon Sales to such Persons, shall not be deemed to be unreasonable**.**

(c) Procedure. The parties to each Sale made in reliance on clause (b) above (other than those described in clause (e)or (f) below) shall execute and deliver to Administrative Agent an Assignment via an electronic settlement system designated by Administrative Agent (or, if previously agreed with Administrative Agent, via a manual execution and delivery of the Assignment) evidencing such Sale, together with any existing Note subject to such Sale (or any affidavit of loss therefor reasonably acceptable to Administrative Agent and the Borrower Representative (whose consent shall not be unreasonably withheld, conditioned or delayed)), any Tax forms required to be delivered pursuant to Section 10.1 and all other requested "know your customer" documentation and information required by anti-money laundering rules and regulations, including, without limitation, the Patriot Act, and payment of an assignment fee in the amount of $3,500 to Administrative Agent, unless waived or reduced by Administrative Agent; provided that (i) if a Sale by a Lender is made to an Affiliate or an Approved Fund of such assigning Lender, then no assignment fee shall be due in connection with such Sale, and (ii) if a Sale by a Lender is made to an assignee that is not an Affiliate or Approved Fund of such assignor Lender, and concurrently to one or more Affiliates or Approved Funds of such assignee, then only one assignment fee of $3,500 shall be due in connection with such Sale (unless waived or reduced by Administrative Agent). Upon receipt of all the foregoing, and conditioned upon such receipt and, if such Assignment is made in accordance with clause (iii) of Section 9.9(b), upon Agents (and the Borrower Representative, if applicable) consenting to such Assignment, from and after the recordation date specified in such Assignment, Administrative Agent shall record or cause to be recorded in the Register the information contained in such Assignment.

(d) Effectiveness. Subject to the recording of an Assignment by Administrative Agent in the Register pursuant to Section 1.4(b), (i) the assignee thereunder shall become a party hereto and, to the extent that rights and obligations under the Loan Documents have been assigned to such assignee pursuant to such Assignment, shall have the rights and obligations of a Lender, (ii) any applicable Note shall be transferred to such assignee through such entry and (iii) the assignor thereunder shall, to the extent that rights and obligations under this Agreement have been assigned by it pursuant to such Assignment, relinquish its rights (except for those surviving the termination of the Commitments and the payment in full of the Secured Obligations) and be released from its obligations under the Loan Documents, other than those relating to events or circumstances occurring prior to such assignment (and, in the case of an Assignment covering all or the remaining portion of an assigning Lender's rights and obligations under the Loan Documents, such Lender shall cease to be a party hereto).

(e) Grant of Security Interests. In addition to the other rights provided in this Section 9.9, each Lender may grant a security interest in, or otherwise assign as collateral, any of its rights under this Agreement, whether now owned or hereafter acquired (including rights to payments of principal or interest on the Loans), to (A) any federal reserve bank (pursuant to Regulation A of the Federal Reserve Board), without notice to Agents or (B) any holder of, or trustee for the benefit of the holders of, such Lender's Indebtedness or equity securities, by notice to Agents; provided, however, that

no such holder or trustee, whether because of such grant or assignment or any foreclosure thereon (unless such foreclosure is made through an assignment in accordance with clause (b) above), shall be entitled to any rights of such Lender hereunder and no such Lender shall be relieved of any of its obligations hereunder.

(f) Participants and SPVs. In addition to the other rights provided in this Section 9.9, each Lender may, (x) with notice to Agents, grant to an SPV the option to make all or any part of any Loan that such Lender would otherwise be required to make hereunder (and the exercise of such option by such SPV and the making of Loans pursuant thereto shall satisfy the obligation of such Lender to make such Loans hereunder) and such SPV may assign to such Lender the right to receive payment with respect to any Obligation and (y) without notice to or consent from Agents or the Borrowers, sell participations to one or more Persons other than an Excluded Person, a Credit Party, a Founder Group Member or an Affiliate of a Credit Party or a Founder Group Member in or to all or a portion of its rights and obligations under the Loan Documents (including all its rights and obligations with respect to the Term Loans ~~and the Delayed Draw Term Loan Commitment~~); provided, however, that, whether as a result of any term of any Loan Document or of such grant or participation, (i) no such SPV or participant shall have a commitment, or be deemed to have made an offer to commit, to make Loans hereunder, and, except as provided in the applicable option agreement, none shall be liable for any obligation of such Lender hereunder, (ii) such Lender's rights and obligations, and the rights and obligations of the Credit Parties and the Secured Parties towards such Lender, under any Loan Document shall remain unchanged and each other party hereto shall continue to deal solely with such Lender, which shall remain the holder of the Obligations in the Register, except that (A) each such participant and SPV shall be entitled to the benefit of Article X, but, with respect to Section 10.1 and Section 10.3, such participant and SPV shall be subject to the requirements and limitations therein, and shall be entitled to the benefits thereunder only to the extent such participant or SPV delivers the Tax forms required to be delivered pursuant to Section 10.1(g) to the same extent as if it were a Lender (it being understood that the documentation required under Section 10.1(g) shall be delivered to the Participating Lender) and to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section and (B) each such SPV may receive other payments that would otherwise be made to such Lender with respect to Loans funded by such SPV to the extent provided in the applicable option agreement and set forth in a notice provided to Agents by such SPV and such Lender, provided, however, that in no case (including pursuant to clause (A) or (B) above) shall an SPV or participant have the right to enforce any of the terms of any Loan Document, and (iii) the consent of such SPV or participant shall not be required (either directly, as a restraint on such Lender's ability to consent hereunder or otherwise) for any amendments, waivers or consents with respect to any Loan Document or to exercise or refrain from exercising any powers or rights such Lender may have under or in respect of the Loan Documents (including the right to enforce or direct enforcement of the Obligations), except for those described in clauses (ii) and (iii) of Section 9.1(a) with respect to amounts, or dates fixed for payment of amounts, to which such participant or SPV would otherwise be entitled

and, in the case of participants, except for those described in clause (vii) of Section 9.1(a). No party hereto shall institute (and the Borrowers and Holdings shall cause each other Credit Party not to institute) against any SPV grantee of an option pursuant to this clause (f) any bankruptcy, reorganization, insolvency, liquidation or similar proceeding, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper of such SPV; provided, however, that each Lender having designated an SPV as such agrees to indemnify each Indemnitee against any Liability that may be incurred by, or asserted against, such Indemnitee as a result of failing to institute such proceeding (including a failure to be reimbursed by such SPV for any such Liability). The agreement in the preceding sentence shall survive the termination of the Commitments and the payment in full of the Secured Obligations. Each Lender that makes a grant to an SPV or sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each SPV or participant and the principal amounts (and stated interest) of each SPV's 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 SPV or participant or any information relating to an SPV's or 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 or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations or where disclosure is otherwise required under the Code or 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, Agents shall have no responsibility for maintaining a Participant Register.

9.10 Non-Public Information; Confidentiality.

(a) MNPI. Each Agent and each Lender acknowledges and agrees that it may receive material non-public information ("**MNPI**") hereunder concerning the Credit Parties and their Affiliates and agrees to use such information in compliance with all relevant policies, procedures and applicable Requirements of Laws (including United States federal and state securities laws and regulations).

(b) Confidential Information. Each Agent and each Lender agrees to maintain the confidentiality of information obtained by it pursuant to any Loan Document (it being understood and agreed that all such information shall be deemed to be confidential except to the extent designated in writing by any Credit Party as non-confidential), except that such information may be disclosed, solely, as applicable, in the scope necessary for each subsequently stated purpose, (i) with the Borrower Representative's consent, (ii) on a "need to know" basis to Related Persons of such Lender or Agent, as the case may be, in each case, in connection with matters arising out of this Agreement and that are advised of the confidential nature of such information and are instructed to keep such information

confidential in accordance with the terms hereof, (iii) to the extent such information presently is or hereafter becomes (A) publicly available other than as a result of a breach of this Section 9.10 or (B) available to such Lender or Agent or any of their Related Persons, as the case may be, on a non-confidential basis from a source (other than any Credit Party or any of its representatives) not in violation of any confidentiality agreement or obligation owed to any Credit Party or its Related Persons with respect thereto, (iv) to the extent disclosure is required by applicable Requirements of Law or other compulsory legal process or requested or demanded by any Governmental Authority; provided, unless prohibited by Requirement of Law or court order, such Lender or Agent, as the case may be, shall make reasonable efforts to notify the Borrower Representative of any request by any Governmental Authority or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Person by such Governmental Authority) for disclosure of any such nonpublic information prior to disclosure of such information or, in any case, promptly notify the Borrower Representative thereof after such disclosure, (v) to the extent necessary or customary for inclusion in league table measurements (which disclosure shall not include any information other than the names of the Credit Parties and Secured Parties and customarily reported terms with respect to this Agreement), (vi) (A) to the National Association of Insurance Commissioners or any similar organization, any examiner or any nationally recognized rating agency or (B) otherwise to the extent consisting of general portfolio information that does not identify Credit Parties, (vii) on a "need to know" basis to current or prospective assignees, SPVs (including the investors or prospective investors therein), participants or any Eligible Assignee, direct or contractual counterparties to any Secured Rate Contracts and to their respective Related Persons, in each case to the extent such assignees, investors, participants, counterparties or Related Persons agree in writing to be bound by provisions substantially similar to the provisions of this Section 9.10 (and such Person may disclose information to their respective Related Persons in accordance with clause (ii) above), (viii) to any other party hereto, and (ix) in connection with the exercise or enforcement of any right or remedy under any Loan Document, in connection with any litigation or other proceeding to which such Lender or Agent or any of their Related Persons is a party or bound, or to the extent necessary to respond to public statements or disclosures by Credit Parties or their Related Persons referring to a Lender or Agent or any of their Related Persons. In addition, the Agents and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments. In the event of any conflict between the terms of this Section 9.10 and those of any other Contractual Obligation entered into with any Credit Party (whether or not a Loan Document), the terms of this Section 9.10 shall govern.

(c) Tombstones. The publication by Agents or any Lender of any press releases, tombstones, advertising or other promotional materials (including via any Electronic Transmission) relating to the financing transactions contemplated by this Agreement using Holdings' and the Borrowers' names, product photographs, logo or

trademark; and all contents thereof, are subject to the prior written consent of the Borrower Representative (not to be unreasonably withheld or delayed).

(d) Press Release and Related Matters. No Credit Party shall, and no Credit Party shall permit any of its Affiliates to, issue any press release or other public disclosure (other than any document filed with any Governmental Authority relating to a public offering of securities of any Credit Party) using the name, logo or otherwise referring to RCS or of any of its Affiliates, the Loan Documents or any transaction contemplated herein or therein to which RCS or any of its Affiliates is party without the prior written consent of RCS or such Affiliate (not to be unreasonably withheld or delayed) except to the extent required to do so under applicable Requirements of Law and then, unless prohibited by applicable Requirements of Law or a court order, only after consulting with RCS.

(e) Distribution of Materials to Lenders. The Credit Parties acknowledge and agree that the Loan Documents and all reports, notices, communications and other information or materials provided or delivered by, or on behalf of, the Credit Parties hereunder (collectively, the "**Borrower Materials**") may be disseminated by, or on behalf of, Administrative Agent, and made available, to the Lenders by posting such Borrower Materials on an E-System. The Credit Parties authorize Agents to download copies of their logos from its website and post copies thereof on an E-System.

(f) Material Non-Public Information. The Credit Parties hereby agree that if either they, Holdings or any Subsidiary of the Credit Parties has publicly traded equity or debt securities in the United States, they shall (and shall cause Holdings or Subsidiary, as the case may be, to) (i) identify in writing, and (ii) to the extent reasonably practicable, clearly and conspicuously mark such Borrower Materials that contain only information that is publicly available or that is not material for purposes of United States federal and state securities laws as "PUBLIC". The Credit Parties agree that by identifying such Borrower Materials as "PUBLIC" or publicly filing such Borrower Materials with the Securities and Exchange Commission, then Agents and the Lenders shall be entitled to treat such Borrower Materials as not containing any MNPI for purposes of United States federal and state securities laws. The Credit Parties further represent, warrant, acknowledge and agree that the following documents and materials shall be deemed to be PUBLIC, whether or not so marked, and do not contain any MNPI: (A) the Loan Documents, including the schedules and exhibits attached thereto, and (B) administrative materials of a customary nature prepared by the Credit Parties or Agents (including, Notices of Borrowing, Notices of Conversion/Continuation, swingline requests and any similar requests or notices posted on or through an E-System). Before distribution of Borrower Materials, the Credit Parties agree to execute and deliver to Agents a letter authorizing distribution of the evaluation materials to prospective Lenders and their employees willing to receive MNPI, and a separate letter authorizing distribution of evaluation materials that do not contain MNPI and represent that no MNPI is contained therein.

9.11 Set-off; Sharing of Payments.

(a) Right of Setoff. Each Agent and each Lender and each Affiliate (including each branch office thereof) of any of them is hereby authorized, without notice or demand (each of which is hereby waived by each Credit Party), at any time and from time to time during the continuance of any Event of Default and to the fullest extent permitted by applicable Requirements of Law, to set off and apply any and all deposits (whether general or special, time or demand, provisional or final) at any time held and other Indebtedness, claims or other obligations at any time owing by Agent, such Lender, or any of their respective Affiliates to or for the credit or the account of the Borrowers or any other Credit Party against any Obligation of any Credit Party now or hereafter existing, whether or not any demand was made under any Loan Document with respect to such Obligation and even though such Obligation may be unmatured. No Lender shall exercise any such right of setoff without the prior consent of Agents or the Required Lenders. Each Agent and each Lender agrees promptly to notify the Borrower Representative and Agents after any such setoff and application made by such Lender or its Affiliates; provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights under this Section 9.11 are in addition to any other rights and remedies (including other rights of setoff) that Agent, the Lenders, their Affiliates and the other Secured Parties, may have.

(b) Sharing of Payments, Etc. If any Lender, directly or through an Affiliate or branch office thereof, obtains any payment of any Obligation of any Credit Party (whether voluntary, involuntary or through the exercise of any right of setoff or the receipt of any Collateral or "proceeds" (as defined under the applicable UCC) of Collateral) (and other than pursuant to Section 9.9, Section 9.22, Article X or any payment to a Lender that has not accepted an Extension Offer in respect of the original terms of those of its Loan and Commitments that, as to Lenders that accepted such Extension Offer, were extended as to such Lenders) and such payment exceeds the amount such Lender would have been entitled to receive if all payments had gone to, and been distributed by, Administrative Agent in accordance with the provisions of the Loan Documents, such Lender shall purchase for cash from other Lenders such participations in their Obligations as necessary for such Lender to share such excess payment with such Lenders to ensure such payment is applied as though it had been received by Administrative Agent and applied in accordance with this Agreement (or, if such application would then be at the discretion of the Borrowers, applied to repay the Obligations in accordance herewith); provided, however, that (i) if such payment is rescinded or otherwise recovered from such Lender in whole or in part, such purchase shall be rescinded and the purchase price therefor shall be returned to such Lender without interest and (ii) such Lender shall, to the fullest extent permitted by applicable Requirements of Law, be able to exercise all its rights of payment (including the right of setoff) with respect to such participation as fully as if such Lender were the direct creditor of the applicable Credit Party in the amount of such participation. If a Non-Funding Lender or Impacted Lender receives any such payment as described in the previous

sentence, such Lender shall turn over such payments to Administrative Agent in an amount that would satisfy the cash collateral requirements set forth in Section 1.11(e).

9.12 Counterparts; Electronic Transmission. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. Delivery of an executed signature page of this Agreement by facsimile transmission or Electronic Transmission shall be as effective as delivery of a manually executed counterpart hereof.

9.13 Severability. The illegality or unenforceability of any provision of this Agreement or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder.

9.14 Captions. The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

9.15 Independence of Provisions. The parties hereto acknowledge that this Agreement and the other Loan Documents may use several different limitations, tests or measurements to regulate the same or similar matters, and that such limitations, tests and measurements are cumulative and must each be performed, except as expressly stated to the contrary in this Agreement.

9.16 Interpretation. This Agreement is the result of negotiations among and has been reviewed by counsel to Credit Parties, Agents, each Lender and other parties hereto, and is the product of all parties hereto. Accordingly, this Agreement and the other Loan Documents shall not be construed against the Lenders or Agents merely because of Agents' or Lenders' involvement in the preparation of such documents and agreements. Without limiting the generality of the foregoing, each of the parties hereto has had the advice of counsel with respect to Sections 9.18 and 9.19.

9.17 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and legal benefit of the Borrowers and the Lenders party hereto**,** Agents and, subject to the provisions of Section 8.11, each other Secured Party, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents. Neither Agent nor any Lender shall have any obligation to any Person not a party to this Agreement or the other Loan Documents.

9.18 Governing Law and Jurisdiction.

(a) Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Agreement, including its validity, interpretation, construction, performance and enforcement (including any claims

sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest).

(b) Submission to Jurisdiction. Any legal action or proceeding with respect to any Loan Document shall be brought exclusively in the courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America for the Southern District of New York and, by execution and delivery of this Agreement, each Person executing this Agreement hereby accepts for itself and in respect of its Property, generally and unconditionally, the jurisdiction of the aforesaid courts; provided that nothing in this Agreement shall limit the right of any Agent to commence any proceeding in the federal or state courts of any other jurisdiction to the extent such Agent reasonably determines that such action is necessary or appropriate to exercise its rights or remedies under the Loan Documents with respect to the Collateral. The parties hereto (and, to the extent set forth in any other Loan Document, each other Credit Party) hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum *non conveniens*, that any of them may now or hereafter have to the bringing of any such action or proceeding in courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America for the Southern District of New York.

(c) Service of Process. Each party hereto hereby irrevocably waives personal service of any and all legal process, summons, notices and other documents and other service of process of any kind and consents to such service in any suit, action or proceeding brought in the United States with respect to or otherwise arising out of or in connection with any Loan Document by any means permitted by applicable Requirements of Law, including by the mailing thereof (by registered or certified mail, postage prepaid) to the address of such party specified herein (and shall be effective when such mailing shall be effective, as provided therein). Each party hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(d) Non-Exclusive Jurisdiction. Nothing contained in this Section 9.18 shall affect the right of any Agent or any Lender to serve process in any other manner permitted by applicable Requirements of Law or commence legal proceedings or otherwise proceed against any Credit Party in any other jurisdiction.

9.19 Waiver of Jury Trial. THE PARTIES HERETO, TO THE EXTENT PERMITTED BY LAW, WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, IN CONNECTION WITH OR RELATING TO, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ANY OTHER TRANSACTION CONTEMPLATED HEREBY AND THEREBY. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE. EACH PARTY HERETO (A) CERTIFIES THAT NO OTHER PARTY AND NO RELATED PERSON 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 THE LOAN DOCUMENTS, AS APPLICABLE, BY THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

9.20 Entire Agreement; Release; Survival.

(a) THE LOAN DOCUMENTS EMBODY THE ENTIRE AGREEMENT OF THE PARTIES AND SUPERSEDE ALL PRIOR AGREEMENTS AND UNDERSTANDINGS RELATING TO THE SUBJECT MATTER THEREOF AND ANY PRIOR LETTER OF INTEREST, COMMITMENT LETTER, CONFIDENTIALITY AND SIMILAR AGREEMENTS INVOLVING ANY CREDIT PARTY AND ANY LENDER OR ANY OF THEIR RESPECTIVE AFFILIATES RELATING TO A FINANCING OF SUBSTANTIALLY SIMILAR FORM, PURPOSE OR EFFECT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS AGREEMENT AND ANY OTHER LOAN DOCUMENT, THE TERMS OF THIS AGREEMENT SHALL GOVERN (UNLESS OTHERWISE EXPRESSLY STATED IN SUCH OTHER LOAN DOCUMENTS OR SUCH TERMS OF SUCH OTHER LOAN DOCUMENTS ARE NECESSARY TO COMPLY WITH APPLICABLE REQUIREMENTS OF LAW, IN WHICH CASE SUCH TERMS SHALL GOVERN TO THE EXTENT NECESSARY TO COMPLY THEREWITH).

(b) In no event shall any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings). Each of the Credit Parties and the Secured Parties hereby waives, releases and agrees (and, with respect to the Credit Parties, shall cause each other Credit Party to waive, release and agree) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(c) (i) Any indemnification or other protection provided to any Indemnitee pursuant to this Section 9.20, Sections 9.5 (Costs and Expenses), and 9.6 (Indemnity), and Article VIII (Agents) and Article X (Taxes, Yield Protection and Illegality), and (ii) the provisions of Section 8.1 of the Guaranty and Security Agreement, in each case, shall (x) survive the termination of the Commitments and the payment in full of all other Secured Obligations and (y) with respect to clause (i) above, inure to the benefit of any Person that at any time held a right thereunder (as an Indemnitee or otherwise) and, thereafter, its successors and permitted assigns.

9.21 USA Patriot Act; Beneficial Ownership Regulation. Each Lender that is subject to the USA Patriot Act (and Agents (for themselves and not on behalf of any Lender)) hereby notifies the Credit Parties that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Lender or Agent to identify each Credit Party in accordance with the USA Patriot Act. The Credit Parties shall, promptly following a request by Agent or any Lender, provide all

documentation and other information that Agent or such Lender reasonably requests in order to comply with its ongoing obligations under the Beneficial Ownership Regulation.

9.22 Replacement of Lender. Within forty-five days after: (i) receipt by the Borrower Representative of written notice and demand from (A) any Lender (an "**Affected Lender**") for payment of additional costs as provided in Sections 10.1, 10.3 and/or 10.6 or that has become a Non-Funding Lender or Impacted Lender or (B) any SPV or participant (an "**Affected SPV/Participant**") for payment of additional costs as provided in Section 9.9(f), unless the option or participation of such Affected SPV/Participant shall have been terminated prior to the exercise by Borrower Representative of its rights hereunder; or (ii) any failure by any Lender (other than Agent or an Affiliate of Agent) to consent to a requested amendment, waiver or modification to any Loan Document in which Required Lenders (or the relevant directly affected Lenders holding a majority of the Loans and Commitments of such group of directly affected Lenders) have already consented to such amendment, waiver or modification but the consent of each Lender (or each Lender directly affected thereby, as applicable) is required with respect thereto, or any failure by any Lender to accept any Extension Offer, the Borrower Representative may, at its option, notify (A) in the case of clause (i)(A) or (ii) above, Agents and such Affected Lender (or such non-consenting Lender) of the Borrower Representative's intention to obtain, at the Borrowers' expense, a replacement Lender ("**Replacement Lender**") for such Affected Lender (or such non-consenting Lender), or (B) in the case of clause (i)(B) above, Agents, such Affected SPV/Participant, if known, and the applicable Lender (such Lender, a "**Participating Lender**") that (1) granted to such Affected SPV/Participant the option to make all or any part of any Loan that such Participating Lender would otherwise be required to make hereunder or (2) sold to such Affected SPV/Participant a participation in or to all or a portion of its rights and obligations under the Loan Documents, of the Borrower Representative's intention to obtain, at the Borrowers' expense, a Replacement Lender for such Participating Lender, in each case, which Replacement Lender shall be reasonably satisfactory to Agents. In the event the Borrower Representative obtains a Replacement Lender within forty-five (45) days following notice of its intention to do so, the Affected Lender (or such non-consenting Lender) or Participating Lender, as the case may be, shall sell and assign its Loans and Commitments to such Replacement Lender (provided that no Excluded Person may be a Replacement Lender), at par, provided that the Borrowers have reimbursed such Affected Lender or Affected SPV/Participant, as applicable, for its increased costs for which it is entitled to reimbursement under this Agreement through the date of such sale and assignment, and in the case of a Participating Lender being replaced by a Replacement Lender, (x) all right, title and interest in and to the Obligations and Commitments so assigned to the Replacement Lender shall be assigned free and clear of all Liens or other claims (including pursuant to the underlying option or participation granted or sold to the Affected SPV/Participant, but without affecting any rights, if any, of the Affected SPV/Participant to the proceeds constituting the purchase price thereof) of the Affected SPV/Participant, and (y) to the extent required by the underlying option or participation documentation, such Participating Lender shall apply all or a portion of the proceeds received by it as a result of such assignment, as applicable, to terminate in full the option or participation of such Affected SPV/Participant. In the event that a replaced Lender does not execute an Assignment pursuant to Section 9.9 within five (5) Business Days after receipt by such replaced Lender of notice of replacement pursuant to this Section 9.22 and presentation to such replaced

Lender of an Assignment evidencing an assignment pursuant to this Section 9.22, the Borrower Representative shall be entitled (but not obligated) to execute such an Assignment on behalf of such replaced Lender, and any such Assignment so executed by the Borrower Representative, the Replacement Lender (provided that no Excluded Person may be a Replacement Lender) and Agents, shall be effective for purposes of this Section 9.22 and Section 9.9. Notwithstanding the foregoing, with respect to a Lender that is a Non-Funding Lender or Impacted Lender, Agents may, but shall not be obligated to, obtain a Replacement Lender (provided that no Excluded Person may be a Replacement Lender) and execute an Assignment on behalf of such Non-Funding Lender or Impacted Lender at any time with three (3) Business Days' prior notice to such Lender (unless notice is not practicable under the circumstances) and cause such Lender's Loans and Commitments to be sold and assigned, in whole or in part, at par. Upon any such assignment and payment and compliance with the other provisions of Section 9.9, such replaced Lender shall no longer constitute a "**Lender**" for purposes hereof; provided, any rights of such replaced Lender to indemnification hereunder shall survive.

9.23 Joint and Several. The obligations of the Credit Parties hereunder and under the other Loan Documents are joint and several. Without limiting the generality of the foregoing, reference is hereby made to Article II of the Guaranty and Security Agreement, to which the obligations of the Borrowers and the other Credit Parties are subject.

9.24 Creditor-Debtor Relationship. The relationship between Agents and each Lender on the one hand, and the Credit Parties, on the other hand, is solely that of creditor and debtor. No Secured Party has any fiduciary relationship or duty to any Credit Party arising out of or in connection with, and there is no agency, tenancy or joint venture relationship between the Secured Parties and the Credit Parties by virtue of, any Loan Document or any transaction contemplated therein.

9.25 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 Credit Party to honor all of its payment obligations under the Guaranty and Security Agreement in respect of Swap Obligations under any Secured Rate Contract (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 9.25 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 9.25, or otherwise under the Guaranty and Security Agreement, voidable under applicable Requirements of Law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 9.25 shall remain in full force and effect until the guarantees in respect of Swap Obligations under each Secured Rate Contract have been discharged, or otherwise released or terminated in accordance with the terms of this Agreement. Each Qualified ECP Guarantor intends that this Section 9.25 constitute, and this Section 9.25 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Credit Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

9.26 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement,

arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

9.27 Borrower Representative. Each Borrower hereby designates and appoints Holdings as its representative and agent on its behalf (the "**Borrower Representative**") for the purposes of (a) issuing Notices of Borrowing, Notices of Conversion/Continuation, swingline requests and any similar requests or notices, (b) delivering certificates, including Compliance Certificates, (c) giving instructions with respect to the disbursement of the proceeds of the Loans, (d) selecting interest rate options, giving and receiving all other notices and consents hereunder or under any of the other Loan Documents and (e) taking all other actions (including in respect of compliance with covenants, but without relieving any other Borrower of its joint and several obligations to pay and perform the Obligations) on behalf of any Borrower or the Borrowers under the Loan Documents. The Borrower Representative hereby accepts such appointment. Agents and each Lender may regard any notice or other communication pursuant to any Loan Document from the Borrower Representative as a notice or communication from all Borrowers. Each warranty, covenant, agreement and undertaking made on behalf of a Borrower by the Borrower Representative shall be deemed for all purposes to have been made by such Borrower and shall be binding upon and enforceable against such Borrower to the same extent as if the same had been made directly by such Borrower.

ARTICLE X

TAXES, YIELD PROTECTION AND ILLEGALITY

10.1 Taxes.

(a) Except as required by a Requirement of Law, each payment by any Credit Party under any Loan Document shall be made free and clear of 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) with respect thereto (collectively, "**Taxes**").

(b) If any Taxes shall be required by any Requirement of Law (as determined in good faith discretion of the relevant Credit Party or other withholding agent) to be deducted or withheld from or in respect of any amount payable under any Loan Document to any Lender or Agent (each, a "**Recipient**") then (i) if such Tax is an Indemnified Tax, such amount payable by the Credit Party shall be increased as necessary to ensure that, after all required deductions for Indemnified Taxes are made (including deductions applicable to any increases to any amount under this Section 10.1), such Recipient receives the amount it would have received had no such deductions been made, (ii) the relevant withholding agent shall make such deductions or withholdings, (iii) the relevant withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Requirements of Law and (iv) as soon as practicable after such payment is made, the relevant Credit Party shall deliver to Administrative Agent an original or certified copy of a receipt issued by such Governmental Authority evidencing such payment or other evidence of payment reasonably satisfactory to Administrative Agent.

(c) In addition, but without duplication of amounts otherwise payable by a Credit Party pursuant to this Article X, the Borrowers agree to pay, and authorizes Administrative Agent to pay in its name, any stamp, court or documentary, intangible, recording, filing or similar Tax imposed by any applicable Requirement of Law or Governmental Authority and all interest, additions to tax, or penalties with respect thereto (including by reason of any delay in payment thereof), in each case 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, grant of a participation, designation of a new office for receiving payments by or on account of the Borrowers or other transfer (other than an assignment or designation of a new office made pursuant to Section 9.22) (collectively, "**Other Taxes**"). As soon as practicable after the date of any payment of Other Taxes by any Credit Party, the Borrowers shall furnish to Administrative Agent, at its address referred to in Section 9.2, the original or a certified copy of a receipt issued by the relevant Governmental Authority evidencing payment thereof or other evidence of payment reasonably satisfactory to Administrative Agent.

(d) The Borrowers shall reimburse and indemnify, within ten (10) days after receipt of demand therefor (with copy to Administrative Agent), each Recipient for all Indemnified Taxes (including any Indemnified Taxes imposed by any jurisdiction on amounts payable under this Section 10.1) paid or payable by such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally asserted. A certificate of the Recipient (or of Agent on behalf of such Recipient) claiming any compensation under this clause (d), setting forth in reasonable detail the nature and amounts of Indemnified Taxes to be paid thereunder and delivered to the Borrower with copy to Administrative Agent, shall be conclusive absent manifest error.

(e) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 10.1 shall not constitute a waiver of such Lender's right to demand such compensation; provided, however that the Borrowers shall not be required to compensate a Lender pursuant to this Section 10.1 for any Indemnified Taxes incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative of the event giving rise to such Indemnified Tax and of such Lender's intention to claim compensation therefor; provided further, that if the event giving rise to such Indemnified Tax is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(f) Any Lender claiming any additional amounts payable pursuant to this Section 10.1 shall use its reasonable efforts (consistent with its internal policies of general application and Requirements of Law) to change the jurisdiction of its Lending Office if such a change would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender. In determining such amount, Agent and such Lender may use any reasonable averaging and attribution methods.

(g)

(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 Representative and the Administrative Agent, at the time or times reasonably requested by the Borrower Representative or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower Representative 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 Representative or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower Representative or the Administrative Agent as will enable the Borrower Representative 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 described in this paragraph (g)(i) (other than such documentation set forth in paragraphs (g)(ii), (iii) and (iv) of this Section) 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) Each Non-U.S. Lender Party that, at any of the following times, is entitled to an exemption from United States withholding Tax or, is subject to such withholding Tax at a reduced rate under an applicable Tax treaty, shall (w) on or prior to the date such Non-U.S. Lender Party becomes a "Non-U.S. Lender Party" hereunder, (x) on or prior to the date on which any such form or certification expires or becomes obsolete, (y) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (ii) and (z) from time to time if reasonably requested by the Borrower Representative or Administrative Agent and at the time or times prescribed by a Requirement of Law (or, in the case of a participant or SPV, the relevant Lender), provide Administrative Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed and executed originals of each of the following, as applicable: (A) Forms W-8ECI (claiming exemption from U.S. withholding Tax because the income is effectively connected with a U.S. trade or business), W-8BEN or W-8BEN-E (claiming exemption from, or a reduction of, U.S. withholding Tax under an income Tax treaty (x) with respect to payments of interest under any Loan Document, pursuant to the "interest" article of such tax treaty, and (y) with respect to any other payments under any Loan Document, pursuant to the "business profits" or "other income" article of such tax treaty) and/or W-8IMY (together with appropriate forms, certifications and supporting statements from each beneficial owner, as applicable) or any successor forms, (B) in the case of a Non-U.S. Lender Party claiming exemption under Sections 871(h) or 881(c) of the Code, Form W-8BEN or W-8BEN-E (claiming exemption from U.S. withholding Tax under the portfolio interest exemption) or any successor form and a certificate in form and substance acceptable to Administrative Agent that such Non-U.S. Lender Party is not (1) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (2) a "10 percent shareholder" of Holdings or a Borrower within the meaning of Section 881(c)(3)(B) of the Code or (3) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code or (C) any other applicable document prescribed by the IRS certifying as to the entitlement of such Non-U.S. Lender Party to such exemption from United States withholding Tax or reduced rate with respect to all payments to be made to such Non-U.S. Lender Party under the Loan Documents. Unless the Borrower Representative and Administrative Agent have received forms or other documents reasonably satisfactory to them indicating that payments under any Loan Document to or for a Non-U.S. Lender Party are not subject to United States withholding Tax or are subject to such Tax at a rate reduced by an applicable Tax

treaty, the Credit Parties and Administrative Agent shall be entitled to withhold amounts required to be withheld by applicable Requirements of Law from such payments at the applicable statutory rate.

(iii) Each U.S. Lender Party shall (A) on or prior to the date such U.S. Lender Party becomes a "U.S. Lender Party" hereunder, (B) on or prior to the date on which any such form or certification expires or becomes obsolete, (C) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (iii) and (D) from time to time if reasonably requested by the Borrower Representative or Administrative Agent and at the time or times prescribed by a Requirement of Law (or, in the case of a participant or SPV, the relevant Lender), provide Administrative Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed and executed originals of Form W-9 (certifying that such U.S. Lender Party is entitled to an exemption from U.S. backup withholding Tax) or any successor form.

(iv) Each Lender having sold a participation in any of its Obligations or identified an SPV as such to Administrative Agent shall collect from such participant or SPV the documents described in this clause (g) and provide them to Administrative Agent.

(v) If a payment made to a Lender Party would be subject to United States federal withholding Tax imposed by FATCA if such Lender Party fails to comply with the applicable reporting requirements of FATCA (including those contained in Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender Party shall deliver to Administrative Agent and the Borrower Representative at the time or times prescribed by law and at such time or times reasonably requested by Borrower Representative or Administrative Agent any documentation under any Requirement of Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) or reasonably requested by Administrative Agent or the Borrower Representative sufficient for Administrative Agent or the Borrowers to comply with their obligations under FATCA and to determine that such Lender Party has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for the purposes of this clause (v), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(vi) On or before the date the Agents become a party to this Agreement, the Agents shall provide to the Borrower Representative, two duly-signed, properly completed copies of the documentation prescribed in clause (i) or (ii) below, as applicable (together with all required attachments thereto): (i) IRS Form W-9 or any successor thereto, or (ii) (A) IRS Form W-8ECI or any successor thereto, and (B) with respect to payments received on account of any Lender, a U.S. branch withholding certificate on IRS Form W-8IMY or any

successor thereto evidencing its agreement with the Borrowers to be treated as a U.S. person for U.S. federal withholding purposes. At any time thereafter, the Agents shall provide updated documentation previously provided (or a successor form thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower Representative.

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, provide such successor form, or promptly notify the Borrower Representative and the Agents in writing of its legal inability to do so.

(h) If any indemnified party determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes as to which it has been indemnified pursuant to this Section 10.1 (including by the payment of additional amounts pursuant to Section 10.1(b)), it shall pay to the relevant indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 10.1 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 Section 10.1(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 Section 10.1(h), in no event shall the indemnified party be required to pay any amount to a indemnifying party pursuant to this Section 10.1(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 and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 10.1(h) 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.

10.2 Illegality. If after the date hereof any Lender shall determine that the introduction of any Requirement of Law, or any change in any Requirement of Law or in the interpretation or administration thereof, has made it unlawful, or that any central bank or other Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to make SOFR Rate Loans, then, on notice thereof by such Lender to the Borrower Representative through Administrative Agent, the obligation of that Lender to make SOFR Rate Loans shall be suspended until such Lender shall have notified Administrative Agent and the Borrower Representative that the circumstances giving rise to such determination no longer exists.

(a) Subject to clause (c) below, if any Lender shall determine that it is unlawful to maintain any SOFR Rate Loan, the Borrowers shall prepay in full all SOFR Rate Loans of such Lender then outstanding, together with interest accrued thereon, either on the last day of the Interest Period thereof if such Lender may lawfully continue to maintain such SOFR Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such SOFR Rate Loans, together with any amounts required to be paid in connection therewith pursuant to Section 10.4.

(b) If the obligation of any Lender to make or maintain SOFR Rate Loans has been terminated, the Borrowers may elect, by giving notice to such Lender through Agent that all Loans which would otherwise be made by any such Lender as SOFR Rate Loans shall be instead Base Rate Loans.

(c) Before giving any notice to Administrative Agent pursuant to this Section 10.2, the affected Lender shall designate a different Lending Office with respect to its SOFR Rate Loans if such designation will avoid the need for giving such notice or making such demand and will not, in the judgment of the Lender, be illegal or otherwise disadvantageous to the Lender.

10.3 Increased Costs and Reduction of Return.

(a) If any Lender shall determine that, due to either (i) the introduction of, or any change in, or in the interpretation of, any Requirement of Law or (ii) the compliance with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), in the case of either clause (i) or (ii) subsequent to the date hereof, (x) there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining any SOFR Rate Loans or (y) the Lender shall be subject to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (e) 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, then the Borrowers shall be liable for, and shall from time to time, within thirty (30) days of demand therefor by such Lender (with a copy of such demand to Administrative Agent), pay to Administrative Agent for the account of such Lender, additional amounts as are sufficient to compensate such Lender for such increased costs or such Taxes; provided, that the Borrowers shall not be required to compensate any Lender pursuant to this Section 10.3(a) for any increased costs incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative, in writing of the increased costs and of such Lender's intention to claim compensation thereof; provided, further, that if the circumstance giving rise to such increased costs is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If any Lender shall have determined that:

(i) the introduction of any Capital Adequacy Regulation;

(ii) any change in any Capital Adequacy Regulation;

(iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof; or

(iv) compliance by such Lender (or its Lending Office) or any entity controlling the Lender, with any Capital Adequacy Regulation;

affects the amount of capital required or expected to be maintained by such Lender or any entity controlling such Lender and (taking into consideration such Lender's or such entities' policies with respect to capital adequacy and such Lender's desired return on capital) determines that the amount of such capital is increased as a consequence of its Commitment(s), loans, credits or obligations under this Agreement, then, within thirty (30) days of demand of such Lender (with a copy to Administrative Agent), the Borrowers shall pay to such Lender, from time to time as specified by such Lender, additional amounts sufficient to compensate such Lender (or the entity controlling the Lender) for such increase; provided, that the Borrowers shall not be required to compensate any Lender pursuant to this Section 10.3(b) for any amounts incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative, in writing of the amounts and of such Lender's intention to claim compensation thereof; provided, further, that if the event giving rise to such increase is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(c) Notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case in respect of this clause (ii) pursuant to Basel III, shall, in each case, be deemed to be a change in a Requirement of Law under Section 10.3(a) above and/or a change in Capital Adequacy Regulation under Section 10.3(b) above, as applicable, regardless of the date enacted, adopted or issued.

10.4 Funding Losses. The Borrowers agree to reimburse each Lender and to hold each Lender harmless from any loss or expense which such Lender may sustain or incur as a consequence of:

(a) the failure of the Borrowers to make any payment or mandatory prepayment of principal of any SOFR Rate Loan as and when due hereunder (including payments made after any acceleration thereof);

(b) the failure of the Borrowers to borrow, continue or convert a Loan after the Borrower Representative has given (or is deemed to have given) a Notice of Borrowing or a Notice of Conversion/Continuation;

(c) the failure of the Borrowers to make any prepayment after the Borrower Representative has given a notice in accordance with Section 1.7;

(d) the prepayment (including pursuant to Section 1.7 or Section 1.8) of a SOFR Rate Loan on a day which is not the last day of the Interest Period with respect thereto; or

(e) the conversion pursuant to Section 1.6 of any SOFR Rate Loan to a Base Rate Loan on a day that is not the last day of the applicable Interest Period;

including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its SOFR Rate Loans hereunder or from fees payable to terminate the deposits from which such funds were obtained; provided that, with respect to the expenses described in clauses (d) and (e) above, such Lender shall have notified Administrative Agent of any such expense within two (2) Business Days of the date on which such expense was incurred. Solely for purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 10.4 and under Section 10.3(a): each SOFR Rate Loan made by a Lender (and each related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the SOFR used in determining the interest rate for such SOFR Rate Loan by a matching deposit or other borrowing in the interbank Eurodollar market for a comparable amount and for a comparable period, whether or not such SOFR Rate Loan is in fact so funded.

10.5 [Reserved].

10.6 [Reserved].

10.7 Certificates of Lenders. Any Lender claiming reimbursement or compensation pursuant to this Article X shall deliver to the Borrower Representative (with a copy to Agent) a certificate setting forth in reasonable detail the amount payable to such Lender hereunder and such certificate shall be conclusive and binding on the Borrowers in the absence of manifest error.

ARTICLE XI

DEFINITIONS

11.1 Defined Terms. The following terms are defined in the Section referenced opposite such terms:

"Administrative Agent"	Preamble
"**Affected Lender**"	9.22
"**Affected SPV/Participant**"	9.22
"**Agents**"	Preamble
"**Aggregate Excess Funding Amount**"	1.11(e)(iv)

"**Agreement**"	Preamble
"**Anti-Corruption Laws**"	3.25(c)
"**Borrower(s)**"	Preamble
"**Borrower Materials**"	9.10(e)
"**Borrower Representative**"	9.27
"**BRCB**"	Preamble
"BRCR"	Preamble
"**BRD**"	Preamble
"**BRR**"	Preamble
"**BRSO**"	Preamble
"BRSO PNW"	Preamble
"BRSO 67th"	Preamble
"**Cash Flow**"	Exhibit 4.2(b)
"Collateral Agent"	Preamble
"Collateral Agent Advances"	8.15
"**Compliance Certificate**"	4.2(b)
~~**"Delayed Draw Term Loan Commitment Fee"**~~	~~**1.9(b)**~~
"**EBITDA**"	Exhibit 4.2(b)
"**ECF Payment Date**"	1.8(e)
"**Eligible Assignee**"	9.9(b)(iii)
"Equity Recap Distributions"	5.8(f)
"**Event of Default**"	7.1
"**Excess Cash Flow**"	Exhibit 4.2(b)
"**Excluded Accounts**"	4.11
"**Extended Term Loans**"	9.1(f)(iii)
"**Extended Term Loan Commitment**"	9.1(f)(iii)
"**Extending Term Lender**"	9.1(f)(iii)
"**Extension**"	9.1(f)
"**Extension Offer**"	9.1(f)
"**FCPA**"	3.25(c)
"**Fee Letter**"	1.9(a)
"**Fixed Charge Coverage Ratio**"	6.1(b) and Exhibit 4.2(b)
"Founder Group Members Pledge Agreements"	**Article IV**
"**Holdings**"	Preamble
"**Indemnified Matters**"	9.6(a)
"**Indemnitee**"	9.6(a)
"**Investments**"	5.4
"**Lender**" and "**Lenders**"	Preamble
"**Maximum Lawful Rate**"	1.3(d)
"**MNPI**"	9.10(a)
"**Net Interest Expense**"	Exhibit 4.2(b)
"**Non-Recurring Expenses**"	Exhibit 4.2(b)
"**Notice of Conversion/Continuation**"	1.6(a)
"**OFAC**"	3.25(a)
"**Other Taxes**"	10.1(c)

"**Participant Register**"	9.9(f)
"**Participating Lender**"	9.22
"**Permitted Liens**"	5.1
"**Prepayment Period**"	1.7(c)
"Principal Place of Business"	3.9(b)
"**RCS**"	Preamble
"**Recipient**"	10.1(b)
"**Register**"	1.4(b)
"**Rejection Notice**"	1.8(h)
"**Restricted Payments**"	5.8
"**Replacement Lender**"	9.22
"**Sale**"	9.9(b)
"**Sanctioned Country**"	3.25(a)
"**Sanctions**"	3.25(a)
"**SDN List**"	3.25(a)
"**Senior Leverage Ratio**"	Exhibit 4.2(b)
"**Tax Returns**"	3.10
"**Taxes**"	10.1(a)
"**Term Loan A**"	1.1(a)
"**TSC**"	Preamble

In addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

"**Account**" means, as at any date of determination, all "accounts" (as such term is defined in the UCC) of a Borrower and its Subsidiaries, including the unpaid portion of the obligation of a customer of a Borrower or any of its Subsidiaries in respect of Inventory purchased by and shipped to such customer and/or the rendition of services by a Borrower or such Subsidiary, as stated on the respective invoice of a Borrower or such Subsidiary, net of any credits, rebates or offsets owed to such customer.

"**Account Debtor**" means the customer of a Borrower or any of its Subsidiaries who is obligated on or under an Account.

"**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 (including by way of a merger or other business combination) and (b) the acquisition of in excess of fifty percent (50%) of the Stock and Stock Equivalents of any Person or otherwise causing any Person to become a Subsidiary of a Borrower (in either case, including by way of a merger or other business combination).

"Adjusted Term SOFR Rate" means the sum of: (i) the Term SOFR Screen Rate, and (ii) 0.11448% (11.448 basis points) for an Available Tenor of one-month's duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months' duration, and 0.42826% (42.826 basis points) for an Available Tenor of six-months' duration; provided that, if the Adjusted Term

SOFR Rate determined as provided above shall ever be less than the Floor, then the Adjusted Term SOFR Rate shall be deemed to be the Floor.

"**Affected Financial Institution**" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"**Affiliate**" means, with respect to any Person, any Person that directly or indirectly controls, is controlled by, or is under common control with, such Person; provided, however, that no Secured Party shall be an Affiliate of any Credit Party or of any Subsidiary of any Credit Party solely by reason of the provisions of the Loan Documents. For purposes of this definition, "**control**" means the possession of either (a) the power to vote, or the beneficial ownership of, 10% or more of the voting Stock of such Person (either directly or through the ownership of Stock Equivalents) or (b) the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, any director, officer or general partner that owns ten percent (10%) or more of the Stock (either directly or through ownership of Stock Equivalents) of a Person shall for purposes of this agreement be deemed an Affiliate of such other Person.

"**Aggregate Term Loan Commitment**" means the combined Term Loan Commitments of the Lenders, which shall initially be in the amount up to $80,000,000, as such amount may be reduced from time to time pursuant to this Agreement.

"**Applicable Margin**" means~~,~~ (a) from the ~~**Closing**~~**Third Amendment Effective** Date ~~**to**~~**through** the date ~~**on**~~**upon** which the Administrative Agent receives a Compliance Certificate pursuant to Section 4.2(b) for the fiscal quarter ~~**ending September**~~**ended June** 30, ~~**2022**~~**2023**, ~~**for Term SOFR Loans, 6.00% plus a 1.00% "PIK Amount", and for Base Rate Loans, 5.00% plus a 1.00% "PIK Amount";~~**Pricing Level 1 below,** and (b)~~**, thereafter**~~ **from and after** delivery of the Compliance Certificate **referred to in clause (a)**, the applicable rate per annum set forth below determined by reference to the Total Net Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 4.2(b):

		Applicable Margin	
Pricing Level	Total Net Leverage Ratio	Term SOFR Loans	Base Rate Loans
1	≥5.25:1.00	6.50% plus the PIK Amount	5.50% plus the PIK Amount
2	>3.25:1.00, but <5.25:1.00	6.00% plus the PIK Amount	5.00% plus the PIK Amount
3	<3.25:1.00	5.50% plus the PIK Amount	4.50% plus the PIK Amount

"PIK Amount" means, in all instances, 0.50%

Applicable Margin resulting from a change in the Total Net Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 4.2(b); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Lenders, Pricing Level 1 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and in each case shall remain in effect until the date on which such Compliance Certificate is delivered.

In the event that the Administrative Agent and the Borrowers determine in good faith that any financial statement or Compliance Certificate delivered pursuant to Sections 4.1(a) or 4.2(b), respectively, is inaccurate, and such inaccuracy, if corrected, would have led to a higher Applicable Margin pursuant to clause (b) above for any period (an "Applicable Period") than the Applicable Margin pursuant to clause (b) above applied for such Applicable Period, then (i) the Borrowers shall immediately deliver to the Administrative Agent a correct Compliance Certificate for such Applicable Period, (ii) the Applicable Margin pursuant to clause (b) above shall be determined by reference to the corrected Compliance Certificate (but in no event shall the Lenders owe any amounts to the Borrowers), and (iii) the Borrowers shall within five (5) Business Days of demand therefor by the Administrative Agent pay to the Administrative Agent the additional interest or fees owing as a result of such increased Applicable Margin pursuant to clause (b) above for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with the terms hereof; provided, that (x) any nonpayment of such additional interest or fees shall not constitute a Default or Event of Default until the expiration of such five (5) Business Day period and (y) no such amounts shall be deemed overdue or accrue interest at the rate pursuant to Section 1.3(c) until the expiration of such five (5) Business Day period; provided, further, that if, as a result of such correction, a proper calculation of the Total Net Leverage Ratio would have resulted in higher pricing for one or more periods and lower pricing for one or more other periods (due to the shifting of income or other expenses from one period to another period or any similar reason), then the amount payable by the Borrowers pursuant to clause (iii) above shall be based upon the excess, if any, of the amount of interest and fees that should have been paid for all Applicable Periods over the amount of interest and fees paid for all such periods.

"**Applicable Prepayment Premium**" means, at the date of determination (i) during the period from the Closing Date through the first anniversary of the Closing Date, an amount equal to 2.00% times the principal amount of the Term Loan prepaid on such date, (ii) during the period after the first anniversary of the Closing Date and through the second anniversary of the Closing Date, an amount equal to 1.00% times the principal amount of the Term Loan prepaid on such date and (iii) 0% thereafter.

"**Approved Fund**" means, with respect to any Lender, any Person (other than a natural Person) that (a) (i) 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 Business or (ii) temporarily warehouses loans for any Lender or any Person described in clause (i) above and (b) is advised or managed by (i) such Lender, (ii) any Affiliate of such Lender or (iii) any Person

(other than an individual) or any Affiliate of any Person (other than an individual) that administers or manages such Lender.

"A&R Holdings LLC Agreement" means the ~~Fourth~~Fifth Amended and Restated Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC dated on or about and as in effect on the Closing Date.

"**Assignment**" means an assignment agreement entered into by a Lender, as assignor, and any Person, as assignee, pursuant to the terms and provisions of Section 9.9 (with the consent of any party whose consent is required by Section 9.9), and accepted by Administrative Agent, substantially in the form of Exhibit 11.1(a) or any other form approved by Administrative Agent.

"**Attorney Costs**" means and includes all reasonable and invoiced fees and out-of-pocket disbursements of one external counsel and any necessary local counsel in each relevant jurisdiction (and, solely in the event of a conflict of interest, one additional primary legal external counsel (and, if necessary, one additional local external counsel in each relevant jurisdiction)), in each case, for Agents, the Secured Parties and any Related Persons as a group and selected by Agents.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current 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 or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, pursuant to this Agreement as of such date.

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

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

"**Bank Product**" means any of the following products, services or facilities extended to any Credit Party or any Subsidiary by any Bank Product Provider: (a) cash management services; and (b) commercial credit card, purchase card and merchant card services; provided, however, that for any of the foregoing to be included as "Secured Obligations" for purposes of a distribution under Section 1.11(c), the applicable Bank Product Provider must have previously provided a written notice to the Administrative Agent which shall provide the following information: (i) the existence of such Bank Product and (ii) the maximum dollar amount of obligations arising thereunder, which must be satisfactory to both Agents in their sole discretion

(the "Bank Product Amount"). The Bank Product Amount may be changed from time to time upon written notice to each Agent by the Bank Product Provider. Any Bank Product established from and after the time that the Lenders have received written notice from the Borrowers or the Administrative Agent that an Event of Default exists and is continuing, until such Event of Default has been waived in accordance with Section 9.1, shall not be included as "Secured Obligations" for purposes of a distribution under Section 1.11(c).

"**Bank Product Amount**" has the meaning set forth in the definition of Bank Product.

"**Bank Product Debt**" means the Indebtedness and other obligations of any Credit Party or Subsidiary relating to Bank Products.

"**Bank Product Provider**" means any Person that provides Bank Products to a Credit Party or any Subsidiary to the extent that such Person is a Lender, an Affiliate of a Lender or any other Person that was a Lender (or an Affiliate of a Lender) at the time it entered into the Bank Product but has ceased to be a Lender (or whose Affiliate has ceased to be a Lender) under this Agreement.

"**Bankruptcy Code**" means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. §101 *et seq.*, as amended and in effect from time to time.

"**Base Rate**" for any day the greatest of (a) 2.50% per annum, (b) the Federal Funds Rate plus 0.5%, (c) the Prime Rate, and (d) the Adjusted Term SOFR Rate for a one-month tenor in effect on such date plus 1.0%; provided that for purposes of determining the Base Rate during any period that the Term SOFR Screen Rate is unavailable (as determined by the Administrative Agent), the Base Rate shall be determined using, for clause (d) hereof, the Term SOFR Screen Rate in effect immediately prior to the Term SOFR Screen Rate becoming unavailable plus, in each instance.

"**Base Rate Loan**" means a Loan that bears interest based on the Base Rate.

"BE Facility Agreement" means, collectively, the transactions contemplated by that certain Loan Agreement between Viking Cake and BEL 44, LLC, an Arizona limited liability company ("BE Lending"), together with its successors and assigns, dated as of February 23, 2023 (the "BE Loan Agreement"), the Promissory Note of Viking Cake in favor of BE Lending dated February 23, 2023 in the maximum principal amount of $10,000,000, the "Deed of Trust", "Guaranty", "Mortgage", "Environmental Indemnity Agreement" and each of the other "Loan Documents", as each such term is defined in the BE Loan Agreement.

"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 1.12.

"Benchmark Replacement" means either of the following to the extent selected by the Administrative Agent:

(1) Daily Simple SOFR; or

(2) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower Representative 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.

If the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor for SOFR Rate Loans, the Benchmark Replacement will be deemed to be the Floor for SOFR Rate Loans 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 pursuant to clause (2) thereof for any applicable Interest Period and Available Tenor for any setting of such 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 Representative for the applicable Benchmark giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities that are substantially similar to the credit facilities under this Agreement.

"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 the regulatory supervisor for

the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

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

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

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

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

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

"Benchmark 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 1.12 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 1.12.

"**Beneficial Ownership Certification**" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation, which certification shall be in form and substance reasonably acceptable to Administrative Agent, and as of the Closing Date, substantially similar in form and substance to the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly in May 2018 by the Loan Syndications and Trading Association and Securities Industry and Financial Markets Association.

"**Beneficial Ownership Regulation**" means 31 C.F.R. § 1010.230.

"**Board of Directors**" means, for any Person, the board of directors (or equivalent governing body) of such Person or, if such Person does not have such a board of directors (or equivalent governing body) and is owned or managed by another entity or entities, the board of directors (or equivalent governing body) of such entity or entities.

"**Borrowing**" means a borrowing hereunder consisting of Loans made to or for the benefit of the Borrowers on the same day by the Lenders pursuant to Article I.

"**Business Day**" means any day that is not a Saturday, Sunday or a day on which banks are required or authorized to close in New York City; provided that, when used in connection with SOFR, Term SOFR, Term SOFR Screen Rate or Term SOFR Rate, the term "Business Day" excludes any day on which the Securities Industry and Financial Markets Association (SIFMA) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"**Capital Adequacy Regulation**" means any guideline, request or directive of any central bank or other Governmental Authority, or any other law, rule or regulation, whether or not having the force of law, in each case, regarding capital adequacy of any Lender or of any corporation controlling a Lender.

"**Capital Lease**" means, with respect to any Person, any lease of, or other arrangement conveying the right to use, any Property by such Person as lessee that has been or should be accounted for as a capital lease on a balance sheet of such Person prepared in accordance with GAAP, subject to the last sentence of Section 11.3.

"**Capital Lease Obligations**" means, at any time, with respect to any Capital Lease, any lease entered into as part of any sale leaseback transaction of any Person or any synthetic lease, the amount of all obligations of such Person that is (or that would be, if such synthetic lease or other lease were accounted for as a Capital Lease) capitalized on a balance sheet of such Person prepared in accordance with GAAP, subject to the last sentence of Section 11.3.

"**Cash Equivalents**" means (a) any readily-marketable securities (i) issued by, or directly, unconditionally and fully guaranteed or insured by the United States federal government or (ii) issued by any agency of the United States federal government the obligations of which are fully backed by the full faith and credit of the United States federal government, (b) any readily-marketable direct obligations issued by any other agency of the United States federal government, any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case having a rating of at least "A-1" from S&P or at least "P-1" from Moody's, (c) any commercial paper rated at least "A-1" by S&P or "P-1" by Moody's and issued by any Person organized under the laws of any state of the United States, (d) any Dollar-denominated time deposit, insured certificate of deposit, overnight bank deposit or bankers' acceptance issued or accepted by (i) any Lender or (ii) any commercial bank that is (A) organized under the laws of the United States, any state thereof or the District of Columbia, (B) "adequately capitalized" (as defined in the regulations of its primary federal banking regulators) and (C) has Tier 1 capital (as defined in such regulations) in excess of $250,000,000 and (e) shares of any United States money market fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clause (a), (b), (c) or (d) above with maturities as set forth in the proviso below, (ii) has net assets in excess of $500,000,000 and (iii) has obtained from either S&P or Moody's the highest rating obtainable for money market funds in the United States; provided, however, that the maturities of all obligations specified in any of clauses (a), (b), (c) or (d) above shall not exceed 365 days.

"Cash Interest Portion" means, with respect to each interest payment on each Interest Payment Date, an amount equal to accrued interest on such Interest Payment Date minus the PIK Amount.

"City Brew Acquisition" means the purchase by a Credit Party of all of the issued and outstanding ownership interests of, or all or substantially all of the assets of, City Roasting Company LLC, a Wyoming limited liability company.

"**Class**" (a) when used with respect to Commitments, refers to ~~whether such Commitment is~~ a Term Loan Commitment~~, Delayed Draw Term Loan Commitments~~ or Extended Term Loan Commitment, (b) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are initial Term Loans, Delayed Draw Term Loans or Extended Term Loans that result from the same Extension, and (c) when used with respect to any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments. Notwithstanding the foregoing, Commitments (and in each case, the Loans made pursuant to such Commitments) that have identical terms and conditions shall be construed to be in the same Class.

"**Closing Date**" means April 29, 2022.

"**Closing Leverage**" means 4.91:1.00.

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

"**Collateral**" means all Property and interests in Property and proceeds thereof now owned or hereafter acquired by any Credit Party in or upon which a Lien is granted, purported to be granted, or now or hereafter exists in favor of any Lender or Collateral Agent for the benefit of Agents, Lenders and other Secured Parties, whether under this Agreement or under any other documents executed by any Credit Party and delivered to Collateral Agent. Notwithstanding the foregoing, Collateral shall not include Excluded Collateral (as defined in the Guaranty and Security Agreement).

"**Collateral Access Agreement**" means any landlord waiver or other agreement, in form or substance satisfactory to the Agents, between the Collateral Agent and any third party (including any landlord, bailee, consignee, customs broker, or other Person) in possession of any Collateral or acting as landlord of any real property where any Collateral is located, as such landlord waiver or other agreement may be amended, restated, supplemented or otherwise modified from time to time.

"**Collateral Documents**" means, collectively, the Guaranty and Security Agreement, the Mortgages, each Collateral Access Agreement, each Control Agreement and all other security agreements, pledge agreements, patent and trademark security agreements, lease assignments, guaranties and other similar agreements, and all amendments, restatements, modifications or supplements thereof or thereto, by or between any one or more of any Credit Party pledging or granting a lien on Collateral or guaranteeing the payment and performance of the Obligations, and any Lender or Agent for the benefit of Agents, the Lenders and other Secured Parties now or hereafter delivered to the Lenders or Agents pursuant to or in connection with the transactions contemplated hereby, and all financing statements (or comparable documents now or hereafter filed in accordance with the UCC or comparable law) against any such Person as debtor in favor of any Lender or Agent for the benefit of Agents, the Lenders and the other Secured Parties, as secured party, as any of the foregoing may be amended, restated and/or modified from time to time.

"**Commitment**" means, for each Lender, ~~**the sum of**~~ its ~~**Term Loan Commitment and Delayed Draw**~~ Term Loan Commitment.

"**Commitment Percentage**" means, as to any Lender, the percentage equivalent of such Lender's ~~**Term Loan Commitment or Delayed Draw**~~ Term Loan Commitment divided by the Aggregate ~~**Term Loan Commitment and Delayed Draw**~~ Term Loan Commitment, as applicable; provided that after any Term Loan ~~**or Delayed Draw Term Loan**~~ has been funded, Commitment Percentages shall be determined for such Term Loan ~~**(including any funded Delayed Draw Term Loan)**~~ by reference to the outstanding principal balances thereof as of any date of determination rather than the Commitments therefor; provided, further, that following acceleration of the Loans, such term means, as to any Lender, the percentage equivalent of the principal amount of the Loans held by such Lender, divided by the aggregate principal amount of the Loans held by all Lenders.

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

"**Common Units**" has the meaning given such term in the A&R Holdings LLC Agreement as in effect on the Closing Date.

"Conforming Changes" means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "Term SOFR Screen Rate", the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 1.12 and other technical, administrative or operational matters) that the Administrative Agent decide 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 decide that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determine that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent decide 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 income (however denominated) or that are franchise Taxes or branch profit Taxes.

"**Consolidated EBITDA**" means, for any Measurement Period, for any Person, without duplication, an amount equal to Consolidated Net Income for such period plus (a) the following to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges for such period, (ii) the provision for federal, state, local and foreign income taxes (and franchise tax in the nature of income tax) payable by such Person for such period, (iii) depreciation and amortization expense, (iv) other non-cash items of such Person reducing Consolidated Net Income which do not represent a cash item in such period or any future period (and excludes write-downs of accounts and inventory), (v) any extraordinary, exceptional, unusual or non-recurring items, charges, expenses or losses not otherwise described or contemplated under any of the other numbered clauses or sub-clauses including initial public offering expenses and costs and expenses related to growth objectives; provided that (A) such items, charges, expenses or losses are reasonably identifiable, factually supportable and described in a reasonably detailed statement certified by a Responsible Officer of the Borrower Representative and (B) the aggregate amount added back pursuant to this clause (v) plus the amount added back pursuant to clause (ix) below shall not exceed ~~fifteen~~**twenty** percent (~~15.0~~**20.0**%) of Consolidated EBITDA for any Measurement Period (without giving effect to such addbacks), (vi) an amount equal to the difference between Rental Expense as determined pursuant to GAAP and Rental Expense as determined on a cash basis (if GAAP basis Rental Expense is greater than cash basis Rental Expense), (vii) an amount equal to the pre-opening costs of each Store opened and incurred during such Measurement Period not to exceed $125,000 per Store, (viii) transaction ~~closing expenses and expenses related to the Transactions and any transaction~~ fees, costs and expenses incurred **and paid (A) to the Agents, Lenders or**

their counsel in connection with **any amendment or waiver of the Loan Documents; and (B) to counsel on behalf of the Credit Parties in connection with the BE Facility Agreement, the Cynosure 2023 Preferred Equity Agreement, and** any amendment or waiver of the Loan Documents; provided **in each instance** that such transaction fees, costs and expenses are reasonably identifiable, ~~**factually supportable,**~~ and certified by a Responsible Officer of the Borrower Representative, and (ix) new store run rate adjustment equal to $~~**250,000**~~**200,000** per store, less actual contribution to Consolidated EBITDA from each such store for the first twelve (12) months after the grand opening, provided, that the amount added back pursuant to this clause (ix), plus the amount added back pursuant to clause (v) above, shall not exceed ~~**fifteen**~~**twenty** present (~~**15.0**~~**20.0**%) of Consolidated EBITDA for any Measurement Period (without giving effect to such addbacks) minus (b) the following to the extent included in calculating such Consolidated Net Income for such period: (i) Federal, state, local and foreign income tax credits of such Person for such period, (ii) all non-cash items increasing Consolidated Net Income for such period, (iii) any gain from extraordinary items or net gains from disposition of property outside of ordinary course of business, (iv) an amount equal to the difference between Rental Expense as determined on a cash basis and Rental Expense as determined pursuant to GAAP (if cash basis Rental Expense is greater than GAAP basis rental expense), and (v) whether or not included in calculating Consolidated Net Income for such period, the aggregate amount of Restricted Payments under Section 5.8(g) during such period.

"**Consolidated Interest Charges**" means, for any period, for any Person, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of such Person paid in cash (and non- cash to the extent provided below) in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP and (b) the portion of rent expense of such Person with respect to such period under Capital Leases and Synthetic Lease Obligations that is treated as interest in accordance with GAAP. For purposes of calculating Consolidated EBITDA, such Consolidated Interest Charges shall include both cash and any non-cash interest charges. For the avoidance of doubt, the "Yield Maintenance Premium" of up to $27,000,000 paid by Holdings in connection with the conversion of the Subordinated Term Loans to Preferred Equity Obligations as part of the Existing Debt Refinancing Transactions and any paid-in-kind yield on such Preferred Equity Obligations and Existing Preferred Units shall be excluded from the calculation of Consolidated Interest Charges.

"**Consolidated Net Income**" means, for any period, for any Person on a consolidated basis, the net income of such Person for that period determined in accordance with GAAP.

"Consolidated Total Debt" means, at any date of determination, the aggregate principal amount of the outstanding Term Loans and other Funded Indebtedness, in each case for Holdings and the Borrowers on a consolidated basis. For avoidance of doubt, Preferred Equity Obligations and Existing Preferred Units are excluded when calculating Consolidated Total Debt.

"**Contingent Acquisition Consideration**" means any earn-out obligation or similar deferred obligation of a Borrower or any of its Subsidiaries incurred or created in connection

with any Permitted Acquisition **(as defined in the Credit Agreement prior to the Third Amendment Effective Date)**.

"**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person: (a) with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (b) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (c) under any Rate Contracts; (d) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (e) for the obligations of another Person through any agreement to purchase, repurchase or otherwise acquire such obligation or any Property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another Person. The amount of any Contingent Obligation shall be equal to the outstanding amount of the primary obligation so guarantied or otherwise supported or, if not a fixed and determined amount, the maximum amount so guarantied or supported.

"**Contractual Obligations**" means, as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, deed of trust or other instrument, document or agreement (other than a Loan Document) to which such Person is a party or by which it or any of its Property is bound or to which any of its Property is subject.

"**Control Agreement**" means, with respect to any deposit account, securities account, commodity account, securities entitlement or commodity contract, an agreement, in form and substance reasonably satisfactory to Agents, among Collateral Agent, the financial institution or other Person at which such account is maintained or with which such entitlement or contract is carried and the Credit Party maintaining such account or owning such entitlement or contract, effective to grant "control" (within the meaning of Articles 8 and 9 under the applicable UCC) over such account to Collateral Agent.

"**Conversion Date**" means any date on which the Borrower Representative converts a Base Rate Loan to a Term SOFR Rate Loan or a Term SOFR Rate Loan to a Base Rate Loan.

"**Copyrights**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to copyrights and all mask work, database and design rights, whether or not registered or published, all registrations and recordations thereof and all applications in connection therewith.

"**Credit Parties**" means the Borrowers, Holdings and the other Guarantors and **"Credit Party"** means any of the foregoing.

"Cynosure 2023 Preferred Equity Agreement" means that certain Securities Purchase Agreement, dated as of the Third Amendment Effective Date, providing for the

purchase by the investors named therein of at least $25,000,000 of Preferred Equity of Holdings on the Third Amendment Effective Date and an additional $25,000,000 of such Preferred Equity on or prior to the first anniversary of the Third Amendment Effective Date, all on terms and conditions set forth in such agreement.

"Daily Simple SOFR" means for any day, an interest rate per annum equal to SOFR plus 0.11448% (11.448 basis points), 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 their reasonable discretion.

"**Default**" means any event or circumstance that, with the passing of time or the giving of notice or both, would (if not cured or otherwise remedied during such time) become an Event of Default.

~~**"Delayed Draw Availability Period" means the period beginning on the Closing Date and ending on the date which is the eighteen (18) month anniversary of the Closing Date (or such earlier date upon which the Delayed Draw Term Loan Commitment shall have been fully funded or reduced to zero ($0.00) by the Borrowers in accordance with Section 1.7(b)).**~~

~~**"Delayed Draw Term Facility" means the Delayed Draw Term Loan Commitments and the Delayed Draw Term Loans provided to or for the benefit of the Borrower pursuant to the terms of this Agreement.**~~

~~**"Delayed Draw Term Lender" means any Lender with a Delayed Draw Term Loan Commitment or an outstanding Delayed Draw Term Loan.**~~

~~**"Delayed Draw Term Loan Commitment" means, with respect to each Delayed Draw Term Lender, the commitment of such Delayed Draw Term Lender to make a Delayed Draw Term Loan hereunder in an aggregate amount not to exceed the applicable amount set forth opposite such Delayed Draw Term Lender's name on Schedule 1.1 or in the Assignment pursuant to which such Delayed Draw Term Lender becomes a party hereto, as the same may be (a) reduced from time to time pursuant to Section 1.7 or (b) reduced or increased from time to time pursuant to assignments by or to such Delayed Draw Term Lender pursuant to Section 9.8. The aggregate amount of the Delayed Draw Term Lenders' Delayed Draw Term Loan Commitments on the Closing Date is $20,000,000.**~~

~~**"Delayed Draw Term Loan" means any term loan made by the Delayed Draw Term Lenders to the Borrower pursuant to Section 1.1(b).**~~

"**Development Overview Report**" means the Development Overview Report in the form delivered by the Borrower Representative to the Lenders prior to the Closing Date.

"**Disposition**" means the sale, lease, conveyance or other disposition of Property.

"**Disqualified Stock**" means any Stock or Stock Equivalent which, by its terms (or by the terms of any security or other Stock into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days following the final maturity date of the Term Loans at the time of issuance (excluding any provisions requiring redemption upon a "change of control" or similar event; provided that such "change of control" or similar event would result in the prior payment in full in cash of the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), the termination of all commitments to lend hereunder and the termination of this Agreement), (b) is convertible into or exchangeable for (i) debt securities or (ii) any Stock or Stock Equivalents referred to in clause (a) above, in each case, at any time on or prior to the date that is ninety-one (91) days following the final maturity date of the Term Loans at the time of issuance, or (c) is entitled to receive scheduled dividends or distributions in cash (except for distributions for taxes attributable to the operations of the business) prior to the time that the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) are paid in full in cash.

"**Division**" means, in reference to any Person which is an entity, the division of such Person into two (2) or more separate Persons with the dividing Person either continuing or terminating its existence as part of the division including as contemplated under Section 18-217 of the Delaware Limited Liability Act for limited liability companies formed under Delaware law or any analogous action taken pursuant to any applicable law with respect to any corporation, limited liability company, partnership or other entity. The word "***Divide***", when capitalized shall have correlative meaning.

"**Dollars**", "**dollars**" and "**$**" each mean lawful money of the United States.

"**Domestic Subsidiary**" means any Subsidiary incorporated, organized or otherwise formed under the laws of the United States, any state thereof or the District of Columbia.

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

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

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

"**E-Fax**" means any system used to receive or transmit faxes electronically.

"**E-Signature**" means the process of attaching to or logically associating with an Electronic Transmission an electronic symbol, encryption, digital signature or process (including the name or an abbreviation of the name of the party transmitting the Electronic Transmission) with the intent to sign, authenticate or accept such Electronic Transmission.

"**E-System**" means any electronic system approved by Agents, including DebtX, Syndtrak®, Intralinks® and ClearPar® and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by Agents, any of its Related Persons or any other Person, providing for access to data protected by passcodes or other security system.

"**Electronic Transmission**" means each document, instruction, authorization, file, information and any other communication transmitted, posted or otherwise made or communicated by e-mail or E-Fax, or otherwise to or from an E-System.

"**Environmental Laws**" means all Requirements of Law relating to the protection of human health and safety (from exposure to Hazardous Materials), the environment and natural resources, and including transaction-triggered environmental transfer statutes.

"**Environmental Liabilities**" means all Liabilities (including costs of Remedial Actions, natural resource damages and costs and expenses of investigation and feasibility studies, including the reasonable and documented cost of environmental consultants and Attorney Costs) that may be imposed on, incurred by or asserted against any Credit Party or any Subsidiary of any Credit Party as a result of, or related to, any written claim, suit, action, investigation, proceeding or written demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law or otherwise, arising under any Environmental Law, including without limitation those Liabilities arising in connection with any Release and resulting from the ownership, lease, sublease or other operation or occupation of Real Estate by any Credit Party or any Subsidiary of any Credit Party, whether on, prior or after the date hereof.

"**Equity Contribution**" means all amounts received by Holdings or any of the other Credit Parties in consideration of the issuance by any of them of any Stock or Stock Equivalents.

~~**"Equity Recap Transactions" means, the issuance by Holdings of at least $100,000,000 in Stock which does not constitute Disqualified Stock on terms reasonably satisfactory to the Agents (and which, in any event, do not cause such common Stock to constitute Disqualified Stock.**~~

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**ERISA Affiliate**" means, collectively, any Credit Party, any Subsidiary of a Credit Party, and any Person under common control or treated as a single employer with any Credit Party or any Subsidiary of a Credit Party, within the meaning of Section 414(b) or (c) of the

Code (and, for purposes of Section 302 of ERISA and each "applicable section" under Section 414(t)(2) of the Code, under Section 414(b), (c), (m) or (o) of the Code).

"**ERISA Event**" means any of the following: (a) a reportable event described in Section 4043(c) of ERISA (unless the 30-day notice requirement has been duly waived under the applicable regulations) occurs with respect to a Title IV Plan; (b) the withdrawal of any ERISA Affiliate from a Title IV Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (c) liability with respect to the "withdrawal" or "partial withdrawal" (as such terms are defined in Part I of Subtitle E of Title IV of ERISA) of any ERISA Affiliate from any Multiemployer Plan; (d) with respect to any Multiemployer Plan, the filing of a notice of reorganization, insolvency or termination (or treatment of a plan amendment as termination) under Section 4041A of ERISA; (e) the filing of a notice of intent to terminate a Title IV Plan (or treatment of a plan amendment as termination) under Section 4041 of ERISA; (f) the institution of proceedings to terminate a Title IV Plan or Multiemployer Plan by the PBGC; (g) the failure of any ERISA Affiliate to make any required contribution to any Title IV Plan or Multiemployer Plan unless such failure is cured within thirty (30) days; (h) the imposition of a Lien under Section 412 or 430(k) of the Code or Section 303 or 4068 of ERISA on any property (or rights to property, whether real or personal) of any ERISA Affiliate (i) the failure of a Title IV Plan or any trust thereunder intended to qualify for tax exempt status under Section 401 or 501 of the Code; (j) a Title IV plan is in "at risk" status within the meaning of Code Section 430(i); (k) a Multiemployer Plan is in "endangered status" or "critical status" within the meaning of Section 432(b) of the Code; and (l) any other event or condition that would reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan or for the imposition of any material liability upon any ERISA Affiliate under Title IV of ERISA other than for PBGC premiums due but not delinquent.

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

"**Event of 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.

"**Excess Cash Flow Reference Period**" means, on any date of determination, the period commencing on the first day of the immediately preceding Fiscal Year and ending on the last day of such Fiscal Year.

"**Excluded Domestic Holdco**" means a Domestic Subsidiary substantially all of the assets of which consist, directly or indirectly of Stock (or Stock and indebtedness) of one or more Foreign Subsidiaries or Excluded Domestic Subsidiaries.

"**Excluded Domestic Subsidiary**" means any Domestic Subsidiary that is (a) a direct or indirect Subsidiary of a Foreign Subsidiary, (b) an Excluded Domestic Holdco, (c) a captive insurance company, and (d) a not-for-profit Subsidiary.

"**Excluded Person**" means (a) any Credit Party or any Subsidiary or Affiliate thereof, (b) any Founder Group Member or Affiliate thereof and (c) any other natural person. Until the disclosure of the identity of an Excluded Person to the Lenders generally by the Administrative Agent, such Person shall not constitute an Excluded Person for purposes of a sale of a participation in a Loan (as opposed to an assignment of a Loan) by a Lender.

"**Excluded Rate Contract Obligation**" means, with respect to any Guarantor, any guarantee of any Swap Obligations under a Secured Rate Contract if, and only to the extent that and for so long as, 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 under a Secured Rate Contract (or any guarantee thereof) is or becomes illegal or unlawful 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 to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time the guarantee of such Guarantor or the grant of such security interest would otherwise have become effective with respect to such Swap Obligation under a Secured Rate Contract but for such Guarantor's failure to constitute an "eligible contract participant" at such time. If a Swap Obligation under a Secured Rate Contract arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation under a Secured Rate Contract that is attributable to swaps for which such guarantee or security interest is or becomes illegal or unlawful 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).

"**Excluded Subsidiary**" means (a)(i) any Excluded Domestic Subsidiary described in clauses (a) and (b) of the definition thereof and (ii) any Foreign Subsidiary, and (b) any Domestic Subsidiary that is prohibited by law, rule or regulation from providing a guaranty.

"**Excluded Taxes**" means with respect to any Recipient: (a) Taxes imposed on or measured by net income (however denominated) and franchise Taxes and branch profits taxes, in each case (i) imposed on any Recipient as a result of 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 to the extent imposed pursuant to a Requirement of Law in effect on the date that such Person became a Lender under this Agreement (other than pursuant to Section 9.22) or designates a new Lending Office, except in each case to the extent such Person is a direct or indirect assignee of any other Lender that was entitled, at the time the assignment to such Person became effective, to receive additional amounts under Section 10.1(b) or such Lender was entitled to receive additional amount under Section 10.1(b) immediately before it changed its Lending Office; (c) Taxes that are directly attributable to the failure by any Recipient to deliver the documentation required to

be delivered pursuant to Section 10.1(g); (d) any withholding Taxes imposed under FATCA; and (e) Taxes excluded from the definition of Other Taxes.

"**Existing Debt Agreements**" means, collectively, (a) that certain Credit Agreement, dated as of June 29, 2021, by and among Holdings, and the Borrowers, as borrowers or guarantors, and Bank Midwest, a division of NHB Bank, as Administrative Agent for the Lenders named therein, as amended, supplemented or otherwise modified prior to the Closing Date, (b) the Subordinated Term Loan Agreement.

"**Existing Debt Refinancing Transactions**" means the refinancing, repayment (and, in the case of the Subordinated Term Loan Agreement, conversion to Preferred Equity) of the Indebtedness outstanding under the Existing Debt Agreements, the termination of all commitments under the Existing Debt Agreements and termination and release of any and all Liens and guarantees in connection therewith.

"Existing Preferred Units" means the aggregate 19,974,600 Preferred Units held by Jeremy Brand, Jack Brand and Rob Hernandez in the respective amounts set forth on Schedule A to the A&R Holdings LLC Agreement.

"Existing Preferred Unit Redemption" means, following the consummation of the Equity Recap Transaction and concurrent satisfaction of the Pro Forma Compliance Conditions in accordance with Section 5.8(f), the redemption or repurchase by Holdings of some or all of the issued and outstanding Existing Preferred Units for a price not to exceed the amount specified in clause (2) of such Section 5.8(f).

"Extraordinary Receipts" shall mean any cash received by any Credit Party consisting of (a) pension plan reversions, (b) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action (other than to the extent such proceeds are (i) payable to a Person that is not an Affiliate of Holdings or any of its Subsidiaries, or (ii) received by any Credit Party as reimbursement for any costs previously incurred or any payment previously made by such Person to a Person that is not an Affiliate of Holdings or any of its Subsidiaries (c) indemnity payments (other than to the extent such indemnity payments are (i) payable to a Person that is not an Affiliate of Holdings or any of its Subsidiaries, or (ii) received by any Credit Party as reimbursement for any costs previously incurred or any payment previously made by such Person to a Person that is not an Affiliate of Holdings or any of its Subsidiaries and (d) any purchase price adjustment (other than working capital adjustments) received in connection with any ~~**purchase agreement in an amount equal to the product of (i) the amount of such purchase price adjustment multiplied by (ii) a fraction, the numerator of which is the amount of the purchase price under such purchase agreement that was paid for with proceeds of a Delayed Draw Term Loan and the denominator of which is the amount of the purchase price under such**~~ purchase agreement.

"**Facility Termination Date**" means the date on which (a) all Commitments have terminated and (b) all Loans and all other Obligations (excluding contingent indemnification Obligations as to which no claim has been asserted) under the Loan Documents and, solely for purposes of Section 8.10(b)(v), all Secured Obligations arising under Secured Rate Contracts

(other than those for which the Borrowers have entered into an alternative arrangement with the provider of such Secured Rate Contract acceptable thereto), that Agents have theretofore been notified in writing by the holder of such Secured Obligation are then due and payable have been paid and satisfied in full and all Secured Obligations arising under Bank Products provided by a Bank Product Provider that the Agents have theretofore been notified in writing by the holder of such Secured Obligation are then due and payable, in each case, have been paid and satisfied in full in cash.

"**FATCA**" means Sections 1471, 1472, 1473 and 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), current or future United States Treasury Regulations promulgated thereunder and published guidance or official interpretations with respect thereto, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any applicable intergovernmental agreements with respect thereto (including any fiscal or regulatory legislation, rules or practices adopted pursuant to any such intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code).

"**Federal Flood Insurance**" means federally backed Flood Insurance available under the National Flood Insurance Program to owners of real property improvements located in Special Flood Hazard Areas in a community participating in the National Flood Insurance Program.

"**Federal Funds Rate**" means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System as published on the next succeeding Business Day by the Federal Reserve Board, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

"**FEMA**" means the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security that administers the National Flood Insurance Program.

"**FIRREA**" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"**Fiscal Month**" means any of the monthly accounting periods of the Credit Parties ending on January 31, February 28 (or February 29, if applicable), March 31, April 30, May 31, June 30, July 31, August 31, September 30, October 31, November 30 and December 31 of each year.

"**Fiscal Quarter**" means any of the quarterly accounting periods of the Credit Parties ending on March 31, June 30, September 30 and December 31 of each year.

"**Fiscal Year**" means any of the annual accounting periods of the Credit Parties ending on December 31 of each year.

"**Flood Insurance**" means, for any Real Estate of a Credit Party located in a Special Flood Hazard Area, Federal Flood Insurance or private insurance reasonably satisfactory to Collateral Agent, in either case, that (a) meets the requirements set forth by FEMA in its *Mandatory Purchase of Flood Insurance Guidelines*, and (b) shall have a coverage amount equal to the lesser of (i) the "replacement cost value" of the buildings and any personal property Collateral located on the Real Estate as determined under the National Flood Insurance Program or (ii) the maximum policy limits set under the National Flood Insurance Program.

"Floor" means, with respect to SOFR Rate Loans, a rate of interest equal to 1.00%, and with respect to Base Rate Loans, a rate of interest equal to 2.50%.

"**Foreign Subsidiary**" means, with respect to any Person, a Subsidiary of such Person, which Subsidiary is not a Domestic Subsidiary.

"**Founder Group Members**" means, severally, any of Viking Cake BR, LLC, a Delaware limited liability company, Jeffrey Hernandez, Daniel Brand, Jake Spellmeyer, Bryan Pereboom and, with respect to each individual, their spouse and any trust under which such individual or their spouse are trustees or beneficiaries.

"Founder Group Members Pledge Agreements" means, collectively, the Limited Guaranty and Pledge Agreement of Viking Cake BR, LLC in favor of the Collateral Agent, dated as of April 29, 2022, and the Amended and Restated Limited Guaranty and Pledge Agreements dated as of January 13, 2023 of Daniel Brand, Jeffrey Hernandez, Jake Spellmeyer, Bryan Pereboom, Vahalda, LLC and Aureata, LLC in favor of the Collateral Agent, each as amended from time to time.

"**Franchise Agreement**" means an agreement entered into by any Credit Party pursuant to which such Credit Party as Franchisor agrees to allow a Franchisee to operate a coffee shop using the "Black Rock Coffee Bar" concepts.

"**Franchisee**" means each third party unaffiliated coffee shop operator identified as a franchisee in any Franchise Agreement.

"**Franchised Store Locations**" means, collectively, the property comprising franchised Store locations described in Part (b) of Schedule 3.27 (as such Schedule may be updated from time to time).

"**Franchisor**" means any Credit Party **that is** party to a Franchise Agreement.

"**Funded Indebtedness**" means, as of any date of measurement, all Indebtedness of Holdings and its Subsidiaries as of the date of measurement (other than Indebtedness of the type described in clauses (e), (h), (j) (with respect to Indebtedness described in clauses (e) and (h) in the definition of Indebtedness) and (k) (other than with respect to clause (k), guaranties of

Indebtedness of others of the type not described in clauses (e), (h) and (j) of the definition of Indebtedness) of the definition of Indebtedness; provided that Letters of Credit shall only be treated as Funded Indebtedness to the extent drawn and unreimbursed.

"**GAAP**" means generally accepted accounting principles in the United States, as in effect from time to time, set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants, in the statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions and comparable stature and authority within the accounting profession) that are applicable to the circumstances as of the date of determination. Subject to Section 11.3, all references to "GAAP" shall be to GAAP applied consistently throughout the relevant period, except as expressly noted in the relevant financial statements.

"**Governmental Authority**" means any nation, sovereign or government, any state or other political subdivision thereof, any agency, authority or instrumentality thereof and any entity or authority exercising executive, legislative, taxing, judicial, regulatory or administrative functions of or pertaining to government, including any central bank, stock exchange, regulatory body, arbitrator, public sector entity, supra-national entity (including the European Union and the European Central Bank) and any self-regulatory organization (including the National Association of Insurance Commissioners).

"**Guarantors**" means collectively, (a) Holdings, (b) each Borrower (in each case, other than with respect to its own obligations), (c) each Subsidiary and any Person that from time to time guarantees any Secured Obligations. For purposes of clarity, Excluded Subsidiaries shall not be deemed to be Guarantors.

"**Guaranty and Security Agreement**" means that certain Guaranty and Security Agreement, dated as of even date herewith, in form and substance reasonably acceptable to Agents and the Borrowers, made by the Credit Parties in favor of Collateral Agent, for the benefit of the Secured Parties, as the same may be amended, restated and/or modified from time to time.

"**Hazardous Material**" means any substance, material or waste that is classified, regulated or otherwise characterized under any Environmental Law as hazardous, toxic, a contaminant or a pollutant or by other words of similar meaning or regulatory effect, including petroleum or any fraction thereof, asbestos, polychlorinated biphenyls and radioactive substances.

"Holdings Pledge Agreements" means, collectively, the Limited Guaranty and Pledge Agreements of each Holdings Pledgor in favor of (and in form and substance satisfactory in the sole discretion of) the Collateral Agent, as the same may be amended from time to time.

"Holdings Pledgors", means, collectively, each of the following Persons, in each instance, solely to the extent such Person is party to a fully executed, valid and enforceable Holdings Pledge Agreement, and the Collateral Agent has a first priority perfected security interest in the Pledged Collateral (as defined in each such Holdings Pledge Agreement)

thereunder: Viking Cake BR LLC, Brand 2021 Irrevocable Trust dated September 10, 2021, Daniel J. Brand 2021 Trust dated September 10, 2021, DJB 2021 Grantor Retained Annuity Trust dated October 6, 2021, Tanya N. Brand 2021 Trust dated September 10, 2021, Hernandez 2021 Irrevocable Trust dated September 10, 2021, Jeffrey R. Hernandez 2021 Trust dated September 10, 2021, Tiffany S. Hernandez 2021 Trust dated September 10, 2021, Bryan D. Pereboom 2021 Trust dated September 10, 2021, Nicole R. Pereboom 2021 Trust dated September 10, 2021, Pereboom 2021 Irrevocable Trust dated September 10, 2021, JRH 2021 Grantor Retained Annuity Trust dated October 4, 2021, Jacob V. Spellmeyer 2021 Trust dated September 10, 2021, Juliet A. Spellmeyer 2021 Trust dated September 10, 2021, Spellmeyer 2021 Irrevocable Trust dated September 10, 2021, Joshua M. Pike 2021 Trust dated September 10, 2021, Shannon R. Pike 2021 Trust dated September 10, 2021.

"**Impacted Lender**" means any Lender that fails to provide Agent, within three (3) Business Days following Agent's written request, written confirmation that such Lender will comply with its prospective funding obligations and otherwise not become a Non-Funding Lender (provided that such Lender shall cease to be an Impacted Lender upon provision of such written confirmation), or any Lender that has a Person that directly or indirectly controls such Lender and such Person (a) becomes subject to a voluntary or involuntary case under the Bankruptcy Code or any similar bankruptcy laws, (b) has appointed a custodian, conservator, receiver or similar official for such Person or any substantial part of such Person's assets, (c) makes a general assignment for the benefit of creditors, is liquidated, or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent or bankrupt, or (d) becomes the subject of a Bail-in Action, and for each of clauses (a) through (d), Agent has determined that such Lender is reasonably likely to become a Non-Funding Lender. For purposes of this definition, control of a Person shall have the same meaning as in the second sentence of the definition of Affiliate.

"**Indebtedness**" of any Person means, without duplication: (a) all indebtedness for borrowed money; (b) all obligations issued, undertaken or assumed as the deferred purchase price of Property or services, including earn-outs (other than (i) trade payables entered into or incurred in the Ordinary Course of Business and not more than ninety (90) days past due, (ii) deferred compensation liabilities and (iii) deferred employment bonus liabilities, in each case, incurred and/or accrued in the Ordinary Course of Business); (c) the face amount of all letters of credit issued for the account of such Person and without duplication, all drafts drawn thereunder and all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments issued by such Person; (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of Property, assets or businesses; (e) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to Property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such Property); (f) all Capital Lease Obligations; (g) the principal balance outstanding under any synthetic lease, off-balance sheet loan or similar off balance sheet financing product; provided, however, that no obligations in respect of any operating lease shall be treated as "Indebtedness" for any purposes under this Agreement solely as a result of its required treatment

as Indebtedness under GAAP; (h) all obligations of such Person, whether or not contingent, to purchase, redeem, retire, defease or otherwise acquire for value or make any cash payments in respect of Disqualified Stock, valued at, in the case of redeemable preferred Stock, the greater of the voluntary liquidation preference and the involuntary liquidation preference of such Stock plus accrued and unpaid dividends; (i) obligations under any Rate Contract; (j) all indebtedness referred to in clauses (a) through (i) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in Property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness; (k) all Contingent Obligations described in clause (a) of the definition thereof in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (j) above; provided that, if such obligation is limited in recourse against a specific asset, the amount of such Contingent Obligation shall be calculated as the lesser of the obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed or supported and the fair market value of such asset.

"**Indemnified Tax**" means (a) any Tax imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes, in each case, other than Excluded Taxes.

"**Insolvency Proceeding**" means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors; in each case in (a) and (b) above, undertaken under U.S. federal, state or foreign law, including the Bankruptcy Code.

"**Intellectual Property**" means all rights, title and interests in or relating to intellectual property and industrial property arising under any Requirement of Law and all IP Ancillary Rights relating thereto, including all Copyrights, Patents, Software, Trademarks, Internet Domain Names and Trade Secrets.

"**Interest Payment Date**" means, (a) with respect to any SOFR Rate Loan (other than a SOFR Rate Loan having an Interest Period exceeding (3) months) the last day of each Interest Period applicable to such Loan, (b) with respect to any SOFR Rate Loan having an Interest Period exceeding three (3) months, the last day of each three (3) month interval and, without duplication, the last day of such Interest Period, and (c) with respect to Base Rate Loans, the last Business Day of each Fiscal Quarter.

"**Interest Period**" means, as to any Borrowing, the period commencing on the date of such Loan or Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter (in each case, subject to the availability thereof), as specified in the applicable Notice of Borrowing; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next

succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period, (iii) no Interest Period shall extend beyond the Term Loan Maturity Date and (iv) no tenor that has been removed from this definition pursuant to Section 10.5 shall be available for specification in such Notice of Borrowing. For purposes hereof, the date of a Loan or Borrowing initially shall be the date on which such Loan or Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Loan or Borrowing.

"**Internet Domain Name**" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to internet domain names.

"**Inventory**" means all of the "inventory" (as such term is defined in the UCC) of a Borrower and its Subsidiaries, including, but not limited to, all merchandise, raw materials, parts, supplies, work-in-process and finished goods intended for sale, together with all the containers, packing, packaging, shipping and similar materials related thereto, and including such inventory as is temporarily out of a Borrower's or such Subsidiary's custody or possession, including inventory on the premises of others and items in transit.

"**IP Ancillary Rights**" means, with respect to any Intellectual Property, as applicable, all foreign counterparts to, and all divisionals, reversions, continuations, continuations-in-part, reissues, reexaminations, renewals and extensions of, such Intellectual Property and all income, royalties, proceeds and Liabilities at any time due or payable or asserted under or with respect to any of the foregoing or otherwise with respect to such Intellectual Property, including all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any other IP Ancillary Right.

"**IP License**" means all Contractual Obligations (and all related IP Ancillary Rights), whether written or oral, granting any right, title and interest in or relating to any Intellectual Property.

"**IRS**" means the Internal Revenue Service of the United States and any successor thereto.

"**Las Vegas Franchisee Group Litigation**" has the meaning set forth on Schedule 3.5.

"**Latest Maturity Date**" means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Term Loan or any Extended Term Loan, in each case as extended in accordance with this Agreement from time to time.

"**Lead Arrangers"** mean, collectively, Riverside Credit Solutions Fund I, L.P. and TCW Asset Management Company LLC.

"**Leases**" means, collectively, each lease of Real Estate of a Credit Party or a Subsidiary, including each such lease related to a Store or to the operation of the business of the Credit Parties or their Subsidiaries.

"**Lending Office**" means, with respect to any Lender, the office or offices of such Lender specified as its "Lending Office" beneath its name on the applicable signature page hereto, or such other office or offices of such Lender as it may from time to time notify the Borrower Representative and Administrative Agent.

"**Liabilities**" means all claims, actions, suits, judgments, damages, losses, liability, obligations, responsibilities, fines, penalties, sanctions, costs, fees, Taxes, commissions, charges, disbursements and expenses (including, without limitation, those incurred upon any appeal or in connection with the preparation for and/or response to any subpoena or request for document production relating thereto), in each case of any kind or nature (including interest accrued thereon or as a result thereto and fees, charges and disbursements of financial, legal and other advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

"**Lien**" means any mortgage, deed of trust, pledge, hypothecation, assignment, charge, deposit arrangement, encumbrance, easement, lien (statutory or otherwise), security interest or other security arrangement and any other preference, priority or preferential arrangement of any kind or nature whatsoever, including any conditional sale contract or other title retention agreement, the interest of a lessor under a Capital Lease and any synthetic or other financing lease having substantially the same economic effect as any of the foregoing.

"**Liquidity**" means the aggregate amount of the Credit Parties' Qualified Cash.

"**Loan**" means any loan made or deemed made by any Lender hereunder.

"**Loan Documents**" means this Agreement, the Notes, the Fee Letter, the Collateral Documents, the Subordination Agreement, the Limited Guaranty and Pledge Agreements, duly executed by each Founder Group Members, the Holdings Pledge Agreements and all documents, instruments or agreements delivered by or on behalf of any Credit Party in favor of the Agents and/or any Lender, each in form satisfactory to the Agents, in connection with any of the foregoing, other than Secured Rate Contracts or agreements relating to Bank Products.

"**Margin Stock**" means "margin stock" as such term is defined in Regulation T, U or X of the Federal Reserve Board.

"**Material Adverse Effect**" means a material adverse change in any of (a) the financial condition, business, operations, prospects or Property of the Credit Parties and their Subsidiaries taken as a whole; (b) the ability of the Credit Parties and their Subsidiaries taken as a whole to perform their obligations under any Loan Document; or (c) the (i) validity or enforceability of any Loan Document or the rights and remedies (taken as a whole) of Collateral Agent, Administrative Agent, the Lenders and the other Secured Parties under any Loan Document and (ii) the perfection or priority of any Liens with respect to the Collateral granted to the Lenders or

Collateral Agent for the benefit of the Secured Parties under any Loan Document (except to the extent resulting from an action or failure to act by Collateral Agent).

"**Measurement Period**" means, at any date of determination, the most recently completed four Fiscal Quarters of the Credit Parties ended on or prior to such time (taken as one accounting period) for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(a) or Section 4.1(b), as applicable; provided that, solely for purposes of determining the Fixed Charge Coverage Ratio (or any component definition thereof) for any purposes under the Loan Document in respect of any period ended prior to ~~June 30~~**March 31**, ~~2023~~**2024**, Measurement Period shall mean (i) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of ~~September~~June 30, ~~2022~~2023 but prior to the date specified in clause (ii) below, the one Fiscal Quarter ending as of such date, (ii) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(a) or Section 4.1(b), as applicable, for the Fiscal Quarter ending as of ~~December 31~~September **30**, ~~2022~~**2023** but prior to the date specified in clause (iii) below, the two most recently completed Fiscal Quarters ending as of such date (taken as one accounting period), and (iii) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of ~~March~~December 31, 2023 but prior to the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of ~~June 30~~March **31**, ~~2023~~**2024**, the three (3) most recently completed Fiscal Quarters ending as of such date (taken as one accounting period).

"**Moody's**" means Moody's Investors Service, Inc.

"**Mortgage**" means any deed of trust, leasehold deed of trust, mortgage, leasehold mortgage, deed to secure debt, leasehold deed to secure debt or other document creating a Lien on Real Estate or any interest in Real Estate.

"**Multiemployer Plan**" means any multiemployer plan, as defined in Section 3(37) or 4001(a)(3) of ERISA, as to which any ERISA Affiliate incurs or otherwise has any obligation or liability under ERISA or the Code, contingent or otherwise.

"**National Flood Insurance Program**" means the program created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as revised by the National Flood Insurance Reform Act of 1994, that mandates the purchase of flood insurance to cover real property improvements located in Special Flood Hazard Areas in participating communities and provides protection to property owners through a federal insurance program.

"**Net Issuance Proceeds**" means, in respect of any issuance of equity or incurrence of Indebtedness, cash proceeds (including cash proceeds as and when received in respect of non-cash proceeds received or receivable in connection with such issuance), net of underwriting discounts and reasonable out-of-pocket costs and expenses paid or incurred in connection therewith in favor of any Person not an Affiliate of the Borrowers.

"**Net Proceeds**" means proceeds in cash, checks or other cash equivalent financial instruments (including Cash Equivalents) as and when received by the Person making a Disposition, as well as insurance proceeds and condemnation and similar awards received on account of an Event of Loss or otherwise constituting Extraordinary Receipts, net of: (a) in the event of a Disposition (i) the transaction costs, fees and expenses relating to such Disposition excluding amounts payable to the Borrowers or any Affiliate of the Borrowers, (ii) Taxes paid or reasonably estimated to be payable as a result thereof, and (iii) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness (other than the Obligations) secured by a Lien on the asset which is the subject of such Disposition and (b) in the event of an Event of Loss, (i) all money actually applied to repair or reconstruct the damaged Property or Property affected by the condemnation or taking, (ii) all of the costs and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, (iii) Taxes paid or payable as a result thereof, and (iv) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments. After netting out the items in clauses (a) and (b) of the foregoing definition, as applicable, if the amount of Net Proceeds would be less than zero, such amount shall be deemed to be zero.

"**Non-Financing Lease Obligation**" means a lease obligation that is not required to be accounted for as a financing lease or Capital Lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

"**Non-Funding Lender**" means any Lender that has (a) failed to fund all or any portion of any Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment required to be made by it under the Loan Documents within two (2) Business Days after any such Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment is due (excluding expense and similar reimbursements that are subject to good faith disputes), (b) given written notice (and Agent has not received a revocation in writing), to the Borrower, Administrative Agent, any Lender, or has otherwise publicly announced (and Administrative Agent has not received notice of a public retraction) that such Lender has failed or believes it will fail to fund any Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment required to be funded by it under the Loan Documents or one or more other syndicated credit facilities or other financing agreements, (c) failed to fund, and not cured, loans, participations, advances, or reimbursement obligations under one or more other syndicated credit facilities or other financing agreements, unless subject to a good faith dispute, or (d) (i) become subject to a voluntary or involuntary case under the Bankruptcy Code or any similar bankruptcy laws, (ii) a custodian, conservator, receiver or similar official appointed for it or any substantial part of such Person's assets, (iii) made a general assignment for the benefit of creditors, been liquidated, or otherwise been adjudicated as, or determined by any Governmental

Authority having regulatory authority over such Person or its assets to be, insolvent or bankrupt, or (e) become the subject of a Bail-in Action, and for this clause (e), Administrative Agent has determined that such Lender is reasonably likely to fail to fund any payments required to be made by it under the Loan Documents.

"**Non-U.S. Lender Party**" means each of the Agents, each Lender, each SPV and each participant, in each case that is not a United States person as defined in Section 7701(a)(30) of the Code.

"**Note**" means any Term Note and "**Notes**" means all such Notes.

"**Notice of Borrowing**" means a notice given by the Borrower Representative to Administrative Agent pursuant to Section 1.5 or 2.1(r), in substantially the form of Exhibit 11.1(b) hereto.

"**Obligations**" means all Loans, and other Indebtedness, advances, debts, liabilities, obligations, covenants and duties owing by any Credit Party to any Lender, Agent or any other Indemnitee, that arises under any Loan Document, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired; provided that Obligations of any Guarantor shall not include any Excluded Rate Contract Obligations solely of such Guarantor.

"**Ordinary Course of Business**" means, in respect of any transaction involving any Person, the ordinary course of such Person's business, as conducted by any such Person in accordance with past practice and undertaken by such Person in good faith and not for purposes of evading any covenant or restriction in any Loan Document.

"**Organization Documents**" means, (a) for any corporation, the certificate or articles of incorporation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, and any shareholder rights agreement, (b) for any partnership, the partnership agreement and, if applicable, certificate of limited partnership, (c) for any limited liability company, the operating agreement and articles or certificate of formation or (d) any other document setting forth the manner of election or duties of the officers, directors, managers or other similar persons, or the designation, amount or relative rights, limitations and preference of the Stock of a Person.

"**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 any such connection arising from the Recipient having executed, delivered, become a party to, performed its obligations or received a payment under, received or perfected as 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.

"**Patents**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to letters patent and applications therefor.

"**Patriot Act**" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56.

"**PBGC**" means the United States Pension Benefit Guaranty Corporation or any successor thereto.

"**Permits**" means, with respect to any Person, (i) any permit, approval, authorization, license, registration, certificate, concession, grant, franchise, variance or permission from any Governmental Authority or (ii) any other Contractual Obligations with any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

~~**"Permitted Acquisition" means the City Brew Acquisition and any other Acquisition by a Credit Party (other than Holdings, BRSO 67th or BRCR) of the Stock and Stock Equivalents of a Target or all or substantially all of the assets of a Target, in each case other than with respect to the City Brew Acquisition, to the extent that each of the following conditions shall have been satisfied (or waived):**~~

~~**(a) the Borrower Representative shall have delivered to Agents:**~~

~~**(i) at least five (5) Business Days prior to the consummation thereof (or such shorter period as Agents may accept), notice of such Acquisition setting forth in reasonable detail the terms and conditions of such Acquisition which shall include, to the extent available, a due diligence package;**~~

~~**(ii) with respect to any Acquisition or series of related Acquisitions as to which the Acquisition Consideration (as defined below) is equal to or greater than $2,500,000, as soon as available, (A) substantially final drafts of the respective material agreements, documents or instruments pursuant to which such Acquisition is to be consummated (including any related management, non-compete, employment, option or other material agreements and, to the extent required under the related acquisition agreement, regulatory waivers or third party approvals), any schedules to such agreements, documents or instruments and all other material ancillary agreements, instruments and documents to be executed or delivered in connection therewith, (B) if available, environmental assessments, (C) a pro forma balance sheet, pro forma projections for the two (2) year period immediately following such Acquisition, pro forma financial covenant calculations demonstrating compliance with the financial covenants set forth in Section 6.1 in connection with such pro forma projections (with each of the pro forma balance sheet, pro forma projections and pro forma financial covenant calculations certified by the chief financial officer or, if there is no**~~

~~chief financial officer, another Responsible Officer of the applicable Borrower) and (D) a copy of the due diligence investigation conducted by Holdings, the Borrowers or their Subsidiaries;~~

~~(iii) (i) if prepared in connection with any Acquisition or (ii) with respect to any Acquisition or series of related Acquisitions as to which the Acquisition Consideration (as defined below) is equal to or greater than $10,000,000, a quality-of-earnings report or other independent third-party verification conducted by a third party reasonably acceptable to the Agents;~~

~~(b) on a pro forma basis immediately after giving effect to such Acquisition, the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions (without giving effect to clause (a) of such term);~~

~~(c) such Acquisition shall not be hostile and shall have been approved (or will be contemporaneously approved) by the Board of Directors and/or the stockholders or other equityholders of the Target;~~

~~(d) the Target of such Acquisition shall be organized in the United States and the majority of the business units or asset groups of such Target shall be located in the United States.~~

~~(e) no Event of Default shall then exist or would exist immediately after giving effect to such Acquisition and any Indebtedness being incurred in connection therewith;~~

~~(f) the total consideration paid or payable (including all transaction costs, Indebtedness assumed and/or incurred in connection therewith and the maximum amount of all deferred payments, including Contingent Acquisition Consideration) (such amounts, collectively, the "Acquisition Consideration") for Acquisitions consummated after the Closing Date and during the term of this Agreement shall not exceed $15,000,000 in the aggregate for all such Acquisitions, excluding the City Brew Acquisition; provided that (i) that such limit may be increased by the amount of equity (other than Disqualified Stock) proceeds provided by the Founder Group Members (or other holders of Stock of Holdings) during the term of this Agreement to finance such acquisitions, (ii) any consideration for an acquisition funded by an equity contribution to Holdings of common equity (or preferred or other equity on terms acceptable to Agents) shall not be included in the determination of the Acquisition Consideration paid or payable in connection with any Acquisition and (iii) the amount of Acquisition Consideration with respect to any Acquisition shall be reduced by the amount of acquired cash or Cash Equivalents on the balance sheet of the Target;~~

~~(g) the Target shall have earnings before interest, taxes, depreciation and amortization from operations within in the United States (calculated on a trailing twelve month basis) of greater than $0; provided that, in calculating earnings before~~

~~interest, taxes, depreciation and amortization from operations of Holdings and its Subsidiaries and such Target, such calculations substantially similar to those used in calculating EBITDA will be permitted to be used;~~

~~(h) the Credit Parties (including any new Subsidiary to the extent required by Section 4.12) shall execute and deliver the agreements, instruments and other documents required by Section 4.12 within the time period provided in Section 4.12; and~~

~~(i) after giving effect to such Acquisition, Holdings will be in compliance with Section 5.9.~~

"**Permitted Refinancing**" means Indebtedness constituting a refinancing, replacement or extension of Indebtedness permitted under Section 5.5(c), 5.5(d), 5.5(g), 5.5(o), 5.5(u), or 5.5(v) that (a) has an aggregate outstanding principal amount not greater than the aggregate principal amount of the Indebtedness being refinanced, replaced or extended, (b) has a Weighted Average Life to Maturity (measured as of the date of such refinancing or extension) and maturity no shorter than that of the Indebtedness being refinanced, replaced or extended, (c) is not entered into as part of a sale leaseback transaction, (d) is not secured by a Lien on any assets other than the collateral securing the Indebtedness being refinanced, replaced or extended, (e) to the extent that the holders of such Indebtedness being refinanced, replaced or extended are subject to an intercreditor or subordination agreement or arrangement with an Agent, the holders of such refinancing Indebtedness shall enter into a similar intercreditor or subordination agreement or arrangement with such Agent on terms no less favorable to the Lenders as those contained in the intercreditor or subordination agreement or arrangement governing the Indebtedness being refinanced, replaced or extended (as determined by the Agent in its reasonable discretion), (f) the obligors of which are the same as the obligors of the Indebtedness being refinanced, replaced or extended, and (g) is otherwise on terms no less favorable to the Credit Parties and their Subsidiaries or the Lenders, taken as a whole, than those of the Indebtedness being refinanced, replaced or extended.

"**Person**" means any individual, partnership, corporation (including a business trust and a public benefit corporation), joint stock company, estate, association, firm, enterprise, trust, limited liability company, unincorporated association, joint venture and any other entity or Governmental Authority.

"PIK Amount" has the meaning set forth in the definition of Applicable Margin.

"Preferred Equity" means, the **"Series A-1 Preferred Units"** and the **"Series A-2 Preferred Units"** as each such term is defined in the A&R Holdings LLC Agreement.

"Preferred Equity Obligations" means the obligations of Holdings in respect of the Series A-1 Preferred Units and Series A-2 Preferred Units (as each such term is defined in the A&R Holdings LLC Agreement), in an aggregate principal amount of **up to** approximately $~~220,000,000~~**320,000,000** as of the ~~Closing~~**Third Amendment Effective** Date, together with

paid-in-kind yield accruing thereon and other amounts due in connection therewith, in each instance in accordance with the terms of the A&R Holdings LLC Agreement.

"Prime Rate" means for any day a fluctuating rate of interest per annum equal to the highest of (a) the rate last quoted by The Wall Street Journal as the "Prime Rate" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by Administrative Agent) or any similar release by the Federal Reserve Board (as determined by Administrative Agent). Any change in the Prime Rate due to a change in any of the foregoing shall be effective at the opening of business on the day any such change is publicly announced or quoted as being effective.

"**Pro Forma Financial Statements**" means the unaudited pro forma consolidated balance sheet and related pro forma statements of income and cash flows of Holdings and its Subsidiaries for and as of the last day of the most recent twelve (12) month period ended at least thirty (30) days prior to the Closing Date, prepared after giving effect to the Related Transactions and the transactions contemplated hereunder to occur on the Closing Date as if such transactions have occurred on the date thereof or at the beginning of the period covered thereby, as the case may be.

"**Pro Forma Compliance Conditions**" means, at any time of determination, the following conditions: (a) no Default or Event of Default exists or, on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, would result therefrom, (b) on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, the Total Net Leverage Ratio shall not be greater than ~~**(i) during the period from the Closing Date through June 30, 2022, the Closing Leverage, (ii) during the period from July 1, 2022 to the date of** delivery of the Compliance Certificate **under Section 4.2(b) for the Fiscal Quarter ended September 30, 2022, the Closing Leverage minus 0.25x, and**~~**4.0 to 1.0,** (~~**iii**~~**c**) ~~**thereafter, 0.25x inside the then applicable covenant under Section 6.1(a) and, in the case of the preceding clause (iii),**~~ the Credit Parties shall be in compliance with the Fixed Charge Coverage Ratio in Section 6.1(b), as recomputed for the most recently ended Measurement Period, and (~~**c**~~**d**) on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, Liquidity is not less than $5,000,000.

"**Pro Forma Transaction**" means any Investment that results in a Person becoming a Subsidiary, any Permitted Acquisition, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or a Store whether by merger, consolidation, amalgamation or otherwise, incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), any issuance of Stock or Stock Equivalents (other than Disqualified Stock), and any Restricted Payment that by the terms of this Agreement requires such test to be calculated on a "pro forma basis" or after giving "pro forma effect."

"**Projections**" means the financial model and projections of Holdings and its Subsidiaries delivered to the Agent on or prior to the Closing Date, such projections to include a five year, three-statement base case financial model of the Credit Parties.

"**Property**" means any interest in any kind of property or asset, whether real, personal or mixed, and whether tangible or intangible.

"**Qualified Cash**" means unrestricted cash and Cash Equivalents of the Credit Parties in which Collateral Agent, after giving effect to the time periods set forth in Section 4.11, has a perfected first priority Lien.

"Qualified Cash Summary" means a summary of Qualified Cash to be delivered in accordance with Section 4.1(d).

"**Qualified ECP Guarantor**" means, in respect of any Swap Obligation under a Secured Rate Contract, each Credit 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 under a Secured Rate Contract or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act 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.

"**Rate Contracts**" means swap agreements (as such term is defined in Section 101 of the Bankruptcy Code) designed to provide protection against fluctuations in interest or currency exchange rates and any other agreements or arrangements designed to provide such protection.

"**Real Estate**" means any real property owned, leased, subleased or otherwise operated or occupied by any Credit Party or any Subsidiary of any Credit Party.

"**Related Persons**" means, with respect to any Person, each Affiliate of such Person and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisor (including those retained in connection with the satisfaction or attempted satisfaction of any condition set forth in Article II) and other consultants and agents of or to such Person or any of its Affiliates; provided that, with respect to any reference to such Person or Affiliate of such Person acting in the capability of an agent or other representative, Related Person shall be deemed to include such Person or Affiliate acting in an individual capacity or other capacity.

"**Related Transactions**" means, collectively, (a) the execution and delivery by the Credit Parties of the Loan Documents to which they are a party and the making of the Loans on the Closing Date, (b) the consummation of the Existing Debt Refinancing Transactions, and (c) the payment of any fees or expenses incurred or paid by the Credit Parties or any of their Subsidiaries in connection with the foregoing (including in connection with this Agreement and the other Loan Documents).

"**Releases**" means any release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, disposal, discharge, dumping or leaching of Hazardous Material into the environment.

"Relevant Governmental Body" means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

"**Remedial Action**" means all actions required under applicable Environmental Laws to (a) clean up, remove or treat any Hazardous Material in the environment, (b) prevent or minimize any Release so that a Hazardous Material does not migrate or endanger or threaten to endanger public health or welfare or the environment or (c) perform pre-remedial studies and investigations and post-remedial monitoring and care with respect to any Hazardous Material.

"**Rental Expense**" means, for any period, all rental expense of Borrowers (but excluding lease termination expenses and lease exit costs, whether accounted for as a restructuring costs, lease expense or otherwise in connection with no more than three stores in any Fiscal Year), determined on a consolidated basis in accordance with.

"**Required Lenders**" means at any time, Lenders then holding more than fifty percent (50%) of ~~**the sum of (1) the Aggregate Delayed Draw Term Loan Commitment then in effect plus (2)**~~ the aggregate unpaid principal balance of the Term Loans then outstanding, provided, that if there are two Lenders at any date of determination (each Lender and its Affiliates being considered a single Lender), Required Lenders means both Lenders.

"**Requirement of Law**" means, with respect to any Person, the common law and any federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case whether or not having the force of law and that are applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject.

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Responsible Officer**" means the chief executive officer, chief financial officer, president, vice president, treasurer, secretary or controller of a Borrower or a Credit Party, as applicable, or any other officer having substantially the same authority and responsibility; or, with respect to compliance with financial covenants or delivery of financial information, the chief financial officer or the treasurer of a Borrower or any other officer having substantially the same authority and responsibility.

"**Roasters Litigation**" has the meaning set forth on Schedule 3.5.

"SBA" means the United States Small Business Administration,

"**SBIA**" means the Small Business Investment Act of 1958, as amended.

"**S&P**" means Standard & Poor's Rating Services.

"**Secured Obligations**" means (a) all Obligations, (b) all Indebtedness, advances, debts, liabilities, obligations, covenants and duties owing by any Credit Party to any Secured Swap Provider that arises under any Secured Rate Contract, whether or not for the payment of money, whether arising by reason of an extension of credit, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and (c) for purposes of the Collateral Documents and all provisions under the other Loan Documents relating to the Collateral, the sharing thereof and/or payments from proceeds of the Collateral, all Bank Product Debt; provided that Secured Obligations of any Guarantor shall not include any Excluded Rate Contract Obligations solely of such Guarantor.

"**Secured Party**" means Collateral Agent, each Lender, each other Indemnitee, each Secured Swap Provider and each Bank Product Provider.

"**Secured Rate Contract**" means any Rate Contract between a Credit Party (other than Holdings) and a Secured Swap Provider, in effect on the Closing Date or entered into thereafter, to the extent that (x) RCS or any of its Affiliates is the Secured Swap Provider or (y) a Borrower and such Secured Swap Provider have notified Administrative Agent in writing of the intent to include the obligations of such Credit Party arising under such Rate Contract as Secured Rate Contract Obligations, and such Secured Swap Provider shall have acknowledged and agreed to the terms contained herein applicable to Secured Obligations related to Secured Rate Contracts.

"**Secured Swap Provider**" means RCS, a Lender or an Affiliate of a Lender (or a Person who was a Lender or an Affiliate of a Lender at the time of execution and delivery of a Rate Contract) who has entered into a Secured Rate Contract with a Credit Party (other than Holdings).

"SOFR" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Rate Loan" means a Loan that bears interest at the Term SOFR Rate or Daily Simple SOFR.

"**Software**" means (a) all computer programs, including source code and object code versions, (b) all data, databases and compilations of data, whether machine readable or otherwise, and (c) all documentation, training materials and configurations related to any of the foregoing.

"**Solvent**" means, as to any Person as of any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature and (d) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's property would constitute an unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"**Special Flood Hazard Area**" means an area that FEMA's current flood maps indicate has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year.

"**SPV**" means any special purpose funding vehicle identified as such in a writing by any Lender to Agents (other than an Excluded Person).

"**Stock**" means all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting.

"**Stock Equivalents**" means all securities convertible into or exchangeable for Stock or any other Stock Equivalent and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any Stock or any other Stock Equivalent, whether or not presently convertible, exchangeable or exercisable.

"**Store**" means any store location operated, or to be operated, by a Credit Party or any Subsidiary, which complies with Section 5.9.

"**Subsidiary**" means, with respect to any Person, any corporation, partnership, joint venture, limited liability company, association or other entity, the management of which is, directly or indirectly, controlled by, or of which an aggregate of more than fifty percent (50%) of the voting Stock is, at the time, owned or controlled directly or indirectly by, such Person or one or more Subsidiaries of such Person.

"Subordinated Indebtedness" means, as of the Closing Date, (i) the Preferred Equity Obligations, and (ii) after the Closing Date, shall include any other Indebtedness of any Credit Party or any Subsidiary of any Credit Party which is subordinated to the Obligations as to right and time of payment and other rights and remedies thereunder and having such other terms as are, in each case, reasonably satisfactory to Agents, including, without limitation, permitted Indebtedness incurred in connection with Acquisition permitted hereunder.

"**Subordinated Term Loans**" means the "Term Loans" as defined in the Subordinated Term Loan Agreement.

"**Subordinated Term Loan Agent**" means Cynosure Partners 2020, LP., a Delaware limited partnership, and its permitted successors of assigns.

"**Subordinated Term Loan Agreement**" means that certain Loan Agreement, dated as of December 21, 2020, by and among Holdings, BRSO, BRD, BRCB, BRR, the lenders party thereto, and the Subordinated Term Loan Agent, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**Subordination Agreement**" means that certain Subordination Agreement, dated as of the Closing Date, by and among the Agents and the holders of the Preferred Equity, and acknowledged by the Credit Parties, as amended, amended and restated, replaced, renewed, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"**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.

"**Target**" means any Person engaged in the same business as the Credit Parties or reasonably related thereto which is acquired or proposed to be acquired in an Acquisition.

"**Tax Affiliate**" means, (a) the Borrowers and their Subsidiaries and (b) each other Credit Party.

"**Term Lender**" means each Lender that (a) has a Term Loan Commitment or (b) who holds a Term Loan.

"**Term Loan**" means, as applicable, and as the context may require, (a) a Term Loan A, (b) a funded Delayed Draw Term Loan, or (c) an Extended Term Loan.

"**Term Loan Amortization Amount**" means, at any applicable time, a fixed dollar amount equal to the product of (a) the sum of (x) the aggregate principal amount of the Term Loan A funded on the Closing Date), plus (y) the aggregate principal amount of all funded Delayed DrawTerm Loans times (b) the applicable Term Loan Amortization Percentage.

"**Term Loan Amortization Percentage**" means, at any applicable time, a percentage equal to 0.250%.

"**Term Loan Commitment**" as to each Term Lender, its obligation to make a Term Loan to the Borrowers hereunder, expressed as an amount in dollars representing the maximum principal amount of such Term Loan to be made by such Term Lender under this Agreement, as such commitment may be reduced or increased from time to time pursuant to assignments by or to such Term Lender pursuant to an Assignment. The initial amount of each Term Lender's Term Loan Commitment is set forth on Schedule 1.1(a) under the caption "Term Loan Commitment" or, otherwise, in the Assignment pursuant to which such Term Lender shall have

assumed its Term Loan Commitment, as the case may be. The Term Loan Commitment of each Term Lender set forth on Schedule 1.1(a) as in effect on the Closing Date shall expire on the Closing Date if not funded in accordance with Section 1.1(a) on the Closing Date.

"**Term Loan Maturity Date**" means April 29, 2025.

"**Term Note**" means a promissory note of the Borrowers payable to a Lender, in substantially the form of Exhibit 11.1(d), in the case of the Term Loans, evidencing the Indebtedness of the Borrowers to such Lender resulting from the Term Loans made to the Borrowers by such Lender or its predecessor(s).

"Term SOFR" means the rate per annum determined by the Administrative Agent as the forward-looking term rate based on SOFR.

"Term SOFR Administrator" means CME Group Benchmark Administration Ltd. (or a successor administrator of Term SOFR).

"Term SOFR Administrator's Website" means https://www.cmegroup.com/market-data/cme-group-benchmark-administration/term-sofr, or any successor source for Term SOFR identified as such by the Term SOFR Administrator from time to time.

"Term SOFR Determination Date" means with respect to any Term SOFR Loan for the relevant Interest Period, two Business Days before the first day of such Interest Period.

"Term SOFR Loan" means a Loan that, except as otherwise provided in Sections 8.2 or 8.3, bears interest at the applicable Term SOFR Rate other than pursuant to clause (d) of the definition of Base Rate.

"Term SOFR Rate" means, for the relevant Interest Period, the sum of (a) the Adjusted Term SOFR Rate applicable to such Interest Period, plus (b) the Applicable Margin.

"Term SOFR Screen Rate" means, for the relevant Interest Period, the Term SOFR rate for such Interest Period quoted by the Administrative Agent from the Term SOFR Administrator's Website or the applicable Bloomberg screen (or other commercially available source providing such quotations as may be selected by the Administrative Agent from time to time) (the "Screen") for such Interest Period, which shall be the Term SOFR rate published on the Term SOFR Determination Date. If as of 5:00 p.m. (New York time) on any Term SOFR Determination Date, the Term SOFR rate has not been published by the Term SOFR Administrator or on the Screen, then the rate used will be that as published by the Term SOFR Administrator or on the Screen for the first preceding Business Day for which such rate was published on such Screen so long as such first preceding Business Day is not more than three (3) Business Days prior to such Term SOFR Determination Date.

"Third Amendment Effective Date" means May 8, 2023.

"**Title IV Plan**" means a pension plan subject to Title IV of ERISA, other than a Multiemployer Plan, to which any ERISA Affiliate incurs or otherwise has any obligation or liability under ERISA or the Code, contingent or otherwise.

"Total Net Leverage Ratio" means, at any date of determination, the ratio of (a) an amount equal to Consolidated Total Debt outstanding as of the last day of the Measurement Period most recently ended, less cash and Cash Equivalents of Borrowers on such date in an amount greater than $3,000,000 but not more than $~~13,000,000~~**20,500,000** (for avoidance of doubt, a maximum of $~~10,000,000~~**17,500,000**) deposited in a deposit account subject to a Control Agreement) to (b) Consolidated EBITDA for the Measurement Period most recently ended, in each case for Holdings and the Borrowers on a Consolidated basis. For avoidance of doubt, paid-in-kind yield dividends on the Preferred Equity are excluded from the calculation of the Total Net Leverage Ratio, regardless of whether such paid-in-kind yield dividends constitute Indebtedness under GAAP.

"**Trade Secrets**" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trade secrets.

"**Trademark**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers and, in each case, all goodwill associated therewith, all registrations and recordations thereof and all applications in connection therewith.

"**Type**" means, with respect to a Loan, its character as a SOFR Rate Loan or a Base Rate Loan.

"**UCC**" means the Uniform Commercial Code of any applicable jurisdiction and, if the applicable jurisdiction shall not have any Uniform Commercial Code, the Uniform Commercial Code as in effect from time to time in the State of New York.

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Unadjusted EBITDA" means Consolidated EBITDA excluding the addbacks in clauses (v), (vii) and (ix) of the definition thereof.

"**United States**" and "**U.S.**" each means the United States of America.

"**U.S. Lender Party**" means each Agent, each Lender, each SPV and each participant, in each case that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"Viking Cake" means Viking Cake Holdings II, LLC, a Delaware limited liability company.

"Viking Cake Convertible Note" means that certain Convertible Promissory Note of Holdings in favor of Viking Cake dated as of the January 31, 2023 and in the principal amount of $7,500,000.

"**Weighted Average Life to Maturity** " means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (b) the then outstanding principal amount of such Indebtedness; provided that, for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended, the effects of any prepayments made on such Indebtedness prior to the date of the applicable extension shall be disregarded.

"**Wholly-Owned Subsidiary**" of a Person means any Subsidiary of such Person, all of the Stock and Stock Equivalents of which (other than directors' qualifying shares required by law) are owned by such Person, either directly or through one or more Wholly-Owned Subsidiaries of such Person.

"**Write-Down and Conversion Powers**" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

11.2 Other Interpretive Provisions.

(a) Defined Terms. Unless otherwise specified herein or therein, all terms defined in this Agreement or in any other Loan Document shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto. The meanings of defined terms shall be equally applicable to the singular and plural forms of the defined terms. Terms (including uncapitalized terms) not otherwise defined herein and that are defined in the UCC shall have the meanings therein described.

(b) The Agreement. The words "**hereof**", "**herein**", "**hereunder**" and words of similar import when used in this Agreement or any other Loan Document shall refer to this Agreement or such other Loan Document as a whole and not to any particular provision of this Agreement or such other Loan Document; and subsection, section,

schedule and exhibit references are to this Agreement or such other Loan Documents unless otherwise specified.

(c) Certain Common Terms. The term "**documents**" includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced. The term "**including**" is not limiting and means "including without limitation."

(d) Performance; Time. Whenever any performance obligation hereunder or under any other Loan Document shall be stated to be due or required to be satisfied on a day other than a Business Day, such performance shall be made or satisfied on the next succeeding Business Day. For the avoidance of doubt, the initial payments of interest and fees relating to the Obligations (other than amounts due on the Closing Date) shall be due and paid on the first day of the first month or quarter, as applicable, following the entry of the Obligations onto the operations systems of Administrative Agent, but in no event later than the first day of the second month or quarter, as applicable, following the Closing Date. In the computation of periods of time from a specified date to a later specified date, the word "**from**" means "from and including"; the words "**to**" and "**until**" each mean "to but excluding", and the word "**through**" means "to and including." All references to the time of day shall be a reference to New York, New York time. If any provision of this Agreement or any other Loan Document refers to any action taken or to be taken by any Person, or which such Person is prohibited from taking, such provision shall be interpreted to encompass any and all means, direct or indirect, of taking, or not taking, such action.

(e) Contracts. Unless otherwise expressly provided herein or in any other Loan Document, references to agreements and other contractual instruments, including this Agreement and the other Loan Documents, shall be deemed to include all subsequent amendments, thereto, restatements and substitutions thereof and other modifications and supplements thereto which are in effect from time to time, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document.

(f) Laws. References to any statute or regulation may be made by using either the common or public name thereof or a specific cite reference and, except as otherwise provided with respect to FATCA, are to be construed as including all statutory and regulatory provisions related thereto or consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

(g) Divisions. For all purposes under the Loan Documents, in connection with any Division: (i) 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 (ii) 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 Stock at such time. Any reference in Section 5.2, Section 5.3 or Section 5.4 to a combination, merger, consolidation,

Disposition, dissolution, liquidation or transfer shall be deemed to apply to a Division (or the unwinding of such a Division) as if it were a combination, merger, consolidation, Disposition, dissolution, transfer or similar term, as applicable, to or with a separate Person. Any Division of a Person shall constitute a separate Person hereunder (and each Division of any Person that is a Subsidiary, Credit Party, joint venture or any other like term shall also constitute such a Person or entity).

11.3 Accounting Terms and Principles. All accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made in accordance with GAAP. If any change in GAAP results in a change in the calculation of the financial covenants or interpretation of related provisions of this Agreement or any other Loan Document, then the Borrower Representative, the Agents and the Required Lenders agree to amend such provisions of this Agreement or any other Loan Document so as to equitably reflect such changes in GAAP with the desired result that the criteria for evaluating the Credit Parties' financial condition shall be the same after such change in GAAP as if such change had not been made; provided that no change in the accounting principles used in the preparation of any financial statement hereafter adopted by Holdings shall be given effect for purposes of measuring compliance with any provision of Article V or VI unless the Borrower Representative, Agents and the Required Lenders agree to modify such provisions to reflect such changes in GAAP and, unless such provisions are modified, all financial statements, Compliance Certificates and similar documents provided hereunder shall be provided together with a reconciliation between the calculations and amounts set forth therein before and after giving effect to such change in GAAP. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to in Article V and Article VI shall be made, without giving effect to any election under Accounting Standards Codification 825-10 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other Liabilities of any Credit Party or any Subsidiary of any Credit Party at "fair value." A breach of a financial covenant contained in Article VI shall be deemed to have occurred as of the last day of any specified measurement period, regardless of when the financial statements reflecting such breach are delivered to Administrative Agent. For purposes of determining pro forma compliance with any financial covenant as of any date prior to the first date on which such financial covenant is to be tested hereunder, the level of any such financial covenant shall be deemed to be the covenant level for such first test date and if the availability of Indebtedness under this Agreement, or other incurrence of Indebtedness in compliance with this Agreement, is subject to a maximum leverage ratio, then, solely for the purposes of determining such availability or compliance, the cash proceeds of such Indebtedness, shall not be included in the calculation, if applicable, of cash or cash equivalents included in the determination of such leverage ratio. Notwithstanding anything to the contrary, in no event shall any Non-Financing Lease Obligation constitute Indebtedness or a Capital Lease under this Agreement or any other Loan Document, in each case, irrespective of any changes in GAAP after the Closing Date. In addition, and notwithstanding anything to the contrary in this Agreement, all terms of an accounting or financial nature used herein or therein shall be construed, and all computations of amounts and ratios referred to herein and therein shall be made, without giving effect to the Financial Accounting Standards Board Accounting Standards Codification 842 (or any other Accounting Standards Codification having a similar

result or effect) (and related interpretations) to the extent any lease (or any similar arrangement conveying the right to use) would be required to be treated as a financing lease or capital lease thereunder where such lease (or similar arrangement) would have been treated as an operating lease under GAAP as in effect immediately prior to the effectiveness of the Financing Accounting Standards Board Accounting Standards Codification 842 (or such other Accounting Standards Codification having a similar result or effect).

11.4 Payments. Administrative Agent may set up standards and procedures to determine or redetermine the equivalent in Dollars of any amount expressed in any currency other than Dollars and otherwise may, but shall not be obligated to, rely on any determination made by any Credit Party. Any such determination or redetermination by Administrative Agent shall be conclusive and binding for all purposes, absent manifest error. No determination or redetermination by any Secured Party or any Credit Party and no other currency conversion shall change or release any obligation of any Credit Party or of any Secured Party (other than Administrative Agent and its Related Persons) under any Loan Document, each of which agrees to pay separately for any shortfall remaining after any conversion and payment of the amount as converted. Administrative Agent may round up or down, and may set up appropriate mechanisms to round up or down, any amount hereunder to nearest higher or lower amounts and may determine reasonable *de minimis* payment thresholds.

11.5 Pro Forma Calculations.

(a) Notwithstanding anything to the contrary in this Agreement, EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio (but excluding, for the avoidance of doubt, the calculation of Excess Cash Flow), shall be calculated in the manner prescribed by this Section 11.5; provided that, notwithstanding anything to the contrary in this Section 11.5, when calculating the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio for purposes of determining actual compliance (and not pro forma compliance, compliance on a pro forma basis or determining compliance giving pro forma effect to a transaction) with Section 6.1, the events described in this Section 11.5 that occurred subsequent to the end of the applicable Measurement Period shall not be given pro forma effect.

(b) For purposes of calculating EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio (but excluding, for the avoidance of doubt, the calculation of Excess Cash Flow), Pro Forma Transactions (and the incurrence or repayment of any Indebtedness in connection therewith, subject to Section 11.5(c) that have been made by any Credit Party and/or its Subsidiaries (i) during the applicable Measurement Period or (ii) subject to the proviso set forth in Section 11.5(a), subsequent to such Measurement Period ad prior to or simultaneously with the event for which the calculation of any such ratio or test is made shall be calculated on a pro forma basis assuming that all such Pro Forma Transactions (and the change in EBITDA and other components of the financial covenants resulting from such Pro Forma Transaction) had occurred on the first day of the applicable Measurement Period. If since the beginning of any such Measurement Period any Person

that subsequently became a Subsidiary or was merged, amalgamated or consolidated with or into any Credit Party or any Subsidiary of such Credit Party since the beginning of such Measurement Period shall have made any Pro Forma Transaction that would have required adjustment pursuant to this Section 11.5, then EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, shall be calculated giving pro forma effect thereto for such Measurement Period in accordance with this Section 11.5.

(c) In the event that any Credit Party or any Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable Measurement Period or (ii) subsequent to the end of the applicable Measurement Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, as applicable, shall be calculated giving pro forma effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred (A) in the case of the Fixed Charge Coverage Ratio (or any similar ratio or test), on the first day of the applicable Measurement Period and (B) in the case of the Total Net Leverage Ratio and the Senior Leverage Ratio, as applicable, on the last day of the applicable Measurement Period.

(d) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of the event for which the calculation of the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio is made had been the applicable rate for the entire period (taking into account any interest hedging arrangements applicable to such Indebtedness). Interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Borrower Representative to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP. Interest on any Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate or other rate shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen by the Borrower Representative.

[*Signature Pages Follow*]

[Signature Page to Credit Agreement]

Exhibit 10.5

FOURTH AMENDMENT AND LIMITED WAIVER TO CREDIT AGREEMENT

This **FOURTH AMENDMENT AND LIMITED WAIVER TO CREDIT AGREEMENT** , dated as of May 31, 2024 (this "Amendment"), is entered into among (a) **BLACK ROCK COFFEE HOLDINGS, LLC**, a Delaware limited liability company ("Holdings"), (b) **BLACK ROCK COFFEE BAR, LLC**, an Oregon limited liability company ("BRCB"), **BLACK ROCK STORE OPERATIONS LLC**, an Oregon limited liability company ("BRSO"), **BLACK ROCK DEVELOPMENT, LLC**, an Oregon limited liability company ("BRD"), **BLACK ROCK ROASTING, LLC**, an Oregon limited liability company ("BRR"), **BRSO 67TH, LLC**, an Arizona limited liability company ("BRSO 67th") and **BR CASTLE ROCK LLC**, a Colorado limited liability company ("BRCR" together with BRCB, BRSO, BRD, BRR and BRSO 67th, collectively and jointly and severally, the "Borrowers", and each individually, a "Borrower"), (c) **BRSO PNW XX, LLC**, a Washington limited liability company ("BRSO PNW") and **BLACK ROCK COFFEE INVESTMENTS, LLC**, a Delaware limited liability company ("**BRCI**"), as Guarantors (as defined in the Credit Agreement referred to below), (d) the other Credit Parties (as defined in the Credit Agreement referred to below), (e) the Lenders (as defined below) party hereto, and (f) **RCS AGENT, LLC** (in its individual capacity, "RCS"), as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent") for the Lenders and **TCW ASSET MANAGEMENT COMPANY LLC** in its individual capacity ("TCW"), as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent" and, together with the Administrative Agent, each an "Agent" and collectively, the "Agents") for the Lenders.

PRELIMINARY STATEMENTS

A. Reference is made to that certain Credit Agreement, dated as of April 29, 2022, as amended by that certain First Amendment to Credit Agreement, dated as of November 11, 2022 (the "First Amendment"), as further amended by that certain Second Amendment to Credit Agreement, dated as of January 13, 2023 (the "Second Amendment"), as further amended by that certain Third Amendment to Credit Agreement, dated as of May 8, 2023 (the "Third Amendment") and as further amended, amended and restated, extended, supplemented or otherwise modified in writing from time to time and in effect immediately prior to the effectiveness of this Amendment, the "Existing Credit Agreement", and the Existing Credit Agreement, as amended by this Amendment, the "Amended Credit Agreement"), among (a) the Borrowers, (b) Holdings, (c) the Guarantor, (d) each other Person party hereto from time to time that is designated as a "Credit Party", (e) the several financial institutions and other lenders from time to time party thereto (collectively, the "Lenders" and each individually, a "Lender") (f) the Administrative Agent and (g) the Collateral Agent.

B. The following Event of Default has occurred and is continuing under the Existing Credit Agreement (the "Existing Event of Default"): the Event of Default under Section 7.1(d) of the Existing Credit Agreement arising from the failure of the Borrowers to, within (15) days after the date upon which any order(s) entered in connection with the Roasters Litigation which prohibit BRSO PNW from granting liens on its assets was no longer effective, cause BRSO

PNW to either (x) execute a joinder to the Guaranty and Security Agreement and such other Collateral Documents as may be designated by the Agents, and take such actions as may be designated by the Agents to perfect first priority Liens in favor of the Collateral Agent on all assets of BRSO PNW, or (y) transfer one hundred percent (100%) of the assets of BRSO PNW (including cash and Cash Equivalents) to BRSO and dissolve the legal existence of BRSO PNW, pursuant to Section 4.20 of the Existing Credit Agreement.

C. The Borrowers have requested that (i) the Existing Credit Agreement be amended to, among other things, (a) make available the Delayed Draw Term Facility and (b) extend the Term Loan Maturity Date from April 29, 2025 to September 30, 2026 and (ii) the Agents and the Lenders waive the Existing Event of Default.

D. The Administrative Agent, Collateral Agent and Lenders are willing to amend the Existing Credit Agreement and waive the Existing Event of Default, each on the terms, and subject to the conditions, set forth herein and in the Amended Credit Agreement.

Accordingly, in consideration of the premises and other good and valuable consideration, the parties hereto hereby agree as follows:

1. Capitalized Terms. Capitalized terms used herein, including in preamble and the preliminary statements, and not otherwise defined herein shall have the meanings assigned to such terms in the Amended Credit Agreement.

2. Limited Waiver of Existing Event of Default. Subject to the satisfaction of the conditions precedent set forth in Section 4 hereof, and in reliance upon the representations and warranties of the Credit Parties set forth in the Credit Agreement and this Amendment, the Agents and the Lenders signatory hereto hereby waive the Existing Event of Default, and their respective right to take any action under the Credit Agreement or the other Loan Documents that they may otherwise have had solely as a result of the occurrence of the Existing Event of Default. The foregoing waiver is a limited, one time waiver and, except as expressly set forth herein, shall not be deemed to: (a) constitute a waiver of any other Event of Default or any other breach of the Credit Agreement or any of the other Loan Documents, whether now existing or hereafter arising, (b) constitute a waiver of any right or remedy of either of the Agents or any of the Lenders under the Loan Documents which does not arise as a result of the Existing Event of Default (all such rights and remedies being expressly reserved by the Agents and the Lenders), or (c) establish a custom or course of dealing or conduct between the Agents and the Lenders, on the one hand, and any Credit Party on the other hand. The foregoing waiver shall not be deemed to constitute a consent of any other act, omission or any breach of the Credit Agreement or any of the other Loan Documents.

3. Amendments to Existing Credit Agreement.

(a) The Existing Credit Agreement is, as of the Fourth Amendment Effective Date, hereby amended and restated to (i) delete the stricken text (indicated textually in the same manner as the following example: ~~**stricken text**~~), (ii) add the double-underlined text (indicated textually in the same manner as the following example: **double-underlined text**) and (iii) move

from its location the stricken text in green (indicated textually in the same manner as the following example: ~~moved from text~~) into its new location the double-underlined text in green (indicated textually in the same manner as the following example: moved to text), as set forth in the Credit Agreement attached as Annex A hereto.

(b) All of the existing exhibits to the Existing Credit Agreement are, as of the Fourth Amendment Effective Date, hereby deleted in their entirety and replaced with the corresponding exhibits to the Credit Agreement set forth in Annex B attached hereto.

(c) All of the existing schedules to the Existing Credit Agreement are, as of the Fourth Amendment Effective Date, hereby deleted in their entirety and replaced with the corresponding schedules to the Credit Agreement set forth in Annex C attached hereto.

4. Conditions Precedent to Amendment. This Amendment shall become effective upon the satisfaction of each of the conditions precedent set forth in Section 2.3 of the Amended Credit Agreement, including, without limitation, the following conditions (the date upon which this Amendment shall so become effective being referred to as the "Fourth Amendment Effective Date"):

(a) *Amendment, Fourth Amendment Fee Letter and Related Documents.* The Administrative Agent and Collateral Agent shall have received (i) this Amendment, duly executed by the Credit Parties, the Lenders and Viking Cake BR (see Annex D), (ii) the Fourth Amendment Fee Letter, duly executed by the Borrower Representative (on behalf of the Borrowers) and the Agents and (iii) all other documents, certificates and instruments (x) set forth in Section 2.3 of the Amended Credit Agreement or (y) as reasonably requested by the Agents, in each case, in form and substance reasonably satisfactory to the Agents and the Lenders;

(b) *Representations and Warranties/No Default*. On the Fourth Amendment Effective Date, the representations and warranties set forth in Section 5 of this Amendment shall be true and correct.

(c) *Fees and Expenses.* The Administrative Agent and Collateral Agent shall have received reimbursement or payment of all out-of-pocket fees, costs and expenses required to be reimbursed or paid by the Borrowers under the Existing Credit Agreement on or prior to the Fourth Amendment Effective Date, including but not limited to (i) all fees and expenses invoiced through the Fourth Amendment Effective Date incurred by the Administrative Agent and Collateral Agent and its counsel related to the documentation referenced hereto in Section 4(a) and (ii) those fees contained in this Amendment and the Fourth Amendment Fee Letter.

5. Representations and Warranties. The Credit Parties hereby represent and warrant to the Administrative Agent, Collateral Agent and the Lenders as of the Fourth Amendment Effective Date as follows:

(a) *Corporate Authorization; No Contravention*. The execution, delivery and performance by each of the Credit Parties of this Amendment, (i) have been duly authorized by all necessary corporate, limited liability company or limited partnership action, as applicable, and (ii) do not and will not:

(i) contravene the terms of any of that Person's Organization Documents;

(ii) conflict with or result in any material breach or contravention of, or result in the creation of any Lien (other than Liens in favor of the Collateral Agent created under the Loan Documents) under, any document evidencing any Contractual Obligation that is material to the Credit Parties to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject except in each case to the extent such would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; or

(iii) violate any Requirement of Law in any respect, except to the extent such violation could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) *Governmental Authorization.* No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Amendment, the Amended Credit Agreement or any other Loan Document except (i) for recordings, filings and other perfection actions in connection with the Liens granted to Collateral Agent under the Collateral Documents, (ii) those obtained or made on or prior to the Fourth Amendment Effective Date, and (iii) filings required by applicable Requirements of Law in connection with the exercise of remedies by the Collateral Agent.

(c) *Binding Effect*. This Amendment has been duly executed and delivered by such Credit Party that is party hereto. This Amendment constitutes the legal, valid and binding obligations of each Credit Party that is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

(i) *Representations and Warranties; No Default*. The following statements shall be true on the Fourth Amendment Effective Date, both immediately before and immediately after giving effect to this Amendment and the consummation of the

transactions contemplated by this Amendment taking place on or about the Fourth Amendment Effective Date:

(i) The representations and warranties of each Credit Party contained in Article III of the Amended Credit Agreement or any other Loan Document are true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) on and as of the Fourth Amendment Effective Date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true and correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date); and

(ii) no Default or Event of Default exists.

6. Survival of Representations and Warranties. All representations and warranties made by the Credit Parties in this Amendment or other document delivered pursuant to or in connection with this Amendment shall survive the execution and delivery hereof. Such representations and warranties have been relied upon by each Agent and each Lender, regardless of any investigation made by either Agent or any Lender or on their behalf and notwithstanding that either Agent or any Lender may have had notice or knowledge of any Default on the Fourth Amendment Effective Date, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

7. Conditions Subsequent.

(a) Within thirty (30) days after the Fourth Amendment Effective Date (or such later date as may be agreed to by the Administrative Agent, in its sole discretion), the Credit Parties shall deliver, or cause to be delivered, to the Agents all applicable insurance policy certificates of the type described in Section 4.6 of the Amended Credit Agreement.

(b) Within sixty (60) days after the Fourth Amendment Effective Date (or such later date as may be agreed to by the Administrative Agent, in its sole discretion), the Credit Parties shall deliver, or cause to be delivered, to the Agents all applicable insurance policy endorsements of the type described in Section 4.6 of the Amended Credit Agreement, including, without limitation, such endorsements as may be necessary to ensure that (i) the Collateral Agent, for the benefit of the Secured Parties, is named as an additional insured, lender loss payee and/or loss payee, as applicable, with respect to the liability policies (other than directors and officers policies and workers compensation policies) maintained by each Credit Party and (ii) the Collateral Agent, for the benefit of the Secured Parties, is named as a lender's loss payee with respect to the property insurance maintained by each Credit Party, in all cases, with notice of cancellation provisions and endorsements consistent with the requirements set forth in Section 4.6 of the Amended Credit Agreement, as applicable.

(c) To the extent not received on the Fourth Amendment Effective Date, the Borrowers shall deliver, or cause to be delivered, (i) original signatures to this Fourth Amendment and each agreement and certificate executed and delivered in connection herewith to the Collateral Agent (including, without limitation, notarized signature pages of the relevant Founders to each of the Second Amended and Restated Limited Guaranty and Pledge Agreements of Daniel Brand, Jeffrey Hernandez, Jake Spellmeyer and Bryan Pereboom) and (ii) shall use commercially reasonable efforts to deliver original signatures of each of the other Credit Parties to each such agreement to the Collateral Agent, in each case, within thirty (30) days of the Fourth Amendment Effective Date (or such later date as may be agreed to by the Administrative Agent, in its sole discretion).

8 . Amendment as a Loan Document. This Amendment constitutes a "Loan Document" under the Amended Credit Agreement. Any breach of this Amendment, including, without limitation, a breach of the condition(s) subsequent set forth in Section 7, shall be an Event of Default under the Amended Credit Agreement.

9 . Effect on Loan Documents. After giving effect to this Amendment on the Fourth Amendment Effective Date, the Amended Credit Agreement and the other Loan Documents shall be and remain in full force and effect in accordance with their terms and are hereby ratified and confirmed by Holdings, the Borrowers and each other Credit Party in all respects. The execution, delivery, and performance of this Amendment shall not operate as a waiver of any right, power, or remedy of the Administrative Agent, Collateral Agent or the Lenders under the Existing Credit Agreement or the other Loan Documents. Each of Holdings, the Borrower and each other Credit Party hereby acknowledge and agree that, after giving effect to this Amendment, all of its and their obligations and liabilities under the Existing Credit Agreement and the other Loan Documents to which it is a party, as such obligations and liabilities have been amended or otherwise modified by this Amendment, are reaffirmed and remain in full force and effect. All references to the Existing Credit Agreement in any Loan Document or other document or instrument delivered in connection therewith shall be deemed to refer to the Amended Credit Agreement. Nothing contained herein shall be construed as a novation of the Obligations outstanding under and as defined in the Existing Credit Agreement, which shall remain in full force and effect, as expressly modified hereby.

10. Reaffirmation of Grant of Security Interests. Each of the Credit Parties hereby reaffirms its grant to the Collateral Agent, for the benefit of the Secured Parties, of a continuing security interest in and Lien upon the Collateral of such Person, whether now owned or hereafter acquired or arising, and wherever located, all as provided in the Collateral Documents, and Holdings, the Borrowers, and each other Credit Party hereby reaffirms that the Secured Obligations are and shall continue to be secured by the continuing security interest and Lien granted by such Person to the Collateral Agent, for the benefit of the Secured Parties, pursuant to the Collateral Documents.

11. Release of Certain Collateral. Pursuant to Section 8.10 of the Amended Credit Agreement, each Lender hereby directs Collateral Agent, and Agent hereby agrees, to execute

and deliver or file such documents and to perform other actions reasonably necessary to release the Liens on the Existing Preferred Units redeemed pursuant to the Series A Redemption Agreement, at the Borrowers' expense.

12. Limited Effect. This Amendment relates only to the specific matters expressly covered herein, shall not be considered to be an amendment or waiver of any rights or remedies that the Administrative Agent, Collateral Agent or any Lender may have under the Existing Credit Agreement or any other Loan Document (except as expressly set forth herein) or under applicable law, and shall not be considered to create a course of dealing or to otherwise obligate in any respect the Administrative Agent, Collateral Agent or any Lender to execute similar or other amendments or waivers or grant any amendments or waivers under the same or similar or other circumstances in the future.

13. Release of Claims. In consideration of the Administrative Agent's, Collateral Agent's and each Lender's agreements contained in this Fourth Amendment, each Credit Party hereby irrevocably releases and forever discharges the Administrative Agent, Collateral Agent and each Lender and their affiliates, subsidiaries, successors, assigns, directors, officers, employees, agents, consultants and attorneys (each, a "Released Person") of and from any and all claims, suits, actions, causes of action, investigations or proceedings, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law of any kind or character, known or unknown, which such Credit Party ever had or now has against the Administrative Agent, Collateral Agent, any Lender or any other Released Person which relates, directly or indirectly, to any acts or omissions of the Administrative Agent, Collateral Agent, any Lender or any other Released Person relating to the Existing Credit Agreement or any other Loan Document on or prior to the date hereof.

14. Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Amendment, including its validity, interpretation, construction, performance and enforcement (including any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest). The provisions of Section 9.18 of the Existing Credit Agreement are hereby incorporated by reference, mutatis mutandis, into this Amendment.

15. Counterparts. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Amendment by facsimile or other electronic imaging means (*e.g.*, "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Amendment.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed and delivered as of the date first above written.

BLACK ROCK COFFEE HOLDINGS, LLC

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK COFFEE BAR, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK STORE OPERATIONS, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK DEVELOPMENT, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK ROASTING, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BRSO 67th, LLC

By: Black Rock Store Operations, LLC
Its: Member
By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BR CASTLE ROCK LLC

By: Black Rock Store Operations, LLC
Its: Member

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BRSO PNW XX, LLC

By: Black Rock Store Operations, LLC
Its: Member

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK COFFEE INVESTMENTS, LLC

By: Black Rock Coffee Holdings, LLC
Its: Manager

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

RCS AGENT, LLC,
as Administrative Agent

By: /s/ Béla R. Schwartz
Name: Béla R. Schwartz
Title: Vice President and Secretary

RCS SBIC FUND II, L.P.,
as a Lender

By: RCS II SBIC GP, LLC
Its: General Partner

By: /s/ Béla R. Schwartz
Name: Béla R. Schwartz
Title: Vice President and Secretary

TCW ASSET MANAGEMENT COMPANY LLC, as Collateral Agent

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DL VIII FINANCING LLC, as a Lender

By: TCW Asset Management Company LLC,
its Collateral Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW WV FINANCING LLC, as a Lender

By: TCW Asset Management Company LLC,
its Collateral Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW SKYLINE LENDING, L.P., as a Lender

By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING STRUCTURED SOLUTIONS 2019 LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TMD-DL HOLDINGS LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

SAFETY NATIONAL CASUALTY CORPORATION, as a Lender

By: TCW Asset Management Company LLC,
Its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

PHILADELPHIA INDEMNITY INSURANCE COMPANY, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

RELIANCE STANDARD LIFE INSURANCE COMPANY, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

ACKNOWLEDGED AND AGREED TO:

VIKING CAKE HOLDINGS II, LLC

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

ANNEX A

Credit Agreement

[See attached.]

~~$100,000,000~~
UP TO $137,500,000 SENIOR CREDIT FACILITY

CREDIT AGREEMENT

dated as of April 29, 2022

by and among

BLACK ROCK COFFEE HOLDINGS, LLC,

as Holdings and Borrower Representative,

BLACK ROCK COFFEE BAR, LLC,
BLACK ROCK STORE OPERATIONS LLC
BLACK ROCK DEVELOPMENT, LLC
BLACK ROCK ROASTING, LLC,

BRSO 67TH, LLC and
BR CASTLE ROCK LLC,
as Borrowers

BRSO PNW XX, LLC~~,~~
~~as Guarantor~~ and
BLACK ROCK COFFEE INVESTMENTS, LLC,
as Guarantors
THE OTHER CREDIT PARTIES PARTY HERETO FROM TIME TO TIME,
as Credit Parties

THE LENDERS PARTY HERETO FROM TIME TO TIME,

and

RCS AGENT, LLC,
as Administrative Agent

RCS SBIC FUND II, L.P.,
as Joint Lead Arranger and Co-Bookrunner
TCW ASSET MANAGEMENT COMPANY LLC,
as Collateral Agent, Joint Lead Arranger and Co-Bookrunner

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CREDIT AGREEMENT

This **CREDIT AGREEMENT** (including all exhibits and schedules hereto, as the same may be amended, modified, extended, refinanced and/or restated from time to time, this "**Agreement**") is entered into as of April 29, 2022, by and among (a) **BLACK ROCK COFFEE HOLDINGS, LLC**, a Delaware limited liability company ("**Holdings**"), (b) **BLACK ROCK COFFEE BAR, LLC**, an Oregon limited liability company ("**BRCB**"), **BLACK ROCK STORE OPERATIONS LLC**, an Oregon limited liability company ("**BRSO**"); **BLACK ROCK DEVELOPMENT, LLC**, an Oregon limited liability company ("**BRD**"), **BLACK ROCK ROASTING, LLC**, an Oregon limited liability company ("**BRR**"), **BRSO 67th, LLC**, an Arizona limited liability company ("**BRSO 67th**") and **BR CASTLE ROCK LLC**, a Colorado limited liability company ("**BRCR"**, and together with BRCB, BRSO, BRD, BRR and BRSO 67th, and each other Person which joins this Agreement as a Borrower by execution of a Joinder in form and substance reasonably acceptable to the Agent (as hereinafter defined), collectively and jointly and severally, the "**Borrowers**", and each individually, a "**Borrower**"), (c) **BRSO PNW XX, LLC**, a Washington limited liability company ("**BRSO PNW**") ~~as~~**and BLACK ROCK COFFEE INVESTMENTS, LLC, a Delaware limited liability company ("BRCI", together with BRSO PNW, as "Guarantors", and each individually,** a "Guarantor"**)**, (d) each other Person party hereto from time to time that is designated as a "Credit Party", (e) the several financial institutions and other lenders from time to time party hereto (collectively, the "**Lenders**" and each individually, a "**Lender**"), and (f) **RCS AGENT, LLC** (in its individual capacity, "**RCS**"), as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "**Administrative Agent**") for the Lenders, and **TCW Asset Management Company LLC** in its individual capacity, ("**TCW**"), as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent") for the Lenders. The Administrative Agent and the Collateral Agent are sometimes referred to herein collectively as the "Agents", or each individually as an "Agent". The term "Agent", when used herein and not preceded by "Administrative" or "Collateral", means either Agent, and the term "Agents" means both Agents.

W I T N E S S E T H:

WHEREAS, Holdings and the Borrowers have requested, and the Lenders have agreed to make available to the Borrowers, a term loan facility **and a delayed draw term loan facility, in each case**, upon and subject to the terms and conditions set forth in this Agreement;

WHEREAS, the Borrowers desire to secure all of their Obligations under the Loan Documents by granting to Collateral Agent, for the benefit of the Secured Parties, a security interest in and lien upon substantially all of their Property (except as otherwise provided herein or in the other Loan Documents);

WHEREAS, Holdings directly owns all of the Stock and Stock Equivalents of the BRCB, BRSO, BRD, BRSO PNW**, BRCI** and BRR, and BRSO owns ~~a majority~~**all** of the Stock and Stock Equivalents of BRSO 67th and BRCR, and Holdings is willing to guaranty all of the Obligations and to pledge to Collateral Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents it owns in BRCB, BRSO, BRD**, BRCI** and BRR, and BRSO is

willing to pledge to the Collateral Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents it owns in BRSO PNW, BRSO 67th and BRCR, and substantially all of its other Property (except as otherwise provided herein or in the Loan Documents) to secure the Obligations; and

WHEREAS, subject to the terms hereof, each other Guarantor is willing to guaranty all of the Obligations of the Borrowers and to grant to Collateral Agent, for the benefit of the Secured Parties, a security interest in and lien upon substantially all of its Property (except as otherwise provided in the Loan Documents) to secure the Obligations, including, in the case of BRSO, a pledge to the Collateral Agent, for the benefit of the Secured Parties, **of** all of the Stock and Stock Equivalents it owns in BRSO PNW, BRSO 67th and BRCR.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties hereto agree as follows:

ARTICLE I

THE CREDITS

1.1 Amounts and Terms of Commitments.

(a) The Term Loan A Commitments. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Lender with a Term Loan Commitment, severally and not jointly, agrees to make term loans to the Borrowers (each such loan, a "**Term Loan A**") on the Closing Date in the amount of such Lender's Term Loan Commitment as in effect on the Closing Date. Amounts borrowed as a Term Loan A which are repaid or prepaid may not be reborrowed.

~~**(b) [Reserved]**~~

~~**(c) [Reserved]**~~

(b) The Fourth Amendment Term Loan Commitments. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Lender with a Fourth Amendment Term Loan Commitment, severally and not jointly, agrees to make term loans to the Borrowers (each such loan, a "Fourth Amendment Term Loan") on the Fourth Amendment Effective Date in the amount of such Lender's Fourth Amendment Term Loan Commitment as in effect on the Fourth Amendment Effective Date. Amounts borrowed as a Fourth Amendment Term Loan which are repaid or prepaid may not be reborrowed. Once funded, Fourth Amendment Term Loans shall automatically be added to the then outstanding principal amount of, and shall become part of, the Term Loan for all purposes of this Agreement including accrual of interest and determining the Term Loan Amortization Percentages on each Interest Payment Date following such funding.

(c) Delayed Draw Term Loans. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Lender with a Delayed Draw Term Loan Commitment, severally, and not jointly, agrees to make Delayed Draw Term Loans to the Borrowers (each such loan, a "Delayed Draw Term Loan") during the Delayed Draw Availability Period, in an aggregate principal amount not to exceed its Delayed Draw Term Loan Commitment. Once funded, Delayed Draw Term Loans shall be added to the then outstanding principal amount of, and shall become part of, the outstanding Term Loan for all purposes of this Agreement including accrual of interest and determining the Term Loan Amortization Percentage on each Interest Payment Date following such funding. Amounts paid or prepaid in respect of the Delayed Draw Term Loans may not be reborrowed.

(d) Each Fourth Amendment Term Loan and Delayed Draw Term Loan shall for all purposes constitute "Term Loans", "Loans" and "Obligations" incurred under this Agreement.

1.2 Evidence of Loans; Notes. The Term Loans made by each Term Lender are evidenced by this Agreement and, if requested by such Lender, a Term Note payable to such Lender in an amount equal to the unpaid balance of the applicable Term Loans held by such Lender.

1.3 Interest.

(a) Subject to Sections 1.3(c) and 1.3(d), each Loan shall bear interest on the outstanding principal amount thereof from the date when made at a rate per annum equal to the Adjusted Term SOFR Rate or the Base Rate, as the case may be, plus, in each instance, the Applicable Margin. Each determination of an interest rate by Administrative Agent shall be conclusive and binding on the Borrowers and the Lenders in the absence of manifest error. All computations of fees and interest (other than interest accruing on Base Rate Loans (unless calculated in accordance with clause (c) of the definition of "Base Rate")) payable under this Agreement shall be made on the basis of a 360-day year and actual days elapsed. All computations of interest accruing on Base Rate Loans payable under this Agreement shall be made on the basis of a 365-day year (366 days in the case of a leap year) and actual days elapsed. Interest and fees shall accrue during each period during which interest or such fees are computed from the first day thereof to, but excluding, the last day thereof**. For the avoidance of doubt, no date of payment shall be included in any computation**.

(b) Interest on each Loan shall be paid in arrears on each Interest Payment Date, provided, that interest on each Loan shall be paid, in cash, in an amount equal to the Cash Interest Portion of such Loan plus the Applicable Margin, and paid-in-kind and capitalized in accordance with the definition of PIK Amount. Interest shall also be paid in the manner set forth in the preceding sentence on the date of any payment or prepayment of the Term Loans in full.

(c) At the election of Administrative Agent or the Collateral Agent or Required Lenders, while any Event of Default exists (or automatically while any Event of Default under Section 7.1(a), 7.1(f) or 7.1(g) exists), the Borrowers shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the Loans and other Obligations, as applicable, at a rate per annum which is determined by adding two percent (2.0%) per annum to the Applicable Margin then in effect for such Loans or such other Obligations (plus the Term SOFR Rate or Base Rate, as the case may be). All such interest shall be payable on demand of either Agent or the Required Lenders.

(d) Anything herein to the contrary notwithstanding, the obligations of the Borrowers hereunder shall be subject to the limitation that payments of interest shall not be required, for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by the respective Lender would be contrary to the provisions of any law applicable to such Lender limiting the highest rate of interest which may be lawfully contracted for, charged or received by such Lender, and in such event the Borrowers shall pay such Lender interest at the highest rate permitted by applicable law ("**Maximum Lawful Rate**"); provided, however, that if at any time thereafter the rate of interest payable hereunder is less than the Maximum Lawful Rate, the Borrowers shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by Administrative Agent, on behalf of Lenders, is equal to the total interest that would have been received had the interest payable hereunder been (but for the operation of this paragraph) the interest rate payable since the Closing Date as otherwise provided in this Agreement.

1.4 Loan Accounts.

(a) Administrative Agent, on behalf of the Lenders, shall record on its books and records the amount of each Loan made, the interest rate applicable thereto, all payments of principal and interest thereon and the principal balance thereof from time to time outstanding. Such record shall, subject to Sections 1.4(b) through (d), absent manifest error, be conclusive evidence of the amount of the Loans made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so, or any failure to deliver such loan statement shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder (and under any Note) to pay any amount owing with respect to the Loans or provide the basis for any claim against Administrative Agent.

(b) Administrative Agent, acting as a non-fiduciary agent on behalf of the Borrowers and solely with respect to the actions described in this Section 1.4(b), shall establish and maintain at one of its offices (A) a record of ownership (the "**Register**") in which Administrative Agent agrees to register by book entry the interests (including any rights to receive payment hereunder) of Administrative Agent, each Lender in the Term Loans, each of their obligations under this Agreement to participate in each Term Loan, and any assignment of any such interest, obligation or right and (B) accounts in the

Register in accordance with its usual practice in which it shall record (1) the names and addresses of the Lenders (and each change thereto pursuant to Sections 9.9 and 9.22), (2) the Commitments of each Lender, (3) the amount (and stated interest) of each Loan and for Term SOFR ~~Rate~~ Loans, the Interest Period applicable thereto, (4) the amount of any principal or interest due and payable or paid, and (5) any other payment received by any Agent from the Borrowers and its application to the Obligations.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Loans (including any Notes evidencing such Loans) are registered obligations, the right, title and interest of the Lenders and their assignees in and to such Loans, shall be transferable only upon notation of such transfer in the Register and no assignment thereof shall be effective until recorded therein. This Section 1.4 and Section 9.9 shall be construed so that the Loans are at all times maintained in "registered form" under Section 5f.103-1(e) of the United States Treasury Regulations and within the meaning of Sections 163(f), 871(h)(2) and 881(e)(2) of the Code.

(d) The Credit Parties, Agents and the Lenders shall treat each Person whose name is recorded in the Register as a Lender, for all purposes of this Agreement. Information contained in the Register with respect to any Lender shall be available for access by the Borrower Representative, Agents, and each Lender during normal business hours and from time to time upon reasonable prior written notice. No Lender shall, in such capacity, have access to or be otherwise permitted to review any information in the Register other than information with respect to such Lender unless otherwise agreed by the Agents.

1.5 Procedure for Borrowings.

(a) The Borrowing of the Term Loan on the Closing Date shall be made upon the Borrower Representative's irrevocable (subject to Section 10.5 hereof) written (which may be delivered by facsimile, electronic mail or E-Fax) notice delivered to the Administrative Agent substantially in the form of a Notice of Borrowing or in a writing in any other form acceptable to Administrative Agent, which notice must be received by Administrative Agent prior to 2:00 p.m., one (1) Business Day prior to the Closing Date. Such Notice of Borrowing shall specify:

(i) the amount of the Borrowing;

(ii) the requested Borrowing date, which shall be a Business Day;

(iii) whether the Borrowing is to be comprised of ~~Tern~~**Term** SOFR Loans or Base Rate Loans;

(iv) if the Borrowing is to be Term SOFR ~~Rate~~ Loans, the Interest Period applicable to such Loans; **and**

(v) the Borrowers' wire instructions.

(b) The Borrowing of the Fourth Amendment Term Loan on the Fourth Amendment Effective Date shall be made upon the Borrower Representative's irrevocable written notice delivered by electronic mail to the Administrative Agent substantially in the form of a Notice of Borrowing or in a writing in any other form acceptable to Administrative Agent, which notice must be received by Administrative Agent prior to 2:00 p.m., three (3) Business Days prior to the Fourth Amendment Effective Date. Such Notice of Borrowing shall specify:

(i) the amount of the **Fourth Amendment** Term Loan;

(ii) the requested Borrowing date, which shall be a Business Day;

(iii) whether the Borrowing is to be comprised of **Term** SOFR Loans or Base Rate Loans;

(iv) if the Borrowing is to be Term SOFR Loans, the Interest Period applicable to such Loans; **and**

(v) the Borrowers' wire instructions.

(c) The Borrowing of each Delayed Draw Term Loan during the Delayed Draw Availability Period shall be made upon the Borrower Representative's irrevocable written notice delivered by electronic mail to the Administrative Agent substantially in the form of a Notice of Borrowing or in a writing in any other form acceptable to Administrative Agent, which notice must be received by Administrative Agent prior to 2:00 p.m., at least ten (10) Business Days' prior to the requested Borrowing date. Such Notice of Borrowing shall specify:

(i) the amount of the Delayed Draw Term Loan Borrowing (which shall be at least $2,000,000 or such lesser amount as may equal the then unfunded Delayed Draw Term Loan Commitment);

(ii) the requested Borrowing date, which shall be a Business Day (which shall be prior to the expiration of the Delayed Draw Availability Period);

(iii) whether the Borrowing is to be comprised of Term SOFR Loans or Base Rate Loans;

(iv) if the Borrowing is to be Term SOFR Loans, the Interest Period applicable to such Loans; and

(v) the Borrowers' wire instructions.

As used herein, "DDTL Funding Conditions" means receipt by the Administrative Agent of a certificate of a Responsible Officer of the Borrower Representative certifying that as of the date of such certificate, (i) the Borrowers have at least $3,000,000 of Qualified

Cash, (ii) on a pro forma basis after giving effect to such Delayed Draw Term Loan Borrowing or Incremental Delayed Draw Term Loan Borrowing, as applicable, (a) the Total Net Leverage Ratio shall not be greater than 4.25 to 1.0 and (b) the Credit Parties shall be in compliance with the Fixed Charge Coverage Ratio in Section 6.1(b) (such certificate setting forth in reasonable detail the calculations demonstrating such compliance), (iii) the proposed use of proceeds of the requested Delayed Draw Term Loan or Incremental Delayed Draw Term Loan (which shall be described therein), as applicable, complies with Section 4.10(b), and (iv) such certificate constitutes the Borrower Representative's irrevocable authorization to the Administrative Agent to deduct the Delayed Draw Term Loan Funding Fee or fees payable in connection with the funding of any Incremental Delayed Draw Term Loan, as applicable, for the ratable benefit of each Delayed Draw Term Lender or Incremental Delayed Draw Term Lender, as the case may be, from the related Delayed Draw Term Loan Borrowing or Incremental Delayed Draw Term Loan Borrowing, as the case may be.

Each Notice of Borrowing relating to a Delayed Draw Term Loan or Incremental Delayed Draw Term Loan shall demonstrate satisfaction of the DDTL Funding Conditions.

(d) ~~**(c)**~~ Upon receipt of a Notice of Borrowing pursuant to clause (a**), (b**) or (~~**b**~~**c**) above, Administrative Agent will promptly notify each applicable Lender of such Notice of Borrowing and of the amount of such Lender's Commitment Percentage of the Borrowing.

(e) ~~**(d)**~~ Each Lender with a Commitment shall make its Loan available to the Administrative Agent not later than 12:00 p.m. on the applicable Borrowing date, by wire transfer of same day funds in Dollars, at the Administrative Agent's office or account. Upon satisfaction or waiver of the conditions precedent specified herein, including Section 2.1 and Section 2.2, and receipt of all requested Loan funds, the Administrative Agent shall make the proceeds of such Loans available to the Borrowers on the applicable Borrowing date by causing an amount of same day funds in Dollars equal to the proceeds of all such Loans received by the Administrative Agent from Lenders to be wired to the account of the Borrowers as may be designated in writing to the Administrative Agent by the Borrowers in the applicable Notice of Borrowing.

1.6 Conversion and Continuation Elections.

(a) The Borrower Representative shall have the option to (i) request that any Loan be made as a Term SOFR ~~**Rate**~~ Loan, (ii) convert at any time all or any part of outstanding Loans from Base Rate Loans to Term SOFR ~~**Rate**~~ Loans, (iii) convert any Term SOFR ~~**Rate**~~ Loan to a Base Rate Loan, subject to Section 10.4 if such conversion is made prior to the expiration of the Interest Period applicable thereto, or (iv) continue all or any portion of any Loan as a Term SOFR ~~**Rate**~~ Loan upon the expiration of the applicable Interest Period. Any Loan or group of Loans having the same proposed Interest Period to be made or continued as, or converted into, a Term SOFR ~~**Rate**~~ Loan must be in a minimum amount of $100,000 (or, if less, the aggregate outstanding amount of such Loan or Loans). Any such election must be made by Borrower Representative by

2:00 p.m. (x) on the date that is three (3) Business Days prior to (1) the date of any proposed Loan which is to bear interest at Term SOFR, (2) the end of each Interest Period with respect to any Term SOFR ~~Rate~~ Loans to be continued as such, or (3) one (1) day prior to the date on which the Borrower Representative wishes to convert any Base Rate Loan to a Term SOFR ~~Rate~~ Loan for an Interest Period designated by the Borrower Representative in such election, and (y) on the date that is one (1) Business Day prior to the date on which the Borrower Representative wishes to convert any Term SOFR ~~Rate~~ Loan to a Base Rate Loan. If no Notice of Conversion/Continuation is received with respect to a Term SOFR ~~Rate~~ Loan by 2:00 p.m. on the date that is three (3) Business Day prior to the end of the Interest Period with respect thereto, that Term SOFR ~~Rate~~ Loan shall automatically be continued as a Term SOFR ~~Rate~~ Loan with a one month Interest Period. If a Notice of Conversion/Continuation is received with respect to a Term SOFR ~~Rate~~ Loan by a 2:00 p.m. on the date that is three (3) Business Days prior to the end of the Interest Period with respect thereto, but fails to specify an Interest Period with respect thereto, the Borrower Representative will be deemed to have selected a one month Interest Period. The Borrower Representative must make such election by notice to Administrative Agent in writing, including by hand delivery, overnight courier, mail, facsimile or Electronic Transmission, which notice may be given pursuant to irrevocable written notice (a "**Notice of Conversion/Continuation**") substantially in the form of Exhibit 1.6 or in a writing in any other form reasonably acceptable to Administrative Agent. No Loan shall be made, converted into or continued as a Term SOFR ~~Rate~~ Loan, if an Event of Default has occurred and is continuing and Required Lenders have determined not to make, convert or continue any Loan as a Term SOFR ~~Rate~~ Loan as a result thereof; provided that the Borrower Representative shall not be required to convert then existing Term SOFR ~~Rate~~ Loans to Base Rate Loans prior to the expiration of the applicable Interest Period(s) thereto solely because of the occurrence and continuance of an Event of Default.

(b) Upon receipt of a Notice of Conversion/Continuation, Administrative Agent will promptly notify each Lender thereof. In addition, Administrative Agent will, with reasonable promptness, notify the Borrower Representative and the Lenders of each determination of Term SOFR; provided that any failure to do so shall not relieve the Borrowers of any liability hereunder or provide the basis for any claim against any Agent. All conversions and continuations shall be made pro rata according to the respective outstanding principal amounts of the Loans held by each Lender with respect to which the notice was given.

(c) Notwithstanding any other provision contained in this Agreement, after giving effect to any Borrowing, or to any continuation or conversion of any Loans, there shall not be more than five (5) different Interest Periods in effect; provided that, after the establishment of any Class of Loans pursuant to an Extension, such number of Interest Periods shall increase by two (2) Interest Periods for each applicable Class so established.

1.7 Optional Prepayments **and Reductions in Delayed Draw Term Loan Commitments.**

(a) Optional Prepayments Generally. The Borrowers may at any time upon at least two (2) Business Days' (or such shorter period as is acceptable to Administrative Agent) prior written notice by the Borrower Representative to Administrative Agent by 2:00 p.m. on such day, prepay the Loans in whole or in part in an amount greater than or equal to $100,000 in each instance, together with any Applicable Prepayment Premium and amounts, if any, due under in Section 10.4. Optional partial prepayments shall be applied to Term Loans as specified by the Borrower Representative; provided that any optional partial prepayments of the Term Loans shall be applied to the outstanding installments thereof in direct order of maturity ratably across each Class of Term Loans then outstanding. Any prepayment in full of the Term Loan in connection with the payment in full of all Obligations (other than Contingent Indemnity Obligations) pursuant to a refinancing with a third-party lender during the period from the Closing Date through the second anniversary of the Closing Date (the "**Prepayment Period**") will be accompanied by the Applicable Prepayment Premium.

(b) **Reductions in Delayed Draw Term Loan Commitments. The Borrowers may at any time, upon at least three (3) Business Days' (or such shorter period as is acceptable to Administrative Agent) prior written notice by the Borrower Representative to Administrative Agent by 2:00 p.m. on such day, terminate or permanently reduce the aggregate Delayed Draw Term Loan Commitment or Incremental Delayed Draw Term Loan Commitment, without premium or penalty; provided that such reductions shall be in an amount greater than or equal to $1,000,000 (or a lesser amount if the aggregate Delayed Draw Term Loan Commitments or aggregate Incremental Delayed Draw Term Loan Commitments, as the case may be, then outstanding is less than $1,000,000). All reductions of the aggregate Delayed Draw Term Loan Commitment or aggregate Incremental Delayed Draw Term Loan Commitment shall be allocated pro rata among all Lenders with a Delayed Draw Term Loan Commitment or Incremental Delayed Draw Term Loan Commitment, as applicable.**

(c) Applicable Prepayment Premium. Any voluntary or mandatory prepayment of the Term Loan during the period from the Closing Date through the second anniversary of the Closing Date (the "**Prepayment Period**") shall be accompanied by the Applicable Prepayment Premium.

(d) Notices. Notice of prepayment or commitment reduction pursuant to clauses (a) or (b) above shall not thereafter be revocable by the Borrower Representative and Administrative Agent will promptly notify each Lender thereof and of such Lender's Commitment Percentage of such prepayment or reduction; provided, however, that a notice of prepayment or commitment reduction may state that such notice is conditioned upon the effectiveness of other credit facilities, the incurrence of other Indebtedness, the consummation of another transaction (such as a change of control) or the occurrence of another specified event, in which case such notice may be revoked by Borrower Representative (by written notice to Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. The payment amount specified in a

notice of prepayment shall be due and payable on the date specified therein. Together with each prepayment under this Section 1.7, the Borrowers shall pay any amounts required to be paid pursuant to Section 10.4.

1.8 Mandatory Prepayments of Loans and Commitment Reductions.

(a) Scheduled Term Loan Payments. The principal amount of the Term Loans **(including, for avoidance of doubt, funded Delayed Draw Term Loans and Incremental Delayed Draw Term Loans)** shall be paid in installments on the last Business Day of each Fiscal Quarter (commencing with the second full Fiscal Quarter following the Closing Date and on the Term Loan Maturity Date in an amount equal to the then-applicable Term Loan Amortization Amount.

The Borrowers shall repay to the Administrative Agent for the ratable account of the appropriate Term Lenders an amount equal to the entire remaining outstanding principal balance of the Term Loan on the Term Loan Maturity Date. The Borrowers shall repay to the Administrative Agent for the ratable account of the appropriate Lenders of Extended Term Loans on each date set forth in the applicable Extension, such amount of such Extended Term Loan as agreed in such Extension.

(b) [Reserved].

(c) Asset Dispositions; Events of Loss. If a Credit Party or any Subsidiary of a Credit Party shall at any time or from time to time:

(i) make a Disposition (except for a Disposition permitted under Section 5.2(a), (c), (d), (e), (f), (h), (i), (j), (k), (l), (o), (p), (s) or (t)); or

(ii) suffer an Event of Loss;

(iii) receives any Extraordinary Receipt, other than in connection with the Las Vegas Franchisee Group Litigation~~, which is governed by Section 1.8(c)(iv) below~~;

and the aggregate amount of the Net Proceeds received by the Credit Parties and their Subsidiaries in connection with such Disposition, Event of Loss or Extraordinary Receipt and all other Dispositions and Events of Loss (for the avoidance of doubt, other than business interruption insurance or workers' compensation) occurring during the Fiscal Year exceeds $500,000, then promptly upon receipt by a Credit Party and/or such Subsidiary of the Net Proceeds of such Disposition, Event of Loss or Extraordinary Receipt, the Borrowers shall deliver, or cause to be delivered, an amount equal to such excess Net Proceeds to Administrative Agent for distribution to the Lenders as a prepayment of the Loans, which prepayment shall be applied in accordance with Section 1.8(f) hereof. Notwithstanding the foregoing and provided no Event of Default has occurred and is continuing at the time of such Disposition, Event of Loss or

Extraordinary Receipt, such prepayment shall not be required to the extent a Credit Party or such Subsidiary reinvests the Net Proceeds of such Disposition, Event of Loss or Extraordinary Receipt in assets of a kind then used or usable in the business of the Credit Parties, within one (1) year after the date of such Disposition or Event of Loss, or enters into a binding commitment thereof within said one (1) year period and subsequently makes such reinvestment within ninety (90) days thereafter; or

(iv) [Reserved].

(d) Incurrence of Debt; Equity Contributions. Upon receipt by any Credit Party or any Subsidiary of any Credit Party of the Net Issuance Proceeds of (i) the incurrence of Indebtedness (other than Net Issuance Proceeds from the incurrence of Indebtedness permitted hereunder) or (ii) if Pro Forma Compliance Conditions are not satisfied, any Equity Contribution (other than ~~(x) a non-cash issuance of Common Units by Holdings in accordance with the terms of the Viking Cake Convertible Note, and (y)~~, provided that no Default or Event of Default has occurred and is continuing, Equity Contributions made pursuant to the Cynosure 2023 Preferred Equity Agreement)~~.~~**, the Borrower Representative shall deliver to the Administrative Agent, for distribution to the Lenders, an amount equal to 100% of the Net Issuance Proceeds received by such Credit Party in connection therewith. The provisions of this subsection (d) shall not be deemed to be implied consent to any such issuance, incurrence or contribution otherwise prohibited by the terms and conditions of this Agreement.**

(e) Excess Cash Flow. Within thirty (30) days after the annual financial statements and corresponding Compliance Certificate are required to be delivered pursuant to Section 4.1(a) and Section 4.2(b) hereof (each an "**ECF Payment Date**"), commencing with such annual financial statements for the Fiscal Year ending December 31, 2022, the Borrowers shall deliver to Administrative Agent, for distribution to the Lenders, an amount equal to 50% of Excess Cash Flow for the applicable Excess Cash Flow Reference Period, less the aggregate amount of voluntary prepayments of the Term Loans made during such Excess Cash Flow Reference Period, for application to the Loans in accordance with the provisions of Section 1.8(f) hereof; provided that the percentage referenced above shall be reduced to 25% of such Excess Cash Flow if the Total Net Leverage Ratio as of the last day of the applicable Fiscal Year is less than 2.50 to 1.00. Excess Cash Flow shall be calculated in the manner set forth in the Compliance Certificate.

(f) Application of Prepayments. Subject to Section 1.10(c) and except as may otherwise be set forth in any Extension, any prepayments pursuant to Section 1.8(c), 1.8(d), or 1.8(e) shall be applied to prepay all remaining installments (including the final installment thereof to be made at maturity) of the Term Loans (**including, for the avoidance of doubt and without limitation, each funded Delayed Draw Term Loan and Incremental Delayed Draw Term Loan)** pro rata against all such scheduled

installments based upon the respective amounts thereof ratably across each Class of Term Loans then outstanding. Amounts prepaid shall be applied first to any Base Rate Loans then outstanding and then to outstanding SOFR Rate Loans with the shortest Interest Periods remaining. Together with each prepayment under this Section 1.8, the Borrowers shall pay any amounts required pursuant to Section 10.4 hereof. Notwithstanding the foregoing, prepayments required pursuant to Section 1.8(c) and (d) attributable to Foreign Subsidiaries shall be limited to the extent such prepayments with respect to the repatriation of cash in connection therewith would (i) be prohibited or delayed by applicable law in the relevant foreign jurisdictions; provided that the Borrower Representative and its Subsidiaries shall take all commercially reasonable actions available under local law to permit such repatriation, (ii) conflict with the fiduciary duties of such Foreign Subsidiary's directors, or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer, director, employee, manager, member or management of such Foreign Subsidiary or (iii) result in adverse tax consequences as determined by the Borrower Representative in good faith; and provided further that, once the repatriation of the relevant Net Proceeds or Net Issuance Proceeds, as applicable, would no longer be limited as described above, such amounts will promptly be applied in accordance with this Section 1.8. The non-application of any prepayment amounts as a direct consequence of the foregoing provisions will not, for the avoidance of doubt, constitute a Default or Event of Default and such amounts shall be available for working capital and general corporate purposes of the Borrowers and their Subsidiaries so long as not required to be prepaid in accordance with the foregoing.

(g) No Implied Consent. Provisions contained in this Section 1.8 for the application of proceeds of certain transactions shall not be deemed to constitute consent of the Lenders to transactions that are not otherwise permitted by the terms hereof or the other Loan Documents.

(h) Declining Lenders. Upon the occurrence of any mandatory prepayment event set forth in Section 1.8(~~e~~c), (d) or (e), the Borrower Representative shall provide the Administrative Agent with three (3) Business Days' prior written notice (received by 2:00 p.m. on such day) of the prepayment required hereunder, including the date and amount of such prepayment. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's pro rata share of such mandatory prepayment Notwithstanding any other provisions in this Section 1.8, any Lender may choose not to accept, in whole or in part, its pro rata share of mandatory prepayments of the Loans under Section 1.8(c), (d)(i) or (e), by providing written notice (each, a "**Rejection Notice**") to the Administrative Agent no later than 2:00 p.m., one (1) Business Day prior to the date of such prepayment as set forth in the applicable notice of prepayment; provided that, if a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above, such failure will be deemed an acceptance by such Lender of its pro rata share of such mandatory prepayment. Any amount of a mandatory prepayment of the Loans under Section 1.8(~~e~~c), (d)(i) or (e) not accepted by the Lenders shall (i) first, be offered to non-declining Lenders in accordance

with their Commitment Percentages until all remaining Lenders are declining Lenders, and (ii) any remaining amounts shall be retained by the Borrowers and to be used as permitted hereunder.

(i) Bank Product Obligations Unaffected. Any repayment or prepayment made pursuant to this Section 1.8 shall not affect the Borrowers' obligation to continue to make payments under any Bank Product, which shall remain in full force and effect notwithstanding such repayment or prepayment, subject to the terms of such Bank Product.

1.9 Fees.

(a) Fees. The Borrowers shall pay to Administrative Agent (for the ratable benefit of the Lenders) on the Closing Date those fees in the amounts at the times set forth in a letter agreement among the Borrower Representative (on behalf of the Borrowers) and Agents dated as of the Closing Date (as amended, amended and restated, modified and/or supplemented from time to time in accordance with its terms, the "**Fee Letter**").

(b) Delayed Draw Term Loan Commitment Fee. The Borrowers shall pay to the Administrative Agent a fee, on the last Business Day of each Fiscal Quarter (the "**Delayed Draw Term Loan Commitment Fee**"), for the account of each Lender having a Delayed Draw Commitment, in an amount equal to:

(i) The average daily balance of the Delayed Draw Term Loan Commitment of each Delayed Draw Term Lender during the preceding Fiscal Quarter,

(ii) ~~**[Reserved]**~~multiplied by one percent (1.00%) per annum.

The Delayed Draw Term Loan Commitment Fee provided in this Section 1.9(b) shall accrue at all times during the period from and after the Fourth Amendment Effective Date through the last day of the Delayed Draw Availability Period, and shall be payable quarterly in arrears on the last Business Day of each Fiscal Quarter commencing on the last day of the Fiscal Quarter ending September 30, 2024 (for the period from the Fourth Amendment Effective Date to September 30, 2024). The Delayed Draw Term Loan Commitment Fee is in addition to, and not part of, the Delayed Draw Term Loan Funding Fee.

(c) [Reserved].

(d) All fees payable pursuant to this Section 1.9 shall be calculated on a 360-day year and actual days elapsed and applied in accordance with Section 1.10(a).

1.10 Payments by the Borrowers.

(a) All payments (including prepayments) to be made by each Credit Party on account of principal, interest, fees and other amounts required hereunder shall be made without set-off, recoupment, counterclaim or deduction of any kind, except as set forth in Article X, shall, except as otherwise expressly provided herein, be made to Administrative Agent (for the ratable account of the Persons entitled thereto) to the Administrative Agent's account specified by the Administrative Agent pursuant to a written notice delivered to the Borrower Representative (or such other account as Administrative Agent may from time to time specify in accordance with Section 9.2), and shall be made in Dollars and by wire transfer in immediately available funds (which shall be the exclusive means of payment hereunder), no later than 2:00 p.m. on the date due. Any payment which is received by Administrative Agent later than 2:00 p.m. may in Administrative Agent's discretion be deemed to have been received on the immediately succeeding Business Day and any applicable interest or fee shall continue to accrue; provided that, for the avoidance of doubt, any payment which is received by the Administrative Agent later than 2:00 p.m. on the applicable due date shall not constitute a Default or an Event of Default hereunder so long as such payment is received by the Administrative Agent prior to 4:00 p.m. on such due date. Upon the occurrence and during the continuance of an Event of Default, the Borrowers and each other Credit Party hereby irrevocably waives the right to direct the application of any and all payments in respect of any Obligation and any proceeds of Collateral, provided that such payments and proceeds are applied in accordance with Section 1.10(c).

(b) Subject to the provisions set forth in the definition of "Interest Period" herein, if any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be excluded in the computation, and if applicable, payment, of interest or fees, as the case may be, on such next succeeding Business Day; provided that such extension of time shall be included in the next succeeding computation and payment of interest and fees; provided further that if the scheduled payment date is the maturity date of any Loan such extension of time shall include such interest and fees, which shall be payable on such next succeeding Business Day.

(c) During the continuance of an Event of Default, Administrative Agent may, and shall upon the direction of the Collateral Agent or the Required Lenders, apply any and all payments received by Administrative Agent in respect of any Obligation in accordance with clauses *first* through *sixth* below (but excluding any provision for payment set forth therein in respect of any Secured Obligations under or in respect of any Secured Rate Contracts or Bank Products or with respect to Secured Swap Providers or Bank Product Providers). Notwithstanding any provision herein to the contrary, all payments made by Credit Parties to Administrative Agent after any or all of the Obligations have been accelerated (so long as such acceleration has not been rescinded), including proceeds of Collateral, shall be applied in accordance with clauses first through sixth below (including, for the avoidance of doubt, any provision for payment set forth therein in respect of any Secured Obligations under or in respect of any Secured Rate

Contracts or Bank Products or with respect to Secured Swap Providers or Bank Product Providers):

first, to payment of costs and expenses of each Agent (including Collateral Agent Advances, if any) and Attorney Costs payable or reimbursable by the Credit Parties under the Loan Documents;

second, to payment of costs and expenses of the Lenders payable or reimbursable by the Credit Parties under the Loan Documents;

third, to payment of all accrued unpaid interest on the Secured Obligations and fees owed to either Agent (in their capacities as Administrative Agent or Collateral Agent, as the case may be), Lenders, Secured Swap Providers and Bank Product Providers;

fourth, to payment of principal of the Obligations then due and payable and any Secured Obligations under any Secured Rate Contract or Bank Product;

fifth, to payment of any other amounts owing constituting Secured Obligations; and

sixth, any remainder, after all of the Secured Obligations have been paid in full, to the Borrowers or as the Borrower Representative shall direct, or as otherwise required by Requirement of Law.

In carrying out the foregoing, (i) amounts received to each category shall be applied in the numerical order provided until exhausted prior to the application to the immediately succeeding category, (ii) each of the Lenders or other Persons entitled to payment shall receive an amount equal to its pro rata share of amounts available to be applied pursuant to clauses second, third and fourth above and (iii) no payments by a Guarantor and no proceeds of Collateral of a Guarantor shall be applied to Excluded Rate Contract Obligations of such Guarantor. Notwithstanding the foregoing terms of this Section 1.10, only Collateral proceeds and payments under the Guaranty and Security Agreement (as opposed to ordinary course principal, interest and fee payments hereunder) shall be applied to obligations under any Bank Product or Secured Rate Contract or with respect to Bank Product Providers or Secured Swap Providers. The Administrative Agent shall have no obligation to calculate the amount to be distributed with respect to any Bank Product Debt, but may rely upon written notice of the amount (setting forth a reasonably detailed calculation) from the applicable Bank Product Provider. In the absence of such notice, the Administrative Agent may assume the amount to be distributed is the Bank Product Amount last reported to the Administrative Agent.

1.11 Payments by the Lenders to Agent; Settlement.

(a) Administrative Agent may, on behalf of Lenders, disburse funds to the Borrowers for Loans requested prior to receipt of such funds from the Lenders. Each Lender shall reimburse Administrative Agent on demand for all funds disbursed on its behalf by Administrative Agent, or if Administrative Agent so requests, each Lender will remit to Administrative Agent its Commitment Percentage of any Loan before

Administrative Agent disburses same to the Borrowers. If Administrative Agent elects to require that each Lender make funds available to Administrative Agent prior to disbursement by Administrative Agent to the Borrowers, Administrative Agent shall advise each Lender by telephone, Electronic Transmission or fax of the amount of such Lender's Commitment Percentage of the Loan requested by the Borrower Representative no later than the Business Day prior to the scheduled Borrowing date applicable thereto, and each such Lender shall pay Administrative Agent such Lender's Commitment Percentage of such requested Loan, in same day funds, by wire transfer to Administrative Agent's account designated by the Administrative Agent in writing to the Lenders from time to time, no later than 3:00 p.m. on such scheduled Borrowing date. Nothing in this Section 1.11(a) or elsewhere in this Agreement or the other Loan Documents, including the remaining provisions of Section 1.11, shall be deemed to require Administrative Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its Commitments hereunder or to prejudice any rights that Administrative Agent any Lender or the Borrowers may have against any Lender as a result of any default by such Lender hereunder.

(b) [Reserved].

(c) [Reserved].

(d) Return of Payments.

(i) If Administrative Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Administrative Agent from the Borrowers and such related payment is not received by Administrative Agent, then Administrative Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind.

(ii) If Administrative Agent determines at any time that any amount received by Administrative Agent under this Agreement or any other Loan Document must be returned to any Credit Party or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Loan Document, Administrative Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Administrative Agent on demand any portion of such amount that Administrative Agent has distributed to such Lender, together with interest at such rate, if any, as Administrative Agent is required to pay to the Borrowers or such other Person, without setoff, counterclaim or deduction of any kind, and Administrative Agent will be entitled to set-off against future distributions to such Lender any such amounts (with interest) that are not repaid on demand.

(e) Non-Funding Lenders.

(i) Responsibility. The failure of any Non-Funding Lender to make any Loan, or to fund any purchase of any participation to be made or funded by it, or to make any payment required by it under any Loan Document on the date specified therefor shall not relieve any other Lender of its obligations to make such loan, fund the purchase of any such participation, or make any other such required payment on such date, and neither Agent nor, other than as expressly set forth herein, any other Lender shall be responsible for the failure of any Non-Funding Lender to make a loan, fund the purchase of a participation or make any other required payment under any Loan Document.

(ii) [Reserved].

(iii) Voting Rights. Notwithstanding anything set forth herein to the contrary, including Section 9.1, a Non-Funding Lender or Impacted Lender shall not have any voting or consent rights under or with respect to any Loan Document or constitute a "Lender" or a "Term Lender" (or be, or have its Loans and Commitments, included in the determination of "Required Lenders" or "Lenders directly affected" pursuant to Section 9.1) for any voting or consent rights under or with respect to any Loan Document, provided that (A) the Commitment of a Non-Funding Lender or Impacted Lender may not be increased, extended or reinstated, (B) the principal of a Non-Funding Lender's or Impacted Lender's Loans may not be reduced or forgiven, and (C) the interest rate applicable to Obligations owing to a Non-Funding Lender or Impacted Lender may not be reduced (other than resulting from a waiver of default interest otherwise applicable pursuant to Section 1.3(c) hereof, any waiver of a Default or an Event of Default having the effect of waiving such default interest), without the consent of such Non-Funding Lender or Impacted Lender. Moreover, for the purposes of determining Required Lenders, the Loans and Commitments held by Non-Funding Lenders or Impacted Lenders shall be excluded from the total Loans and Commitments outstanding.

(iv) Borrower Payments to a Non-Funding Lender or Impacted Lender. Administrative Agent shall be authorized to use all payments received by Administrative Agent for the benefit of any Non-Funding Lender or Impacted Lender pursuant to this Agreement to pay in full the Aggregate Excess Funding Amount to the appropriate Secured Parties entitled thereto. Administrative Agent shall be entitled to hold as cash collateral in a non-interest bearing account up to an amount equal to such Non-Funding Lender's or Impacted Lender's pro rata share, without giving effect to any reallocation pursuant to Section 1.11(e)(ii), of other funding obligations hereunder until the Facility Termination Date. Upon any such unfunded obligations owing by a Non-Funding Lender or Impacted Lender becoming due and payable, Administrative Agent shall be authorized to use such cash collateral to make such payment on behalf of such Non-Funding

Lender or Impacted Lender. Any amounts owing by a Non-Funding Lender or Impacted Lender to Administrative Agent which are not paid when due shall accrue interest at the interest rate applicable during such period to Loans that are Base Rate Loans. In the event that Administrative Agent is holding cash collateral of a Non-Funding Lender or Impacted Lender that cures pursuant to clause (v) below, ceases to be a Non-Funding Lender pursuant to the definition of Non-Funding Lender or ceases to be an Impacted Lender pursuant to the definition of Impacted Lender, Administrative Agent shall return the unused portion of such cash collateral to such Lender. The "**Aggregate Excess Funding Amount**" of a Non-Funding Lender shall be the aggregate amount of (A) all unpaid obligations owing by such Lender to Administrative Agent, and other Lenders under the Loan Documents.

(v) Cure. A Lender may cure its status as a Non-Funding Lender under clause (a) of the definition of Non-Funding Lender if such Lender fully pays to Administrative Agent, on behalf of the applicable Secured Parties, the Aggregate Excess Funding Amount, plus all interest due thereon. Any such cure shall not relieve any Lender from liability for breaching its contractual obligations hereunder.

(vi) **Fees. A Lender that is a Non-Funding Lender or Impacted Lender shall not earn and shall not be entitled to receive, and the Borrowers shall not be required to pay, such Lender's portion of the Delayed Draw Term Loan Commitment Fee or Incremental Delayed Draw Term Loan commitment fees during the time such Lender is a Non-Funding Lender or Impacted Lender.**

(f) Procedures. Administrative Agent is hereby authorized by each Credit Party and each other Secured Party to establish procedures (and to amend such procedures from time to time) to facilitate administration and servicing of the Loans and other matters incidental thereto. Without limiting the generality of the foregoing, Administrative Agent is hereby authorized to establish procedures to make available or deliver, or to accept, notices, documents and similar items on, by posting to or submitting and/or completion, on E-Systems.

(g) Cashless Settlement. Notwithstanding anything to the contrary contained in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans or Commitments in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower Representative, Administrative Agent and such Lender.

1.12 Benchmark Replacement Settings.

(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 (1) 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 (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 any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders. 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 and the Collateral 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) Notices; 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 notify the Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to this Section 1,12 and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent, Collateral Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 1,12, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 1.12.

(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 Adjusted Term SOFR Rate or Term SOFR) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (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 Borrowers' receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower Representative may revoke any pending request for a SOFR Loan, or conversion to or continuation of SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower Representative 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.

1.13 Rates. The Administrative Agent and the Collateral Agent do 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 Base Rate, the Adjusted Term SOFR Rate, Term SOFR Screen Rate or Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Base Rate, the Adjusted Term SOFR Rate, Term SOFR Screen Rate, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and the Collateral Agent and their respective affiliates or other related entities may engage in transactions that affect the calculation of Base Rate, Term SOFR, the Adjusted Term SOFR Rate, Term SOFR Screen Rate, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Borrowers. The Administrative Agent and the Collateral Agent may select information sources or services in their reasonable discretion to ascertain Base Rate, Term

SOFR, the Adjusted Term SOFR Rate, Term SOFR Screen Rate or any other Benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrowers, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

1.14 Incremental Facility

(a) Borrower Representative Request. The Borrower Representative may by written notice to the Administrative Agent delivered after the expiration of the Delayed Draw Availability Period, elect to request the establishment of one or more new Delayed Draw Term Loan Commitments which may be of the same Class as any outstanding Delayed Draw Term Loan or a new Class of Delayed Draw Term Loan (each, an "Incremental Delayed Draw Term Loan Commitment") in principal amounts not in excess of $20,000,000 in the aggregate and not less than $10,000,000 individually, the proceeds of which shall be used solely in accordance with Section 4.10(b). Each such notice shall specify (i) the date (each, an "Increase Effective Date") on which the Borrower Representative proposes that the Incremental Delayed Draw Term Loan Commitments shall be effective, which shall be a date not less than 20 Business Days (or such shorter period as is acceptable to the Administrative Agent) after the date on which such notice is delivered to the Administrative Agent and (ii) the identity of each Person to whom the Borrower Representative proposes any portion of such Incremental Delayed Draw Term Loan Commitments be allocated and the amounts of such allocations; provided that the Borrower Representative shall first seek Incremental Delayed Draw Term Loan Commitments on terms permissible under this Section 1.14 and acceptable to the Borrower Representative from the then-existing Lenders (pro rata to their then outstanding Loans and Commitments) before seeking commitments from any other Person; provided further that any existing Lender approached to provide a portion of the Incremental Delayed Draw Term Loan Commitments may elect or decline, in its sole discretion, to provide such Incremental Delayed Draw Term Loan Commitment; provided further that each Person who is not a then-existing Lender to which Incremental Delayed Draw Term Loan Commitments are to be allocated must be a lender or other entity (other than any Credit Party, equity holder of Holdings or any of their respective Affiliates) reasonably acceptable to the Administrative Agent (such new lenders being referred to herein as, the "Incremental Delayed Draw Term Loan Lenders").

(b) Conditions. The Incremental Delayed Draw Term Loan Commitments shall become effective as of such Increase Effective Date; *provided* that:

(i) each of the conditions set forth in Section 2.2 shall be satisfied both before and after giving effect to the Loan to be made with such

Incremental Delayed Draw Term Loan Commitments on the Increase Effective Date (an "Incremental Delayed Draw Term Loan");

(ii) the Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower Representative certifying that the DDTL Funding Conditions are satisfied; and

(iii) the Borrower Representative shall deliver or cause to be delivered any legal opinions or other documents reasonably requested by the Administrative Agent in connection with any such transaction.

(c) Terms of Incremental Delayed Draw Term Loans. The terms and provisions of each Incremental Delayed Draw Term Loan shall be as follows:

(i) the weighted average life to maturity of any Incremental Delayed Draw Term Loans shall be no shorter than the weighted average life to maturity of the outstanding Delayed Draw Term Loan;

(ii) the maturity date of any Incremental Delayed Draw Term Loan (each an "Incremental Delayed Draw Term Loan Maturity Date") shall not be earlier than the Maturity Date;

(iii) the Incremental Delayed Draw Term Loans (A) shall rank pari passu with or subordinate in right of payment to the outstanding Loans and pari passu with or subordinate with respect to security to the outstanding Loans, shall not be guaranteed by any Person other than the Guarantors and shall not be secured by any assets other than the Collateral; and (B) may participate on a pro rata basis or less than pro rata basis (but not on a greater than pro rata basis) in any voluntary or mandatory prepayments of the outstanding Delayed Draw Term Loan (it being understood and agreed that if any Incremental Delayed Draw Term Loans are subordinate to the outstanding Loans with respect to payment or security, this Agreement shall be amended in a manner reasonably satisfactory to the Administrative Agent and the Required Lenders to reflect such subordination of such Incremental Delayed Draw Term Loans);

(iv) the interest margins and fees for each Incremental Delayed Draw Term Loan shall be determined by the Borrower Representative and the Incremental Delayed Draw Term Loan Lenders providing such Incremental Delayed Draw Term Loan; provided that in the event that the all-in yield for any Incremental Delayed Draw Term Loan is more than 0.50% per annum greater than the all-in yield for the outstanding Loans (calculated in the same manner), then the Applicable Margins for the outstanding Loans shall be increased by an amount equal to the difference between the all-in yield with respect to such Incremental Delayed Draw Term Loan and the all-in yield with respect to the outstanding Loans minus 0.50%

per annum, giving effect to such increase (it being understood and agreed that in determining the all-in yield applicable to the outstanding Loans and the Incremental Delayed Draw Term Loans, original issue discount ("OID") or upfront fees (which shall be deemed to constitute like amounts of OID) payable directly or indirectly by any Credit Party to the Lenders in respect of the outstanding Loans or the Incremental Delayed Draw Term Loan shall be included (with OID being equated to interest by amortizing over the shorter of (x) the weighted average life to maturity of such Incremental Delayed Draw Term Loan and (y) the four years following the date of incurrence thereof), but customary arrangement, structuring and underwriting fees that are not paid to lenders generally shall be excluded); provided that any increase in yield to the then outstanding Loans required due to the application of an interest rate floor on the Incremental Delayed Draw Term Loans shall be effected solely through an increase in (or implementation of, as applicable), an interest rate floor applicable to the then outstanding Loans;

(v) subject to clause (iv) above, any fees payable in connection with the Incremental Delayed Draw Term Loans shall be determined by the Borrowers and the Lenders providing such Incremental Delayed Draw Term Loans;

(vi) the availability period for each Incremental Delayed Draw Term Loan Commitment shall be determined by the Borrower Representative and the Incremental Delayed Draw Term Loan Lenders providing such Incremental Delayed Draw Term Loan Commitment, but in any case, shall not extend beyond the Term Loan Maturity Date; and

(vii) except to the extent permitted by clauses (i) through (vi) above, the terms and provisions of the Incremental Delayed Draw Term Loans shall be consistent with those of the outstanding Loans, provided that any Incremental Delayed Draw Term Loan may have terms and provisions not consistent with those of the outstanding Loans solely to the extent the Lenders in respect of the outstanding Loans also receive the benefit of such terms and provisions.

(d) Joinder. Each Incremental Delayed Draw Term Loan Commitment shall be effected by a joinder agreement (the "Increase Joinder") executed by the Borrower Representative, Administrative Agent and each Lender providing such Incremental Delayed Draw Term Loan Commitment, in form and substance reasonably satisfactory to each of them. The Increase Joinder may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of Administrative Agent, to effect the provisions of this Section 1.14.

(e) Making of Incremental Delayed Draw Term Loans. On each Increase Effective Date on which any Incremental Delayed Draw Term Loan Commitment for an Incremental Delayed Draw Term Loan is effective, subject to the satisfaction of the foregoing terms and conditions, each Lender providing such Incremental Delayed Draw Term Loan Commitment shall make an Incremental Delayed Draw Term Loan to the Borrowers in an amount equal to its Incremental Delayed Draw Term Loan Commitment.

(f) Equal and Ratable Benefit. The Loans and Commitments established pursuant to this Section 1.14 shall constitute Loans and Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, except as otherwise provided in the relevant Increase Joinder, benefit equally and ratably from the security interests created by the Collateral Documents. The Credit Parties shall take any actions reasonably required by Administrative Agent to ensure and demonstrate that the Lien and security interests granted by the Collateral Documents continue to be perfected under the Uniform Commercial Code or otherwise after giving effect to the establishment of any such Class of Incremental Delayed Draw Term Loans or any such Incremental Delayed Draw Term Loan Commitments.

ARTICLE II

CONDITIONS PRECEDENT

2.1 Conditions of Initial Loans. The obligation of each Lender to make its initial Loans hereunder on the Closing Date is subject to satisfaction of the following:

(a) Loan Documents. The Agents shall have received, each in form and substance reasonably satisfactory to the Agents and the Lenders: (i) counterparts of this Agreement, executed by a duly authorized officer of each party hereto, (ii) for the account of each Lender requesting a promissory note, a duly executed Note, (iii) counterparts of the Guaranty and Security Agreement and any copyright, patent or trademark security agreement, as applicable, in each case conforming to the requirements of this Agreement and executed by duly authorized officers of the Credit Parties or other Person, as applicable, (iv) counterparts of Limited Guaranty and Pledge Agreements, duly executed by each Jeffrey Hernandez, Daniel Brand, Jake Spellmeyer and Bryan Pereboom, (v) counterparts of the Holdings Pledge Agreement duly executed by Viking Cake BR, ~~LLC,~~ (vi) counterparts of each of the other Loan Documents (other than the Holdings Pledge Agreements of the Holdings Pledgors other than Viking Cake BR, ~~LLCV,~~ such additional Holdings Pledge Agreements to be delivered post-closing in accordance with Section 4.19); (vii) counterparts of the Fee Letter, (viii) incumbency and secretary's certificates, a disbursement letter and a perfection certificate, executed by the duly authorized officers and other applicable signatories of the parties thereto, and (viii) any other instruments, certificates, or documents reasonably requested by the Agents;

(b) Consents. Agents shall have received evidence that all boards of directors, governmental, shareholder and material third party consents and approvals required in connection with the entering into of this Agreement have been obtained, except, in each case, those consents and approvals that have been duly waived.

(c) Legal Opinions. Agents shall have received an opinion of counsel from Perkins Coie LLP, and such other legal counsel, if any, as may be reasonably required by the Agents, including, with respect to opinions on the Investment Company Act and non-contravention, in-house counsel to Holdings, each addressed to the Agents and each Lender, as to matters concerning the Credit Parties and the Loan Documents.

(d) Insurance. Agents shall have received (i) evidence of all policies of insurance required to be maintained hereunder and (ii) certificates naming Collateral Agent as additional insured or lenders loss payee as agent for the Lenders, or showing lender loss payable to Collateral Agent, as appropriate, in each case of clauses (i) and (ii), in form reasonably acceptable to Collateral Agent;

(e) Minimum EBITDA; Total Net Leverage Ratio; Liquidity. Agents shall have received a certificate executed by a Responsible Officer of the Borrower Representative attaching a report from an independent third-party acceptable to the Agents showing that Consolidated EBITDA of the Borrowers for the period of twelve (12) consecutive months ended December 31, 2021 was at least $15,200,000 (the actual amount so reported being referred to as the "Closing Date EBITDA"), and demonstrating in reasonable detail that, after giving effect to the funding of the Term Loans and Existing Debt Refinancing Transactions, and payment of all costs, fees and expenses in connection therewith, (i) the Total Net Leverage Ratio (calculated using the Closing Date EBITDA) does not exceed 4.91:1.00, and (ii) the Borrowers have Liquidity of at least $7,500,000;

(f) SBA Documents. Agents shall have received that certain SBA Matters Agreement, SBA Form 1031 (U.S. Small Business Administration Portfolio Financing Report), SBA Form 480 (U.S. Small Business Administration Size Status Declaration), and SBA Form 652 (U.S. Small Business Administration Assurance of Compliance for Nondiscrimination), in each case duly completed and executed by the applicable Credit Party;

(g) Solvency Certificate. Agents shall have received a certificate executed by a Responsible Officer of Holdings, attesting to the Solvency of the Credit Parties and their Subsidiaries on a consolidated basis, taken as a whole, after giving pro forma effect to the Related Transactions and the other transactions contemplated on the Closing Date, such certificate to be in the form attached hereto as Exhibit 2.1(g);

(h) Patriot Act; Beneficial Ownership Certification. Agents and Lenders shall have received from each Credit Party, at least three (3) Business Days prior to the Closing Date (to the extent requested by Agents or Lenders in writing at least ten (10) days prior to the Closing Date), (i) a duly executed W-9 (or other applicable tax form), (ii) a duly executed Beneficial Ownership Certification, and (iii) all other documentation

and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act;

(i) Background Checks. Administrative Agent shall have completed customary individual background searches for each Credit Party's senior management and key principals required by Administrative Agent, the results of which shall be satisfactory to Agents;

(j) Fees and Expenses. All fees and expenses required to be paid on the Closing Date pursuant to this Agreement and the Fee Letter shall have been paid;

(k) UCC and Other Searches. Agents shall have received copies of UCC, tax, litigation, judgment and bankruptcy searches with respect to the Credit Parties, and other evidence reasonably satisfactory to the Agents that subject only to termination of Liens securing the Existing Debt Agreements, the Liens securing the Secured Obligations are the only Liens upon the assets of the Credit Parties, subject only to Permitted Liens;

(l) Material Adverse Effect. In the reasonable judgment of the Agents, there shall not have occurred any event or condition which could reasonably be expected to result in a Material Adverse Effect;

(m) Required Information; Diligence. (a) The Agents shall have received the Projections and a validation of pro forma, run-rate 2021 financials and the 2022 budget from a third party acceptable to the Agents in their sole discretion, each of which shall be satisfactory to the Agents in their sole discretion, and (b) the Agents shall have completed their business (including management meetings and third-party insurance diligence, legal, and collateral due diligence with respect to the Credit Parties, with results satisfactory to the Agents;

(n) Representations and Warranties; No Defaults. The following statements shall be true on the Closing Date, both immediately before and immediately after giving effect to any Loan (or other credit extensions) made on the Closing Date, and the application of the proceeds thereof:

(i) Each representation and warranty by any Credit Party contained herein or in any other Loan Document is true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true or correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date);

(ii) No Default or Event of Default has occurred and is continuing;

(o) Officer's Closing Certificate. The Agents shall have received a certificate executed by a Responsible Officer of Holdings and the Borrowers attesting that (i) the conditions set forth in Sections 2.1(l) and 2.1(n) above are satisfied, which certificate may be combined with the certificates referenced in Sections 2.1(e) and 2.1(g) above and (ii) attached thereto is are true, correct and complete copies of the form of the Franchise Agreement used by the Credit Parties as of the Closing Date;

(p) Existing Debt Refinancing Transactions.

(i) The Credit Parties shall have delivered (i) payoff letters confirming that existing Indebtedness (outstanding immediately prior to the Closing Date) under each of the Existing Debt Agreements has been, or shall be with the proceeds of the Loans, paid in full (and/or, in the case of the Subordinated Term Loan Obligations, converted to Preferred Equity) and all commitments and liens thereunder terminated, (ii) any Lien release documentation (and authorizations to file or record such release documentation or evidence that such release documentation has been filed or recorded, as applicable) necessary to terminate such Liens, and (iii) the A&R Holdings LLC Agreement, in form reasonably satisfactory to the Agents and Lenders; and

(ii) The Existing Debt Refinancing Transactions shall have been consummated, or shall be consummated substantially concurrently with the funding of the initial Loans on the Closing Date;

(q) Each Lender shall have received all necessary internal approvals; and

(r) Notice of Borrowing. The Administrative Agent shall have received a Notice of Borrowing with respect to the Term Loans to be advanced on the Closing Date.

For the purpose of determining satisfaction with the conditions specified in this Section 2.1, each Agent and each Lender that has signed and delivered this Agreement shall be deemed to have agreed that each condition under this Section 2.1 shall have been met and shall be deemed to be satisfied with the form thereof in each case, unless each Agent shall have received written notice from such Person specifying its objection thereto and provided the Borrower Representative a copy thereof, in each case, prior to the time such Person shall have released its signature pages hereto.

2.2 Conditions to Certain Borrowings. No Lender shall be obligated to fund any Loan following the Closing Date if as of the date thereof:

(a) the Agent shall have not received a Notice of Borrowing with respect to the Loans to be advanced in accordance with the provisions of this Agreement; and

(b) ~~[Reserved].~~**with respect to any Delayed Draw Term Loan or Incremental Delayed Draw Term Loan, the DDTL Funding Conditions shall not be**

satisfied or any Agent shall have determined, in its reasonable discretion, that a Material Adverse Effect shall have occurred and be continuing.

The request by the Borrower Representative and acceptance by the Borrowers of the proceeds of any Loan shall be deemed to constitute, as of the date thereof, (i) a representation and warranty by the Borrowers that the conditions in this Section 2.2 have been satisfied and (ii) a reaffirmation by each Credit Party of the granting and continuance of Collateral Agent's Liens, on behalf of itself and the Secured Parties, pursuant to the Collateral Documents.

2.3 Conditions of Fourth Amendment Term Loans. The obligation of each Fourth Amendment Term Lender to make its Fourth Amendment Term Loans hereunder on the Fourth Amendment Effective Date is subject to satisfaction of the following:

(a) Loan Documents. The Agents shall have received, each in form and substance reasonably satisfactory to the Agents and the Lenders: (i) counterparts of the Fourth Amendment, executed by a duly authorized officer of each party hereto, (ii) for the account of each Fourth Amendment Term Lender requesting a promissory note, a duly executed Note, (iii) counterparts of any supplement to any copyright, patent or trademark security agreement, as applicable, in each case conforming to the requirements of this Agreement and executed by duly authorized officers of the Credit Parties or other Person, as applicable, (iv) counterparts of the Fourth Amendment Fee Letter, (viii) incumbency and secretary's certificates, a disbursement letter and a perfection certificate, executed by the duly authorized officers and other applicable signatories of the parties thereto, and (viii) any other instruments, certificates, or documents reasonably requested by the Agents;

(b) Consents. Agents shall have received evidence that all boards of directors, governmental, shareholder and material third party consents and approvals required in connection with the entering into of this Agreement have been obtained, except, in each case, those consents and approvals that have been duly waived.

(c) Legal Opinions. Agents shall have received an opinion of counsel from Perkins Coie LLP, and such other legal counsel, if any, as may be reasonably required by the Agents, including, opinions on such matters as may reasonably be required by the Agents (including the Investment Company Act) addressed to the Agents and each Lender, as to matters concerning the Credit Parties and the Loan Documents.

(d) Insurance. Agents shall have received (i) evidence of all policies of insurance required to be maintained hereunder and (ii) certificates naming Collateral Agent as additional insured or lenders loss payee as agent for the Lenders, or showing lender loss payable to Collateral Agent, as appropriate, in each case of clauses (i) and (ii), in form reasonably acceptable to Collateral Agent;

(e) Solvency Certificate. Agents shall have received a certificate executed by a Responsible Officer of Holdings, attesting to the Solvency of the Credit Parties and their Subsidiaries on a consolidated basis, taken as a whole, after giving pro forma effect to the Fourth Amendment Related Transactions and the other transactions contemplated on the Fourth Amendment Effective Date, such certificate to be in the form attached hereto as Exhibit 2.1(g);

(f) Fees and Expenses. All fees and expenses required to be paid on the Fourth Amendment Effective Date pursuant to this Agreement and the Fourth Amendment Fee Letter shall have been paid;

(g) UCC and Other Searches. Agents shall have received copies of UCC and tax searches with respect to the Credit Parties, and other evidence reasonably satisfactory to the Agents that the Liens securing the Secured Obligations are the only Liens upon the assets of the Credit Parties, subject only to Permitted Liens;

(h) Material Adverse Effect. In the reasonable judgment of the Agents, there shall not have occurred any event or condition which could reasonably be expected to result in a Material Adverse Effect;

(i) Representations and Warranties; No Defaults. The following statements shall be true on the Fourth Amendment Effective Date, both immediately before and immediately after giving effect to any Loan (or other credit extensions) made on the Fourth Amendment Effective Date, and the application of the proceeds thereof:

(i) Each representation and warranty by any Credit Party contained herein or in any other Loan Document is true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true or correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date);

(ii) No Default or Event of Default has occurred and is continuing;

(j) Officer's Closing Certificate. The Agents shall have received a certificate executed by a Responsible Officer of Holdings and the Borrowers attesting that (A) the conditions set forth in Sections 2.3(h) and 2.3(i) above are satisfied and (B) the Credit Parties shall have received Net Proceeds of at least $10,000,000 after giving effect to the payment of all fees and expenses incurred in connection with the Fourth Amendment Related Transactions (including, without limitation, those fees and expenses provided for hereunder and in the Fourth Amendment Fee Letter) and the funding of the Fourth Amendment Term Loans,

which certificate may be combined with the certificate referenced in Section 2.1(e) above;

(k) Each Lender shall have received all necessary internal approvals;

(l) Notice of Borrowing. The Administrative Agent shall have received a Notice of Borrowing with respect to the Fourth Amendment Term Loans to be advanced on the Fourth Amendment Effective Date;

(m) Equity Documents. Agents shall have received (i) the Cynosure Fee Letter, (ii) the Series A Redemption Agreement and (iii) the A&R Holdings LLC Agreement, each duly executed by each party thereto, and each in form and substance reasonably satisfactory to the Agents and the Lenders;

(n) Subordination Agreement. Agents shall have received the Subordination Agreement, duly executed by the Agents and the holders of the Preferred Equity, and acknowledged by the Credit Parties, in form and substance reasonably satisfactory to the Agents and the Lenders.

(o) Pledge Amendments. Agents shall have received (i) amendments to the Guaranty and Security Agreement evidencing the pledge by BRSO of its owned-Stock and Stock Equivalents (as of the Fourth Amendment Effective Date) in BRSO 67th and BRCR, each in the form of Annex 1 to the Guaranty and Security Agreement, and in substance reasonably satisfactory to the Agents and the Lenders and (ii) to the extent applicable, original certificates of such Stock and Stock Equivalents referred to in clause (i), together with irrevocable proxies and stock powers and/or assignments, as applicable, duly executed in blank.

(p) Founder Guarantees. Agents shall have received those certain Second Amended and Restated Limited Guaranty and Pledge Agreements of Daniel Brand, Jeffrey Hernandez, Jake Spellmeyer and Bryan Pereboom, each in favor of the Collateral Agent, and each dated as of the Fourth Amendment Effective Date, each in form and substance reasonably satisfactory to the Agents and the Lenders.

(q) Joinder to Guaranty and Security Agreement. Agents shall have received (i) that certain Joinder to the Guaranty and Security Agreement, dated as of the Fourth Amendment Effective Date, by and between BRSO PNW and the Collateral Agent and (ii) such other Collateral Documents as may be designated by the Agents (and the Borrowers shall take such actions as may be designated by the Agents) to perfect first priority Liens in favor of the Collateral Agent on all assets of BRSO PNW, each in form and substance reasonably satisfactory to the Agents and the Lenders.

For the purpose of determining satisfaction of the conditions specified in this Section 2.3, each Agent and each Lender that has signed and delivered the Fourth Amendment shall be deemed to have agreed that each condition under this Section 2.3 shall have been met and

shall be deemed to be satisfied with the form thereof in each case, unless each Agent shall have received written notice from such Person specifying its objection thereto and provided the Borrower Representative a copy thereof, in each case, prior to the time such Person shall have released its signature pages hereto.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

The Credit Parties, jointly and severally, represent and warrant to each Agent and each Lender that the following are, and after giving effect to the consummation of this Agreement and the other Loan Documents, the funding of the Loans hereunder and the Related Transactions will be, true, correct and complete:

3.1 Corporate Existence and Power. Each Credit Party and each of their respective Subsidiaries:

(a) is a corporation, limited liability company or limited partnership, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, as applicable;

(b) has the requisite power and authority and all necessary governmental licenses, authorizations, Permits, consents and approvals to (i) own its assets and carry on its business and (ii) execute, deliver, and perform its obligations under, the Loan Documents to which it is a party;

(c) is duly qualified as a foreign corporation, limited liability company or limited partnership, as applicable, and licensed and, if applicable, in good standing, under the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification or license; and

(d) is in compliance with all applicable Requirements of Law;

except, in each case referred to in clause (b)(i), clause (c) or clause (d), to the extent that the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.2 Corporate Authorization; No Contravention. The execution, delivery and performance by each of the Credit Parties of this Agreement and any other Loan Document to which such Person is party, (i) have been duly authorized by all necessary corporate, limited liability company or limited partnership action, as applicable, and (ii) do not and will not:

(a) contravene the terms of any of that Person's Organization Documents;

(b) conflict with or result in any material breach or contravention of, or result in the creation of any Lien (other than Liens in favor of Collateral Agent created under the Loan Documents) under, any document evidencing any Contractual Obligation that is

material to the Credit Parties to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject except in each case to the extent such could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; or

(c) violate any Requirement of Law in any respect, except to the extent such violation could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.3 Governmental Authorization. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Agreement, or any other Loan Document except (a) for recordings, filings and other perfection actions in connection with the Liens granted to Collateral Agent under the Collateral Documents, (b) those obtained or made on or prior to the Closing Date, and (c) filings required by applicable Requirements of Law in connection with the exercise of remedies by Collateral Agent.

3.4 Binding Effect. This Agreement and each other Loan Document to which any Credit Party is a party have been duly executed and delivered by such Credit Party. This Agreement and each other Loan Document to which any Credit Party is a party constitute the legal, valid and binding obligations of each such Person which is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

3.5 Litigation. Except as set forth in Schedule 3.5, there are no actions, suits, proceedings, claims or disputes pending, or to the actual knowledge of each Credit Party, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, against any Credit Party, any Subsidiary of any Credit Party or any of their respective Properties:

(a) that purport to affect or pertain in any materially adverse manner to this Agreement, any other Loan Document, or any of the transactions contemplated hereby or thereby; or

(b) that would, or that seek an injunction or other equitable relief that would, reasonably be expected to have a Material Adverse Effect.

As of the Closing Date, no Credit Party or any Subsidiary of any Credit Party has been notified that it is the subject of an audit or, to each Credit Party's knowledge, any review or investigation by any Governmental Authority (excluding the IRS and other taxing authorities) concerning the violation or possible violation of any Requirement of Law.

3.6 No Default or Event of Default. No Default or Event of Default exists or would result immediately from the incurring of any Obligations by any Credit Party or the grant or perfection of Collateral Agent's Liens on the Collateral or the consummation of the Related

Transactions. No Credit Party and no Subsidiary of any Credit Party is in default under or with respect to any Contractual Obligation in any respect which, individually or together with all such defaults, could reasonably be expected to have a Material Adverse Effect.

3.7 Compliance with Laws; ERISA Compliance.

(a) Each Credit Party is in compliance with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Schedule 3.7 sets forth, as of the Closing Date, a complete and correct list of, and that separately identifies, (a) all Title IV Plans and (b) all Multiemployer Plans. Each Title IV Plan intended to qualify for tax exempt status under Section 401 of the Code has received a favorable determination letter as to its qualified status or is comprised of a master or prototype plan that has received a favorable opinion letter from the IRS. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (x) each Title IV Plan is in compliance with applicable provisions of ERISA, the Code and other Requirements of Law, (y) there are no existing or pending (or to the knowledge of any Credit Party, threatened in writing) claims (other than routine claims for benefits in the normal course), sanctions, actions or lawsuits involving any Title IV Plan or, to the knowledge of any Credit Party, any Multiemployer Plan with respect to which any Credit Party or any Subsidiary of a Credit Party has incurred or otherwise has or would be reasonably expected to have an obligation or any Liabilities, and (z) no ERISA Event has occurred or is reasonably expected to occur.

3.8 Use of Proceeds; Margin Regulations. The proceeds of the Loans are intended to be and shall be used solely for the purposes set forth in and permitted by Section 4.10, and are intended to be and shall be used in compliance with Section 5.8. No Credit Party and no Subsidiary of any Credit Party is primarily engaged in the business of purchasing or selling Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock. Proceeds of the Loans shall not be used for the purpose of purchasing or carrying Margin Stock. As of the Closing Date, except as set forth on Schedule 3.8, no Credit Party and no Subsidiary of any Credit Party owns any Margin Stock.

3.9 Ownership of Property; Liens; Principal Place of Business. (a) As of the Closing Date, the Real Estate listed in Schedule 3.9 constitutes all of the Real Estate of each Credit Party and each of their respective Subsidiaries. Each of the Credit Parties and each of their respective Subsidiaries has, subject to Permitted Liens, good record and marketable title in fee simple to, or valid leasehold interests in, all material Real Estate, and good and valid title to all material owned personal property and valid leasehold interests in all leased personal property, in each instance, necessary or material to the ordinary conduct of its respective businesses. As of the Closing Date, Schedule 3.9 also describes any purchase options, rights of first refusal or other similar contractual rights pertaining to any Real Estate. All Permits required to have been issued to enable the Real Estate to be lawfully occupied and used for all of the purposes for which it is

currently occupied and used have been lawfully issued and are in full force and effect, except to the extent failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Holdings and each Borrower's principal place of business is located at 9170 E. Bahia Drive, Suite 101, Scottsdale, Arizona 85260 (the **"Principal Place of Business"**). All books and records relating to the operations of Holdings and the Borrowers are located solely at the Principal Place of Business.

3.10 Taxes. All federal income Tax returns, reports and statements and all other material Tax returns, reports and statements (collectively, the "**Tax Returns**") required to be filed by any Tax Affiliate within the past six years have been filed, and all material Taxes reflected therein or otherwise due and payable have been paid, except for those contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves are maintained on the books of the appropriate Tax Affiliate in accordance with GAAP. To the knowledge of any Credit Party, as of the Closing Date, no material Tax Return of any Credit Party is under audit or examination by any Governmental Authority and no notice of any audit or examination or any assertion in writing of any claim for material Taxes has been received by any Credit Party from any Governmental Authority.

3.11 Financial Condition.

(a) The Pro Forma Financial Statements were prepared in good faith by or on behalf of Holdings.

(b) Since December 31, 2022 there has been no Material Adverse Effect or any event or circumstance that could reasonably be expected to result in a Material Adverse Effect.

(c) The Projections represent Holdings and the Borrowers' good faith estimate of future financial performance and are based on assumptions believed by Holdings and the Borrowers to be fair and reasonable in light of then current market conditions, in each case, at the time prepared, it being acknowledged and agreed by Agents and Lenders that uncertainty is inherent in any forecasts or projections, projections as to future events or conditions are not to be viewed as facts and that the actual results during the period or periods covered by the Projections may differ materially from the projected results.

3.12 Environmental Matters. Except where any failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (a) the operations of each Credit Party and each Subsidiary of each Credit Party are and have been for the past three (3) years in compliance with all applicable Environmental Laws, including obtaining, maintaining and complying with all Permits required of any Credit Party or any Subsidiary thereof by any applicable Environmental Law, (b) no Credit Party and no Subsidiary of any Credit Party is party to, and no Real Estate currently (x) owned or (y) to the knowledge of any Credit Party, leased, subleased or operated by or for any such Person is subject to or the subject of, any Contractual Obligation or any pending (or threatened in writing) written

order, investigation, suit, proceeding, audit, written claim or demand, or written notice of violation of, or potential liability under, any applicable Environmental Law, (c) no Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities has attached to any Property of any Credit Party or any Subsidiary of any Credit Party and, to the knowledge of any Credit Party, no facts, circumstances or conditions exist that would reasonably be expected to result in any such Lien attaching to any such Property, (d) no Credit Party and no Subsidiary of any Credit Party has caused a Release of Hazardous Materials at, to or from any Real Estate except in compliance with Environmental Laws, (e) to the knowledge of any Credit Party, no Release of Hazardous Materials has occurred at, to or from any Real Estate currently owned, leased, subleased or otherwise operated by any Credit Party or any of their Subsidiaries except in compliance with Environmental Laws, and (f) no Credit Party and no Subsidiary of any Credit Party (i) is engaged in, or has knowingly permitted any current tenant to engage in, operations in violation of any Environmental Law or (ii) knows of any facts, circumstances or conditions reasonably constituting notice of a violation of any Environmental Law by such Credit Party or Subsidiary, including receipt of any information request or notice of potential responsibility under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) or similar Environmental Laws.

3.13 Regulated Entities. None of any Credit Party, any Person controlling any Credit Party, or any Subsidiary of any Credit Party, is (a) an "investment company" within the meaning of the Investment Company Act of 1940 or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any state public utilities code, or any other federal or state statute, rule or regulation limiting its ability to incur Indebtedness, pledge its assets or perform its obligations under the Loan Documents.

3.14 Solvency. Immediately after giving effect to (a) the Loans made and Letters of Credit Issued on or prior to the date this representation and warranty is made or remade, (b) the disbursement of the proceeds of such Loans to or as directed by the Borrower Representative, (c) the consummation of the Related Transactions, and (d) the payment and accrual of all transaction costs in connection with the foregoing, the Credit Parties on a consolidated basis are Solvent.

3.15 Labor Relations. There are no strikes, work stoppages, slowdowns or lockouts existing, pending (or, to the knowledge of any Credit Party, threatened in writing) against or involving any Credit Party or any Subsidiary of any Credit Party, except for those that could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Except as set forth on Schedule 3.15, as of the Closing Date, (a) there is no collective bargaining or similar agreement with any union, labor organization, works council or similar representative covering any employee of any Credit Party or any Subsidiary of any Credit Party, (b) no petition for certification or election of any such representative is existing or pending with respect to any employee of any Credit Party or any Subsidiary of any Credit Party and (c) to the knowledge of any Credit Party, no such representative has sought certification or recognition with respect to any employee of any Credit Party or any Subsidiary of any Credit Party.

3.16 Intellectual Property. Each Credit Party and each Subsidiary of each Credit Party owns, is licensed to use or otherwise has the right to use, all Intellectual Property necessary to

conduct its business as currently conducted except for such Intellectual Property the failure of which to own or license could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; provided, however, that the foregoing representation and warranty in this Section 3.16 shall not constitute or be deemed or construed as any representation or warranty with respect to infringement, misappropriation, dilution or violation of any Intellectual Property (which is addressed in the following sentence). To the knowledge of each Credit Party, (a) the conduct and operations of the businesses of each Credit Party and each Subsidiary of each Credit Party does not infringe, misappropriate, dilute or violate any Intellectual Property owned by any other Person and (b) as of the Closing Date, no other Person is contesting in writing any right, title or interest of any Credit Party or any Subsidiary of any Credit Party in any Intellectual Property, other than, in each case, as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.17 Brokers' Fees; Transaction Fees. Except as disclosed on Schedule 3.17 and except for fees payable to Agents and Lenders, none of the Credit Parties or any of their respective Subsidiaries has any obligation to any Person in respect of any finder's, broker's or investment banker's fee in connection with the transactions contemplated by this Agreement to occur on or around the Closing Date.

3.18 Insurance. Each of the Credit Parties and each of their respective Subsidiaries and their respective Properties are insured with financially sound and reputable insurance companies which are not Affiliates of the Credit Parties, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses of the similar size and character as the business of the Credit Parties and, to the extent relevant, owning similar Properties in localities where such Person operates. A true and complete listing of such insurance, including issuers, coverages and deductibles, as of the Closing Date, is listed on Schedule 3.18.

3.19 Ventures, Subsidiaries and Affiliates; Outstanding Stock. Except as set forth in Schedule 3.19, as of the Closing Date, no Credit Party and no Subsidiary of any Credit Party (a) has any Subsidiaries, or (b) is engaged in any joint venture or partnership with any other Person. All issued and outstanding Stock and Stock Equivalents of each of the Credit Parties and each of their respective Subsidiaries, that, in each case, constitute Collateral, are duly authorized and validly issued, fully paid, non-assessable (if applicable), and, with respect to the Stock and Stock Equivalents of Holdings, the Borrowers and other Subsidiaries of the Borrowers that, in each case, constitute Collateral, free and clear of all Liens other than those in favor of Collateral Agent, for the benefit of the Secured Parties, and Permitted Liens arising by operation of law. All such securities were issued in compliance with all applicable state and federal laws concerning the issuance of securities. All of the issued and outstanding Stock of each Credit Party (other than Holdings) and each Subsidiary of each Credit Party, in each case, as of the Closing Date and after giving effect to the Related Transactions, is owned by each of the Persons and in the amounts set forth in Schedule 3.19. Except as set forth in Schedule 3.19, as of the Closing Date, there are no pre-emptive or other outstanding rights to purchase, options, warrants or similar rights or agreements pursuant to which any Credit Party may be required to issue, sell, repurchase or redeem any of its Stock or Stock Equivalents or any Stock or Stock Equivalents of

its Subsidiaries. Set forth in Schedule 3.19 is a true and complete organizational chart of Holdings and all of its Subsidiaries as of the Closing Date after giving effect to the Related Transactions.

3.20 Jurisdiction of Organization; Chief Executive Office. Schedule 3.20 lists each Credit Party's jurisdiction of organization, legal name and organizational identification number, if any, and the location of such Credit Party's chief executive office or sole place of business, in each case as of the Closing Date.

3.21 Deposit Accounts and Other Accounts. Schedule 3.21 lists all banks and other financial institutions, securities intermediary or commodity intermediary at which any Credit Party maintains deposit, securities, commodities or other similar accounts as of the Closing Date, and such Schedule correctly identifies the name, address and telephone number with respect to each depository or intermediary, the name in which the account is held, a description of the purpose of the account, and the complete account number therefor.

3.22 Bonding. Except as set forth in Schedule 3.22, as of the Closing Date, no Credit Party is a party to or bound by any surety bond agreement, indemnification agreement therefor or bonding requirement with respect to products or services sold by it.

3.23 Status as Senior Indebtedness. All Obligations, shall constitute "Senior Indebtedness" pursuant to (i) the Subordination Agreement, and (ii) any intercreditor or subordination agreements related to Subordinated Indebtedness (other than the Subordinated Term Loan Obligations).

3.24 Full Disclosure. None of the written statements about any Credit Party or any of its Subsidiaries, in each case, contained in any report, written statement or certificate (other than any statement which constitutes projections, forward looking statements, budgets, estimates or general market data) furnished by or on behalf of any Credit Party or any of their Subsidiaries to the Agents or any Lender in connection with the Loan Documents (excluding representations of information of a general or industry-specific nature and excluding financial projections, forecasts, budgets or other forward-looking statements), taken as a whole, contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not materially misleading as of the time when made or delivered (other than any general industry information, budgets and projections delivered to Agents and/or the Lenders in accordance with the terms hereof).

3.25 Foreign Assets Control Regulations; Anti-Money Laundering; Anti-Corruption Practices.

(a) Each Credit Party and each Subsidiary of each Credit Party is in compliance in all material respects with all U.S. economic sanctions laws, Executive Orders and implementing regulations ("**Sanctions**") as administered by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**") and the U.S. State Department. No Credit Party and no Subsidiary of a Credit Party (i) is a Person on the

list of the Specially Designated Nationals and Blocked Persons (the "**SDN List**"), (ii) is a person who is otherwise the target of U.S. economic sanctions laws such that a U.S. person cannot deal or otherwise engage in business transactions with such person, (iii) is a Person organized or resident in a country or territory subject to comprehensive Sanctions (a "**Sanctioned Country**"), or (iv) is owned or controlled by (including by virtue of such Person being a director or owning voting shares or interests), or acts, directly or indirectly, for or on behalf of, any Person on the SDN List or a government of a Sanctioned Country such that the entry into, or performance under, this Agreement or any other Loan Document would be prohibited by U.S. law.

(b) Each Credit Party and each Subsidiary of each Credit Party is in compliance with all applicable laws related to terrorism or money laundering including: (i) all applicable requirements of the Currency and Foreign Transactions Reporting Act of 1970 (31 U.S.C. 5311 et. seq., (the Bank Secrecy Act)), as amended by Title III of the USA Patriot Act, (ii) the Trading with the Enemy Act, (iii) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (66 Fed. Reg. 49079), any other enabling legislation, executive order or regulations issued pursuant or relating thereto and (iv) other applicable federal or state laws relating to "know your customer" or anti-money laundering rules and regulations. No action, suit or proceeding by or before any court or Governmental Authority with respect to compliance with such anti-money laundering laws is pending or threatened in writing to the knowledge of each Credit Party and each Subsidiary of each Credit Party.

(c) Each Credit Party and each Subsidiary of each Credit Party is in compliance in all material respects with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act of 1977 ("**FCPA**") and the U.K. Bribery Act 2010 ("**Anti-Corruption Laws**"). None of the Credit Parties or any Subsidiary, nor to the knowledge of any Credit Party, any director, officer, agent, employee, or other person acting on behalf of such Credit Party or any Subsidiary, has taken any action, directly or indirectly, that would result in a violation by such Credit Party or any Subsidiary of applicable Anti-Corruption Laws. The Credit Parties and each Subsidiary will, to the extent necessary or applicable to their business, maintain policies and procedures designed to promote compliance with applicable Anti-Corruption Laws.

3.26 Leases. There is a Lease in force for each Unit Location which is ground leased or space leased by any Credit Party. No default by any party exists under any such Lease that could reasonably be expected to result in termination of such Lease, nor has any event occurred which, with the passage of time or the giving of notice, or both, would constitute such a default, except in each case, to the extent any such default could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Schedule 3.26 is a complete and correct listing of all Leases as of the Closing Date.

3.27 Store Locations; Franchised Store Locations. Part (a) of Schedule 3.27 sets forth a complete and accurate list of all Store locations owned or operation by any Credit Party or any Subsidiary of a Credit Party as of the Closing Date. Part (b) of Schedule 3.27 sets forth a

complete and accurate list of all Franchised Store Locations franchised by any Franchisor to any Franchisee as of the Closing Date.

3.28 Franchise Agreements.

(a) Schedule 3.28 sets forth a complete and accurate list of all Franchise Agreements as of the Closing Date.

(b) Each Franchise Agreement is in full force and effect, except to the extent the failure of any such Franchise Agreement to remain in full force and effect, either individually or in the aggregate with all other such failures with respect to Franchise Agreements, could not reasonably be expected to have a Material Adverse Effect, without any amendment or modification from the form delivered to the Agents on the Closing Date, except for amendments permitted hereunder and which do not materially and adversely affect the rights of the Lenders.

3.29 SBA Matters. Holdings and each other Credit Party acknowledges that certain of the Lenders are or may from time to time be or become a Small Business Investment Company (as defined in the SBIA), subject to the rules and regulations contained in and promulgated under the SBIA. As of the Closing Date, each Credit Party, together with its "affiliates" (for purposes of this paragraph only, as that term is defined in Title 13, Code of Federal Regulations, § 121.103), is a Small Business Concern (as defined in the SBIA). Neither Holdings nor any of its Subsidiaries presently engages in, and shall not hereafter engage in any activities for which a Small Business Concern is prohibited from engaging in under the SBIA, no shall any such Person use directly or indirectly the proceeds of the Loans for any purpose for which a Small Business Investment Company is prohibited from providing funds by the SBIA.

ARTICLE IV

AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date **(it being understood and agreed that, without in any way limiting the covenants and other agreements in the Founder Group Members Pledge Agreements, for purposes of this Article IV, the term "Credit Party" will not include any Founder Group Members)**:

4.1 Financial Statements. Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, a system of accounting established and administered in accordance with sound business practices to permit the preparation of financial statements in conformity with GAAP (provided that unaudited interim financial statements shall not be required to have footnote disclosures and are subject to normal year-end adjustments). The Borrower Representative shall deliver to Administrative Agent (for delivery to each Lender) by Electronic Transmission and, solely with respect to Section 4.1(b), in customary form or otherwise in detail reasonably satisfactory to each Agent:

(a) as soon as available, but in any event not later than one hundred twenty (120) days after the end of each Fiscal Year, a copy of the audited consolidated balance sheets of Holdings and its Subsidiaries as at the end of such Fiscal Year and the related consolidated statements of income or operations, shareholders' equity and cash flows for such Fiscal Year, setting forth commencing with the audited financial statements for the 2022 Fiscal Year, in each case, in comparative form the figures for the previous Fiscal Year, and accompanied by the report of any "Big Four" independent certified public accounting firm (or any other independent certified public accounting firm reasonably acceptable to Agent) which report shall (i) state that such consolidated financial statements (solely with respect to the financial statements and not comparisons) present fairly in all material respects the financial position for the periods indicated in conformity with GAAP applied on a basis consistent with prior years ending after the Closing Date (except for such year to year inconsistencies as may arise due to a change in GAAP permitted hereunder) and (ii) be unqualified as to scope and going concern;

(b) as soon as available, but in any event not later than forty-five (45) days after the end of each Fiscal Quarter of each Fiscal Year, a copy of the unaudited consolidated balance sheet of Holdings and its Subsidiaries, and the related consolidated statements of income and cash flows as of the end of such Fiscal Quarter and for the portion of the Fiscal Year then ended, all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrowers as being complete and correct in all material respects and fairly presenting, in all material respects and in accordance with GAAP, the financial position and the results of operations of Holdings and its Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures; ~~and~~

(c) as soon as available, but in any event not later than thirty (30) days after the end of each of the first two Fiscal Months of each Fiscal Quarter (other than with respect to the Fiscal Months of May, 2022 and July, 2022, in which case, not later than forty-five (45) days after the end of each such Fiscal Month), (i) Qualified Cash Summary in the form set forth on Exhibit 4.2(b), and (ii) a copy of the unaudited consolidated balance sheets of Holdings and its Subsidiaries, and the related consolidated statements of income and cash flows as of the end of such Fiscal Month and for the portion of the Fiscal Year then ended, setting forth in each case in comparative form the figures for the corresponding Fiscal Month of the previous Fiscal Year and the corresponding Fiscal Month set forth in the applicable annual budget delivered to the Agents pursuant to the terms hereof and the corresponding portion of the previous Fiscal Year and the corresponding portion of the Fiscal Year as set forth in the applicable annual budget delivered pursuant to Section 4.2(d), all in reasonable detail, and all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrowers as being complete and correct in all material respects and fairly presenting, in all material respects, in accordance with GAAP, the financial position and the results of operations of Holdings and its Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures; provided that, if as of the last day of the applicable Fiscal Month, there is no principal outstanding with respect to the Loans, the Credit Parties shall not be required to

deliver any financial statements pursuant to this Section 4.1(e) with respect to such Fiscal Month**; and**

(d) Together with each quarterly report submitted pursuant to Section 4.1(b) and each monthly report submitted by Section 4.1(c), a month-end Qualified Cash Summary for the immediately preceding month, such report to break out each account having a Qualified Cash balance of $250,000 or more at any time during such preceding month, all with such backup as any Agent may from time to time reasonably request.

4.2 Certificates; Other Information. The Borrower Representative shall furnish to Administrative Agent (copies of which shall be delivered or otherwise made available by Administrative Agent to each Lender) by Electronic Transmission:

(a) (i) concurrently with the delivery of the financial statements referred to in Sections 4.1(a) and 4.1(b), a management discussion and analysis report, in reasonable detail, signed by the chief financial officer (or, if there is no chief financial officer, other financial officer that is a Responsible Officer of the Borrowers) of the Borrowers, describing the operations and financial condition of the Credit Parties and their Subsidiaries for the Fiscal Quarter and the portion of the Fiscal Year then ended, (ii) concurrently with the delivery of the financial statements referred to in Section 4.1(b) and 4.1(c), a report setting forth in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year and, if applicable, the corresponding figures from the most recent projections for the current Fiscal Year delivered pursuant to Section 4.2(d) and discussing the reasons for any significant variations, (iii) in the case of the financial statements referred to in Section 4.1(c), same store sales in comparative form and (iv) in the case of the financial statements referred to in Section 4.1(b), an updated Development Overview Report;

(b) concurrently with the delivery of the financial statements referred to in Sections 4.1(a) and 4.1(b), a fully and properly completed certificate in the form of Exhibit 4.2(b) (a "**Compliance Certificate**"), certified on behalf of the Borrowers by a Responsible Officer of the Borrowers, which shall include a list of, if any, (1) changes to any Credit Party's or any of its Subsidiaries' legal name, jurisdiction of incorporation, organization or formation or organizational form, (2) formation of a Subsidiary or acquisitions by a Credit Party or any of its Subsidiaries of all or substantially all of the assets of, or mergers or consolidations of a Credit Party or any of its Subsidiaries with or into, a Person, (3) the occurrence of any event described in Section 1.8(c) or (d), (4) changes to any Credit Party's principal place of business or chief executive office or acquisitions by a Credit Party of fee simple title to any real property with a fair market value in excess of $1,000,000 and (5) changes, with respect to any Material Intellectual Property (as defined in the Guaranty and Security Agreement), in the information of the type required to be set forth on Schedule 5 of the Guaranty and Security Agreement on the Closing Date for such Grantor, except for changes that have been disclosed in prior Compliance Certificates delivered to Administrative Agent;

(c) promptly after the same are filed, copies of all financial statements and regular, periodic or special reports which any Credit Party or any Subsidiary of a Credit Party may make to, or file with, the Securities and Exchange Commission or any successor or similar Governmental Authority;

(d) as soon as available and in any event no later than thirty (30) days after the last day of each Fiscal Year of the Borrowers, an annual budget and projections of the Credit Parties (and their Subsidiaries) consolidated financial performance for such Fiscal Year on a month-by-month basis, including assumptions made in the build-up of the budget, along with the related consolidated statements of income, shareholders' equity and cash flows for such Fiscal Year and a calculation of the financial covenants set forth in Section 6.1 for each Fiscal Quarter contained therein (it being acknowledged and agreed by Agents and Lenders that uncertainty is inherent in any forecasts or projections, projections as to future events or conditions are not to be viewed as facts and that the actual results and financial covenants during the period or periods covered by the projections may differ materially from the projected results);

(e) promptly upon receipt thereof, copies of all final management reports submitted by the Borrowers' certified public accountants in connection with each annual audit to the extent permitted by such accountants and subject to a customary non-reliance letter;

(f) from time to time, if Collateral Agent reasonably determines that obtaining appraisals is necessary in order for Agents or any Lender to comply with applicable laws or regulations (including any appraisals required to comply with FIRREA), Collateral Agent may, or may require the Borrowers to, in either case at the Borrowers' reasonable expense (but in no event more than one time in any Fiscal Year: provided, however, that the foregoing limitation shall not apply if an Event of Default has occurred and is continuing), obtain appraisals in form and substance (it being understood that "substance" shall not include the value of the collateral being appraised, which value shall not be subject to satisfaction of Agents or any Lender) and from appraisers reasonably satisfactory to Collateral Agent stating the then current fair market value of all or any portion of the personal property of any Credit Party or any Subsidiary of any Credit Party and the fair market value or such other value as determined by Collateral Agent (for example, replacement cost for purposes of Flood Insurance) of any Real Estate of any Credit Party or any Subsidiary of any Credit Party; provided that if the Collateral Agent obtains any appraisal pursuant to this Section 4.2(f), the Collateral Agent shall, upon the request of the Borrowers, provide or otherwise make available a copy of such appraisal to the Borrowers; and

(g) [Reserved];

(h) promptly following either Agent's written request therefor, such additional business or financial information and updated perfection certificate as such Agent may from time to time reasonably request; provided that the Agents shall not request an updated perfection certificate more than one time per Fiscal Year; provided, however,

that the foregoing limitation shall not apply if an Event of Default has occurred and is continuing.

4.3 Notices. The Borrowers shall promptly notify each Agent of each of the following (and, except as otherwise specifically set forth in clauses (e)(ii) and (e)(iii) and in clause (i) below, in no event later than five (5) Business Days) after a Responsible Officer becoming aware thereof:

(a) the occurrence or existence of any Default or Event of Default;

(b) any dispute, litigation, investigation, proceeding or suspension which may exist at any time between any Credit Party or any Subsidiary of any Credit Party and any Governmental Authority which could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(c) the commencement of, or any material development in, any litigation or proceeding affecting any Credit Party or any Subsidiary of any Credit Party or its respective property (i) in which the amount of monetary damages claimed is $500,000 or more, (ii) which, if adversely determined, could reasonably be expected to have a Material Adverse Effect, or (iii) in which the relief sought is an injunction or other stay of the performance of this Agreement, or any other Loan Document;

(d) (i) the receipt by any Credit Party of any written notice of material violation of or potential liability or similar written notice under Environmental Law which could reasonably be expected to result in (A) a Material Adverse Effect or (B) monetary liability in excess of $500,000, (ii)(A) unpermitted Releases by any Credit Party on or from the Real Estate in violation of Environmental Law, (B) the existence of any condition that would reasonably be expected to result in violations by any Credit Party or any Subsidiary of a Credit Party of Environmental Law or Environmental Liabilities or (C) the commencement of, or any material change to, any action, investigation, suit, proceeding, audit, claim, demand or dispute alleging a violation by any Credit Party or any Subsidiary of a Credit Party of Environmental Law or Environmental Liability which in the case of clauses (A), (B) and (C) above, could reasonably be expected to result in (1) monetary liability in excess of $500,000 or (2) a Material Adverse Effect and (iii) the receipt by any Credit Party of written notification that any Property of any Credit Party is subject to any Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities that could reasonably be expected to result in (A) monetary liability in excess of $500,000 or (B) a Material Adverse Effect;

(e) (i) upon any filing by any Credit Party or any Subsidiary of a Credit Party, or promptly upon a Credit Party obtaining knowledge of the filing by an ERISA Affiliate, of any notice of (A) any reportable event under Section 4043 of ERISA (other than reportable events with respect to which the 30-day notice requirement has been duly waived under the applicable regulations) with respect to any Title IV Plan or (B) intent to terminate any Title IV Plan, which in the case of either clause (A) or (B) above, could

reasonably be expected to result in (1) monetary liability in excess of $500,000 or (2) a Material Adverse Effect, a copy of such notice, (ii) promptly, and in any event within ten (10) days, after any officer of any Credit Party or any Subsidiary of a Credit Party knows or has reason to know that a request for a minimum funding waiver under Section 412 of the Code has been filed with respect to any Title IV Plan, a notice describing such waiver request and any action that any Credit Party proposes to take with respect thereto, together with a copy of any notice filed with the PBGC or the IRS pertaining thereto; and (iii) promptly, and in any event within ten (10) days, after any officer of any Credit Party or any Subsidiary of a Credit Party knows or has reason to know that an ERISA Event has occurred that could, either individually or in the aggregate, result in (A) monetary liability in excess of $1,500,000 or (B) a Material Adverse Effect, a notice describing such ERISA Event, together with a copy of any notices received from or filed with the PBGC, IRS or Multiemployer Plan pertaining thereto;

(f) any Material Adverse Effect subsequent to the date of the most recent audited financial statements of Holdings and its Subsidiaries delivered to Administrative Agent pursuant to this Agreement;

(g) any material change in accounting policies or financial reporting practices by any Credit Party or any Subsidiary of any Credit Party; and

(h) any labor controversy resulting in, or which would reasonably be expected to result in, any strike, work stoppage, boycott, shutdown or other labor disruption against or involving any Credit Party or any Subsidiary of any Credit Party if the same could, either individually or in the aggregate, reasonably be expected to result in (i) monetary liability in excess of $500,000 or (ii) a Material Adverse Effect.

Each notice pursuant to this Section 4.3 shall be in electronic form accompanied by a statement by a Responsible Officer of the Borrowers, setting forth reasonable details of the occurrence referred to therein, and, if applicable, stating what action the Borrowers or other Person proposes to take with respect thereto and at what time. Each notice under Section 4.3(a) shall describe with particularity any provisions of this Agreement or other Loan Document that have been breached or violated to the extent such breach or violation constitutes a Default or an Event of Default.

4.4 Preservation of Corporate Existence, Etc. Each Credit Party shall, and shall cause each of its Subsidiaries to:

(a) preserve and maintain in full force and effect its organizational existence and good standing under the laws of its jurisdiction of incorporation, organization or formation, as applicable, except as permitted by Section 5.3;

(b) preserve and maintain in full force and effect all rights, privileges, qualifications, permits, licenses and franchises necessary in the normal conduct of its business except as permitted by Sections 5.2 and 5.3 and except as could not, either

individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(c) preserve or renew all of its registered Trademarks, Patents and Copyrights the non-preservation of which could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; and

(d) conduct its business and affairs without knowingly infringing or violating any Intellectual Property of any other Person in any material respect and comply in all material respects with the terms of its IP Licenses except in each case as could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.5 Maintenance of Property. Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, and preserve all its Property (other than abandoned Property left on leased premises following the termination of a Lease) which is necessary for the operation of the business of the Borrowers and their Subsidiaries in good working order and condition, ordinary wear and tear, casualty and condemnation excepted and shall make all reasonably necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.6 Insurance.

(a) Each Credit Party shall, and shall cause each of its Subsidiaries to, (i) maintain or cause to be maintained in full force and effect all policies of insurance of any kind with respect to the Property and businesses of the Credit Parties and such Subsidiaries with financially sound and reputable insurance companies or associations (in each case that are not Affiliates of the Borrowers) of a nature and providing such coverage as is customarily carried by businesses of the size and character of the business of the Credit Parties and (ii) cause all such insurance (other than workers' compensation insurance, directors and officers insurance and employee health and welfare insurance) relating to any Property or business of any Credit Party to name Collateral Agent as additional insured or lenders loss payee as agent for the Lenders, as appropriate. All policies of insurance on real and personal Property of the Credit Parties will contain an endorsement, in form and substance reasonably acceptable to Collateral Agent, naming Collateral Agent as lenders loss payee as agent for the Lenders (with such endorsement, or an independent instrument furnished to Collateral Agent, providing that the insurance companies will give Collateral Agent at least thirty (30) days' (or ten (10) days' in the case of non-payment) prior written notice before any such policy or policies of insurance shall be altered or canceled and that no act or default of the Credit Parties or any other Person shall affect the right of Collateral Agent to recover under such policy or policies of insurance in case of loss or damage). If any insurance proceeds are paid by check, draft or other instrument payable to any Credit Party and Collateral Agent jointly, during the occurrence and continuance of an Event of Default Agent may endorse such Credit Party's name thereon and do such other things as Collateral Agent may deem advisable to

reduce the same to cash. In addition to the obligations set forth in Sections 4.6(a) and 4.13, within thirty (30) days after written notice from Collateral Agent to the Credit Parties that any improved Real Estate is located in a Special Flood Hazard Area in the United States, the Credit Parties shall satisfy the Federal Flood Insurance requirements of Section 4.6(a).

(b) Unless the Credit Parties provide Collateral Agent with evidence of the insurance coverage required by this Agreement annually prior to the expiration of each such policy and in any event within ten (10) Business Days of Collateral Agent's request after such expiration, Collateral Agent may in its reasonable business judgment and upon written notice to the Borrower Representative purchase insurance at the Credit Parties' expense necessary (as reasonably determined by Collateral Agent) to protect Collateral Agent's and Lenders' interests, including interests in the Credit Parties' and their Subsidiaries' properties. This insurance may, but need not, protect the Credit Parties' and their Subsidiaries' interests. The coverage that Collateral Agent purchases may not pay any claim that any Credit Party or any Subsidiary of any Credit Party makes or any claim that is made against such Credit Party or any Subsidiary in connection with said Property. The Borrower Representative may later cancel any insurance purchased by Collateral Agent, but only after providing Collateral Agent with evidence that there has been obtained insurance as required by this Agreement. If Collateral Agent purchases insurance, the Credit Parties will be responsible for the reasonable and documented costs of that insurance, including interest and any other charges Collateral Agent may impose in connection with the placement of insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance shall be added to the Obligations. The costs of the insurance may be more than the cost of insurance the Borrowers may be able to obtain on its own.

4.7 Payment of Taxes. Each Credit Party shall, and shall cause each of its Subsidiaries to, pay, discharge or otherwise satisfy as the same shall become due and payable (after giving effect to any cure periods, if applicable), all material Tax liabilities, assessments and governmental charges or levies upon it or its Property, unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the enforcement of any Lien and for which adequate reserves in accordance with GAAP are being maintained by such Person.

4.8 Compliance with Laws. Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.9 Inspection of Property and Books and Records. Each Credit Party shall maintain and shall cause each of its Subsidiaries to maintain proper books of record and account, in which full, true and correct entries in all material respects and in conformity with GAAP consistently applied (except as disclosed therein) shall be made of all material financial transactions and material matters involving the assets and business of such Person. Each Credit Party shall, and

shall cause each of its Subsidiaries to, with respect to each owned, leased, or controlled property, during normal business hours and upon reasonable advance notice (unless an Event of Default shall have occurred and be continuing, in which event no notice shall be required and Agents shall have access at any and all times during the continuance thereof): (a) provide access to such property to Agents and any of their respective Related Persons, as frequently as either Agent reasonably determines to be appropriate but, unless an Event of Default shall have occurred and be continuing, Agents or any of its related Persons shall only be permitted to make one such visit per year hereunder, without material disruption to the business or causing material undue burden on such Credit Party; and (b) permit Agents and any of their respective Related Persons to conduct field examinations, audit, inspect, and make extracts and copies from all of such Credit Party's books and records, and evaluate and make physical verifications and appraisals of the Inventory and other Collateral in any manner and through any medium that either Agent reasonably considers advisable, in each instance, at the Credit Parties' reasonable expense; provided that, so long as no Default or Event of Default has occurred and is continuing, (i) the Credit Parties shall only be obligated to reimburse Agents for the expenses of one (1) such field examination, audit and inspection per calendar year in accordance with Section 9.5 and (ii) during such field examination, no contact shall be made by either Agent, any Lender or any of their Related Persons with the Account Debtors of any of the Credit Parties or their Subsidiaries in their capacities as Account Debtors of Credit Parties or their Subsidiaries. Any Lender may accompany Agents or their respective Related Persons in connection with any inspection at such Lender's expense.

4.10 Use of Proceeds.

(a) The Borrowers shall use the proceeds of the Term Loan A (i) on the Closing Date (1) to finance the Existing Debt Refinancing Transactions, or (2) to pay fees and expenses associated with the funding of the Loans and the Related Transactions and required to be paid pursuant to Section 2.1, or (ii) after the Closing Date, to provide for working capital and other general corporate purposes;

(b) ~~[Reserved]~~**The Borrowers shall use proceeds of the Delayed Draw Term Loans and Incremental Delayed Draw Term Loans solely for new Store capital expenditures and, subject to Section 5.8(l) below, the Second Tranche Preferred Unit Redemption**;

(c) [Reserved];

(d) [Reserved].

(e) Each Credit Party shall ensure that no Credit Party shall suffer or permit any of its Subsidiaries to, use any portion of the Loan proceeds, directly or indirectly, to purchase or carry Margin Stock or repay or otherwise refinance Indebtedness of any Credit Party incurred to purchase or carry Margin Stock, or otherwise in any manner which is in material contravention of any material Requirement of Law.

4.11 Cash Management Systems. Within sixty (60) days after the Closing Date (as such date may be extended by the Agents in their sole discretion), each Credit Party shall enter into, and cause each depository bank, securities intermediary or other financial institution to enter into, Control Agreements with respect to each of the deposit or securities accounts of such Credit Party (other than (a) any payroll account, payroll tax account, benefit account, other employee wage and benefit account or zero balance account, (b) petty cash and other bank and securities accounts, amounts on deposit in which do not exceed $500,000 in the aggregate at any one time, and (c) withholding tax and fiduciary accounts, escrow accounts, accounts containing customer funds and other accounts in which any Credit Party solely holds funds on behalf of any third party (such excluded accounts, "**Excluded Accounts**"), and other than as may be agreed by the Collateral Agent in writing in its sole discretion). It is agreed and understood that the Credit Parties shall have until the date that is sixty (60) days following the closing date of any Acquisition or other Investment permitted hereby (or such later date as may be agreed to by Agents in their sole discretion) with regard to accounts (other than Excluded Accounts) acquired by the Credit Parties in connection with such Acquisition or other Investment to comply with the provisions of this Section 4.11 with respect to each deposit, securities or commodity account of such Credit Party and maintained by such Person (other than any Excluded Account). The Credit Parties shall give the Collateral Agent prompt notice of the establishment of any new deposit and/or securities account(s) (other than Excluded Accounts) established by any Credit Party, and shall enter into and shall cause the depositary institution maintaining such account(s) to enter into a Control Agreement in form and substance reasonably satisfactory to the Collateral Agent over such account(s), within sixty (60) days following the establishment of such account(s) (except, for the avoidance of doubt, with respect to those accounts listed in Section 7 of that certain Third Amendment to Credit Agreement, by and among, among others, the Credit Parties and the Collateral Agent (the "Third Amendment"), the Borrowers shall use commercially reasonable efforts to obtain such Control Agreements following the Third Amendment Effective Date (as defined in the Third Amendment)).

4.12 Further Assurances.

(a) Promptly, but in any event subject to the express limitations set forth in the Loan Documents, upon reasonable request by Agent, the Credit Parties shall (and, subject to the limitations set forth herein and in the Collateral Documents, shall cause each of their Subsidiaries to) take such additional actions and execute such documents as either Agent may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement or any other Loan Document, (ii) to subject to the Liens created by any of the Collateral Documents any of the Properties, rights or interests covered by any of the Collateral Documents, (iii) with respect to perfection of Liens on assets acquired in an Acquisition or other Investment permitted hereunder, perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and the Liens intended to be created thereby, and (iv) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to the Agents the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document. Without limiting the generality of the foregoing and except as otherwise approved in writing by Required Lenders, the Credit Parties shall cause each of their

Subsidiaries (other than Excluded Subsidiaries), within thirty (30) days (or such later date as may be agreed by Agents in their sole discretion) after formation or acquisition thereof (or, in the event of any Excluded Subsidiary ceasing to constitute an Excluded Subsidiary, the date of such event), to guaranty the Obligations and to cause each such Subsidiary to grant to Collateral Agent, for the benefit of the Secured Parties, a security interest in, subject to the limitations set forth herein and in the Collateral Documents, all or substantially all of such Subsidiary's Property to secure such guaranty. Furthermore and except as otherwise approved in writing by Required Lenders, each Credit Party shall pledge all of the outstanding Stock and Stock Equivalents (other than Excluded Equity (as defined in the Guaranty and Security Agreement)) of its Subsidiaries, in each instance, to Agent, for the benefit of the Secured Parties, to secure the Obligations, within the time period required by the Guaranty and Security Agreement. The Credit Parties shall deliver, or cause to be delivered, to Agents, appropriate resolutions, secretary certificates, certified Organization Documents and, if requested by Agents, customary legal opinions relating to the matters described in this Section 4.12 (which opinions shall be in form and substance reasonably acceptable to Agents) in each instance with respect to each Credit Party formed or acquired after the Closing Date. In connection with each pledge of Stock and Stock Equivalents, the Credit Parties shall deliver, or cause to be delivered, to Collateral Agent, irrevocable proxies and stock powers and/or assignments, as applicable, duly executed in blank, within the time period required by the Guaranty and Security Agreement. In the event any Credit Party acquires fee title to any Real Estate with a fair market value in excess of $1,000,000, within sixty (60) days after (or such later date as may be agreed by Agent in its sole discretion) such acquisition, such Person shall execute and/or deliver, or cause to be executed and/or delivered to Collateral Agent, (x) an appraisal complying with FIRREA (to the extent such appraisal is required by FIRREA or other Requirement of Law), (y) a fully executed Mortgage, in form and substance reasonably satisfactory to Collateral Agent and (z) to the extent reasonably requested by the Collateral Agent, (I) an A.L.T.A. lender's title insurance policy issued by a title insurer reasonably satisfactory to Collateral Agent, in form and substance and in an amount reasonably satisfactory to Collateral Agent insuring that the Mortgage is a valid and enforceable first priority Lien on the respective property, free and clear of all defects, encumbrances and Liens other than Permitted Liens, (II) then current A.L.T.A. surveys, certified to Collateral Agent by a licensed surveyor sufficient to allow the issuer of the lender's title insurance policy to issue such policy without a survey exception and (III) to the extent reasonably requested in writing by the Collateral Agent, an environmental site assessment prepared by a qualified firm reasonably acceptable to Collateral Agent, in form reasonably satisfactory to Collateral Agent. In addition to the obligations set forth in Section 4.6(a), within sixty (60) days (or such later date as may be agreed by Agent in its sole discretion) after written notice from Collateral Agent to the Credit Parties that any improved Real Estate is located in a Special Flood Hazard Area, the Credit Parties shall promptly take such action as is necessary to satisfy the Flood Insurance requirements of Section 4.6(a).

(b) Notwithstanding the foregoing, Holdings and its Subsidiaries shall not be required to grant or perfect the Collateral Agent's security interest under any foreign law unless required by the Agent in its reasonable discretion.

4.13 Environmental Matters. Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with, and maintain its Real Estate to the extent required of any Credit Party or Subsidiary thereof under applicable Environmental Law or Contractual Obligation, whether owned, leased, subleased or operated, in compliance with, all applicable Environmental Laws (including by implementing any Remedial Action required of such Credit Party or such Subsidiary necessary to achieve such compliance), except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Without limiting the foregoing, if an Event of Default is continuing and Agent has a reasonable basis to believe that there exist material violations of Environmental Laws by any Credit Party or any Subsidiary of any Credit Party or that there exists any Material Adverse Effect resulting therefrom, then each Credit Party shall, promptly upon receipt of request from Agent, cause the performance of, and allow Agent and its Related Persons access to such Real Estate for the purpose of conducting, such environmental audits and assessments, including subsurface sampling of soil and groundwater to the extent not prohibited under any Contractual Obligation with regard to any leased or subleased Real Estate, and cause the preparation of such reports, in each case as Agent may from time to time reasonably request. Such audits, assessments and reports, to the extent not conducted by Agent or any of its Related Persons, shall be conducted and prepared by reputable environmental consulting firms reasonably acceptable to Agents and shall be in form and substance reasonably acceptable to Agents.

4.14 Landlord Agreements. Within sixty (60) days after the Collateral Agent's request therefor, with respect to any lease, warehouse agreement or other arrangement (a) at any location where Collateral having a fair market value in excess of $100,000 (as determined in good faith by the Borrower Representative) is or may be stored or located, (b) material books and records are or will be stored or located, (c) where primary roasting facilities are located, or (d) where the business headquarters of a Credit Party is located, each Credit Party shall, at the written request of the Collateral Agent, use commercially reasonable efforts to obtain a Collateral Access Agreement from the lessor of each leased property or bailee in possession of any Collateral for which Collateral Agent has requested a Collateral Access Agreement.

4.15 Compliance with Terms of Franchise Agreements. Each Credit Party shall, and shall cause each of its Subsidiaries to, (a) make all payments and otherwise perform all obligations in respect of Franchise Agreements to which any Credit Party or Subsidiary is a party, (b) keep such Franchise Agreements in full force and effect, (c) not allow such Franchise Agreements to lapse or be terminated or any rights to renew such Franchise Agreements to be forfeited or cancelled and (d) notify the Agents of any default by any party with respect to such Franchise Agreements and promptly cure any such default, other than, in each case of clauses (a) through (d) where the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.16 Compliance with Terms of Leases. Each Credit Party shall, and shall cause each of its Subsidiaries to, (a) make all payments and otherwise perform all obligations in respect of

all Leases to which any Credit Party or Subsidiary is a party, (b) keep all such Leases in full force and effect, (c) not allow such Leases to lapse or be terminated or any rights to renew such Leases to be forfeited or cancelled, and (d) notify the Collateral Agent of any default by any party with respect to such Leases and promptly cure any such default, except, in any case, where the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect.

4.17 Board Observation Rights. Agents shall have the right to, from time to time, designate (e-mail designation to the Borrower Representative being sufficient for the following purposes) one (1) representative for both Agents to: (a) receive prior written notice of all meetings (both regular and special) of the board of directors (or equivalent governing body) of each Credit Party and each committee thereof (such notice to be given in the same manner and at the same time as notice is given to the members of such body and/or committee); (b) be entitled to attend (or, at the option of such representative, monitor by telephone) all such meetings; and (c) receive all notices, information and reports which are furnished or made available to the members of such body and/or committee at the same time and in the same manner as the same is furnished or made available to such members, except that these observers may be excluded from access to any meeting or portion thereof (as well as the distribution of materials and minutes related thereto) if the applicable Credit Party determines in good faith upon advice of counsel that such exclusion is reasonably necessary to preserve the attorney-client privilege or if matters of conflict of interest to the Agents or any Lender are being discussed. If any action is proposed to be taken by such board of directors (or equivalent governing body) and/or committee by written consent in lieu of a meeting, the Borrower Representative will provide the Administrative Agent (and the Administrative Agent agrees to provide to the Collateral Agent) with prior written notice thereof (such notice to be given in the same manner and at the same time as notice is given to the members of such body and/or committee) and, upon either Agent's request, furnish or cause to be furnished to such representative a copy of each such written consent promptly after it has become effective, unless the applicable Credit Party determines in good faith that such provision is reasonably likely to affect the attorney-client privilege upon advice of counsel or that such matter involves a conflict of interest with any Agent or Lender. Such representative shall not constitute a member of such body and/or committee and shall not be entitled to vote on any matters presented at meetings of such body and/or committee or to consent to any matter as to which the consent of any such body and/or committee shall have been requested. The Credit Parties will pay (or reimburse) upon request by any such representative for all reasonable out-of-pocket expenses incurred by such representative in connection with attending such meetings.

4.18 SBA Matters.

(a) Upon the request of any Lender that is a Small Business Investment Company (as defined in the SBIA), repay such Lender's Loan in full (including the applicable prepayment fee), in immediately available funds, in the event that any Borrower or any other Credit Party changes the nature of its business within one year after the Closing Date (or, if applicable, any later borrowing date hereunder in a manner that would cause such Lender to have provided funds to such Borrower or any other

Credit Party pursuant to this Agreement or any other Loan Documents in violation of 13 C.F.B. §§ 107.700-107.760 (as amended from time to time).

(b) Upon the request of any Lender that is a Small Business Investment Company (as defined in the SBIA) or the SBA, (i) submit to such Lender and/or the SBA timely and accurate compliance reports at such times and in such form and containing such information as the SBA may determine to be necessary to enable the SBA to ascertain whether Holdings and each other Credit Party have complied or are complying with 13 C.F.R. Part 112 ("Part 112"), (ii) submit to such Lender such information as may be necessary to enable such Lender to meet its reporting requirements under Part 112, and (iii) permit the SBA to have access with advance written notice and during normal business hours to such of its books, records, accounts and other sources of information, and its facilities as may be pertinent to ascertain compliance with Part 112. Where any information required of Holdings or any other Credit Party is in the exclusive possession of any other agency, institution or Person and such agency, institution or Person shall fail or refuse to furnish this information, Holdings and each other Credit Party shall so certify in its report and shall set forth what efforts it has made to obtain this information.

4.19 Post-Closing Obligations. Each Credit Party agrees to deliver or to cause to be delivered to Agents, in form and substance reasonably satisfactory to Agent, the items described below and on Schedule 4.19 on or before the dates specified with respect to such items, or such later dates as may be agreed to by Agents, in their sole discretion. On or before May 30, 2022, the Credit Parties shall deliver or cause to be delivered to the Collateral Agent:

(i) the duly executed Holdings Pledge Agreements of each of the Holdings Pledgors (other than Viking Cake BR~~, LLC~~ which shall deliver its Holdings Pledge Agreement on the Closing Date), each substantially in the form delivered by Viking Cake BR~~, LLC~~ on the Closing Date;

(ii) an opinion of counsel to the Holdings Pledgors acceptable to the Agents in their sole discretion, as to the due authorization, execution and delivery of each of the Holdings Pledge Agreements, the enforceability thereof, no conflicts with the underlying trust agreements, perfection of the Lien of the Collateral Agent on the Pledged Collateral described therein, and such other matters as may reasonably be required by the Collateral Agent; and

(iii) payment of all fees and expenses incurred by the Collateral Agent (including reasonable legal fees and expenses) in connection with items covered by this Section 4.19 (including Schedule 4.19).

~~**4.20 BRSO PNW. Within fifteen (15) days (or such longer period to which the Agents may agree in their sole discretion) after the date upon which any order(s) entered in connection with the Roasters Litigation which prohibit BRSO PNW from granting liens on its assets is no longer effective, the Borrowers will cause BRSO PNW, at the Borrowers' election, to either (x) execute a joinder to the Guaranty and Security Agreement and such other Collateral Documents as may be designated by the Agents, and take such actions as**~~

~~may be designated by the Agents to perfect first priority Liens in favor of the Collateral Agent on all assets of BRSO PNW, or (y) transfer one hundred percent (100%) of the assets of BRSO PNW (including cash and Cash Equivalents) to BRSO and dissolve the legal existence of BRSO PNW, all evidenced by documentation delivered and satisfactory to the Agents.~~

4.20 [Reserved].

ARTICLE V

NEGATIVE COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date (it being understood and agreed that, without in any way limiting the covenants and other agreements in the Founder Group Members Pledge Agreements, for purposes of this Article V, the term "Credit Party" will not include any Founder Group Members):

5.1 Limitation on Liens. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, directly or indirectly, make, create, incur, assume or suffer to exist any Lien upon or with respect to any part of its Property, whether now owned or hereafter acquired, other than the following ("**Permitted Liens**"):

(a) any Lien existing on the Property of a Credit Party or a Subsidiary of a Credit Party on the Closing Date and set forth in Schedule 5.1, including extensions and renewals thereof and replacement Liens on the Property currently subject to such Liens;

(b) any Lien created under any Loan Document, Secured Rate Contract or Bank Product;

(c) Liens for Taxes, fees, assessments or other governmental charges (i) which are not past due or remain payable without penalty, or (ii) the non-payment of which is permitted by Section 4.7;

(d) carriers', warehousemen's, mechanics', landlords', contractors', materialmen's, repairmen's or other similar Liens and arising in the Ordinary Course of Business which are not delinquent for more than ninety (90) days or remain payable without penalty or remedy or which are being contested in good faith and by appropriate proceedings diligently prosecuted, which proceedings have the effect of preventing the forfeiture or sale of the Property subject thereto and for which adequate reserves in accordance with GAAP are being maintained;

(e) Liens (other than any Lien imposed by ERISA) consisting of pledges or deposits required in the Ordinary Course of Business in connection with (i) workers' compensation, unemployment insurance and other social security legislation or to secure the performance of tenders, statutory obligations, performance, surety, stay, customs and appeals bonds, bids, leases, governmental contract, trade contracts, performance and return of money bonds and other similar obligations (exclusive of obligations for the

payment of borrowed money) or to secure liability to insurance carriers and (ii) obligations in respect of letters of credit or bank guarantees that have been posted by the Borrowers or any of their Subsidiaries to support payment of items set forth in clause (i) above;

(f) Liens consisting of judgment or judicial attachment liens (other than for payment of Taxes); provided that (i) the enforcement of such Liens is (1) effectively stayed or (2) is fully covered by a valid and binding policy of insurance between the defendant and the insurer covering full payment thereof and such insurer has been notified, and has not disputed the claim made for payment or the amount of such judgment and (ii) the existence of such judgment does not give rise to an Event of Default;

(g) easements, servitudes, rights-of-way, zoning and other restrictions, minor defects or other irregularities in title, and other similar encumbrances which, either individually or in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the Property subject thereto or interfere in any material respect with the ordinary conduct of the business of any Credit Party or any Subsidiary thereof;

(h) Liens on any Property acquired or held by any Credit Party or any Subsidiary of any Credit Party securing Indebtedness incurred or assumed for the purpose of financing (or refinancing) all or any part of the cost of acquiring such Property and permitted under Section 5.5(d); provided that (i) any such Lien attaches to such Property concurrently with or within sixty (60) days after the acquisition thereof, (ii) such Lien attaches solely to the Property so acquired in such transaction and the proceeds thereof, and (iii) the principal amount of the debt secured thereby does not exceed 100% of the cost of such Property as determined at the time such Lien initially attaches to such Property plus fees and expenses incurred in connection with the acquisition thereof;

(i) Liens securing, and interests and title of lessors in respect of, Capital Lease Obligations permitted under Section 5.5(d);

(j) any interest or title of a lessor, sublessor, licensor, sublicensor, franchisor or similar person granted under any lease, sublease, license, sublicense, grant, franchise or permit in the Ordinary Course of Business not prohibited by this Agreement;

(k) Liens arising from precautionary uniform commercial code (or personal property security law) financing statements filed under any lease not prohibited by this Agreement;

(l) non-exclusive licenses and sublicenses granted by a Credit Party or any Subsidiary of a Credit Party (including any non-exclusive license or sublicense of Intellectual Property) and leases and subleases (by a Credit Party or any Subsidiary of a Credit Party as lessor or sublessor) to third parties in the Ordinary Course of Business not

interfering in a material respect with the business of any Credit Party or any Subsidiary thereof;

(m) Liens (i) in favor of collecting banks arising by operation of law under Section 4-210 of the UCC or, with respect to collecting banks located in the State of New York, under Section 4-208 of the UCC, or (ii) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the Ordinary Course of Business;

(n) Liens (including the right of set-off) in favor of a bank or other depository institution arising as a matter of law encumbering deposits and Liens that are granted by contract (including contractual rights of set-off) relating to the establishment of depository and cash management relations with banks not given in connection with the issuance of Indebtedness and which are customary to the banking industry;

(o) Liens (i) in favor of customs and revenue authorities arising as a matter of law which secure payment of customs duties in connection with the importation of goods in the Ordinary Course of Business or (ii) on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods in the Ordinary Course of Business;

(p) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 5.4;

(q) Liens pursuant to Secured Rate Contracts to secure obligations thereunder to the extent such Secured Rate Contracts are permitted hereunder;

(r) Liens arising out of consignment or similar arrangements for the sale of goods permitted by this Agreement and entered into by the Borrowers or any Subsidiary of the Borrowers in the Ordinary Course of Business;

(s) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to cash and Cash Equivalents on deposit in one or more accounts maintained by any Credit Party, in each case granted in the Ordinary Course of Business and are customary in the banking industry in favor of the bank or banks with which such accounts are maintained, securing amounts owing to such bank or banks with respect to cash management and operating account arrangements;

(t) Liens arising on any Real Estate as a result of any eminent domain, condemnation or similar proceeding being commenced with respect to such Real Estate;

(u) receipt of progress payments and advances from customers in the Ordinary Course of Business to the extent the same creates a Lien;

(v) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto to the extent permitted under Section 5.5(i);

(w) Liens attaching solely to cash earnest money deposits in connection with Investments permitted under Section 5.4 (including any letter of intent related thereto);

(x) Liens on Property, and only such Property, which is the subject of a proposed asset disposition permitted hereunder, which Liens secure the obligation of a Credit Party or any Subsidiary of a Credit Party under the relevant asset purchase agreement;

(y) Liens on Property acquired pursuant to a Permitted Acquisition or on property or assets of a Subsidiary of the Borrowers in existence at the time such Subsidiary is acquired pursuant to an Acquisition; provided that (x) any Indebtedness secured by such Liens is permitted to exist under Section 5.5(o) and (y) such Liens are not incurred in connection with, or in contemplation or anticipation of, such Acquisition and do not attach to any other Property of Holdings or any of its Subsidiaries other than the proceeds or products thereof; and

(z) Liens on cash posted as cash collateral in favor of any issuer of letters of credit issued for the account of the Credit Parties or their Subsidiaries securing reimbursement obligations permitted under Section 5.5(s); provided that the amount of cash collateral subject to such Liens shall not exceed the amount of reimbursement obligations permitted to be incurred under Section 5.5(s).

5.2 Disposition of Assets. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, directly or indirectly, sell, assign, lease, convey, transfer or otherwise dispose of (whether in one or a series of transactions) any Property (including the Stock of any Subsidiary of any Credit Party, whether in a public or private offering or otherwise, and accounts and notes receivable, with or without recourse), except:

(a) dispositions of Inventory and non-exclusive licenses and sublicenses of Intellectual Property and dispositions or abandonment of obsolete, worn-out or surplus equipment no longer used or useful in the business of the Borrowers and their Subsidiaries, taken as a whole, all in the Ordinary Course of Business;

(b) dispositions not otherwise permitted hereunder which are made for fair market value; provided that the Credit Parties will not sell or otherwise dispose of Intellectual Property (except in transactions entered into in the Ordinary Course of Business and permitted by Section 5.1(j) or 5.1(l)), without the consent of the Agents, and (i) at the time of any disposition, no Default or Event of Default shall exist or shall immediately result from such disposition, (ii) not less than 75% of the aggregate sales price from such disposition shall be paid in cash, (iii) the aggregate fair market value of all assets sold by the Credit Parties and their Subsidiaries pursuant to this clause (b), together, shall not exceed $500,000 in any Fiscal Year, and (iv) on a pro forma basis after

giving effect to any such disposition, the Credit Parties are in compliance with the financial covenants set forth in Section 6.1, in each case as recomputed for the most recently ended Measurement Period;

(c) (i) conversions of Cash Equivalents into cash or other Cash Equivalents and cash into Cash Equivalents and (ii) the use of cash in the Ordinary Course of Business or transactions permitted hereunder;

(d) transactions permitted under Section 5.1(j) or 5.1(l);

(e) cancellation, termination or surrender by any Credit Party or any Subsidiary of any Credit Party of any lease in the Ordinary Course of Business;

(f) voluntary termination of Rate Contracts permitted under this Agreement;

(g) dispositions resulting from any casualty, other insured damage, or any taking under power of eminent domain or by condemnation or similar proceeding;

(h) the lapse or abandonment of any registrations or applications for registration of any Intellectual Property owned by or filed in the name of any Credit Party and deemed by any Credit Party, in its reasonable business judgment, to no longer be material to the conduct of the business of the Borrowers and their Subsidiaries, taken as a whole, or to the extent no longer economically desirable in the conduct of their business;

(i) the sale, assignment, lease, conveyance, transfer or other disposition of Property by (i) Holdings or any of its Subsidiaries to any Credit Party (other than Holdings), and (ii) any Subsidiary of Holdings that is not a Credit Party to any Subsidiary of Holdings (other than Holdings);

(j) (i) any disposition or issuance by Holdings of its own Stock or Stock Equivalents (other than to the extent resulting in an Event of Default pursuant to Section 7.1(k)) and (ii) dispositions or issuances by any Subsidiary of its own Stock and Stock Equivalent to qualify directors if and to the extent required by applicable law;

(k) to the extent constituting dispositions, Liens expressly permitted by Section 5.1, Investments expressly permitted under Section 5.4, Restricted Payments expressly permitted under Section 5.8 or a transaction expressly permitted under Section 5.3, in each case, to the extent not otherwise permitted by this Section 5.2 or with general reference hereto;

(l) the termination or unwinding of any permitted Rate Contract in accordance with its terms;

(m) dispositions of delinquent Accounts in the Ordinary Course of Business in connection with the compromise, settlement or collection thereof (and not as part of any financing transaction), including the sales, forgiveness or discounting of past due accounts or the settlement of delinquent accounts;

(n) the liquidation, wind up or dissolution of any Subsidiary so long as all the assets of such liquidating, winding up or dissolving Subsidiary are transferred to a Credit Party that is not liquidating, winding up or dissolving;

(o) dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) all or substantially all of the proceeds of such disposition are reasonably promptly applied to the purchase price of such replacement property;

(p) disposition of leased Real Estate in the Ordinary Course of Business;

(q) any settlement, surrender or waiver of contractual rights or litigation claims in the Ordinary Course of Business;

(r) dispositions of equity interests in joint ventures pursuant to the documentation governing such joint ventures;

(s) non-exclusive licenses, sublicenses, leases or subleases granted to third parties in the Ordinary Course of Business; and

(t) other dispositions of assets not material or necessary to the business of a Credit Party or a Subsidiary with a fair market value not in excess of $500,000 in the aggregate in any Fiscal Year.

5.3 Consolidations and Mergers. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, (x) merge, consolidate with or into, or (y) convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of the assets (whether now owned or hereafter acquired) of the Credit Parties and their Subsidiaries, taken as a whole, to or in favor of any Person, except that (a) any Subsidiary of a Borrower may merge with, or dissolve or liquidate into, such Borrower or any Subsidiary of such Borrower; provided that, to the extent a Borrower or another Credit Party is a party to such transaction, the Borrower or such other Credit Party, as applicable, shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent, shall have been completed, (b) any Excluded Subsidiary may merge or dissolve or liquidate into another Excluded Subsidiary or any Domestic Subsidiary of a Borrower to the extent if a Domestic Subsidiary (other than an Excluded Subsidiary), is a party to such transaction, such Domestic Subsidiary shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent shall have been completed, and (c) any Subsidiary may merge with and into any other Person in order to effectuate an acquisition or Disposition permitted by Section 5.2 and/or Section 5.4; provided that, in connection with any acquisition, if such Subsidiary is a Credit Party, such Subsidiary shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent, shall have been completed.

5.4 Loans and Investments. No Credit Party shall and no Credit Party shall suffer or permit any of its Subsidiaries to (i) purchase or acquire any Stock or Stock Equivalents, or any obligations or other securities of, or any interest in, any Person, or (ii) make any Acquisitions, including by way of merger, consolidation or other combination or (iii) make, purchase or acquire, or commit to make, purchase or acquire, any advance, loan, extension of credit or capital contribution to or any other investment in, any Person including the Borrowers, any Affiliate of the Borrowers or any Subsidiary of a Borrower (the items described in clauses (i), (ii) and (iii) are referred to as "**Investments**"), except for:

(a) Investments in cash and Cash Equivalents;

(b) Investments consisting of (i) capital contributions or other Investments by Holdings in the Borrowers, (ii) extensions of credit, capital contributions or other Investments by any Credit Party to or in any other then existing Credit Party (other than Holdings); provided that, until such time as BRSO PNW shall have granted a Lien on all of its assets to the Collateral Agent and otherwise complied with the provisions of Section **4.20**, Investments described in this clause (ii) to or in BRSO PNW shall not exceed $200,000 at any one time outstanding, (iii) extensions of credit or capital contributions by the Borrowers or any other Credit Party to or in any Subsidiary of a Borrower that is not a Credit Party not to exceed $500,000 in the aggregate at any time outstanding for all such extensions of credit and capital contributions; provided that, if the Investments described in foregoing clauses (i), (ii) and (iii) are evidenced by notes, to the extent required under the Guaranty and Security Agreement, such notes shall be pledged to Collateral Agent, for the benefit of the Secured Parties, (iv) extensions of credit or capital contributions by a Foreign Subsidiary of a Borrower to or in other Foreign Subsidiaries of such Borrower and (v) extensions of credit by any Subsidiary to any Credit Party (other than Holdings); provided that any such extension of credit by a Subsidiary that is not a Credit Party to a Credit Party shall be subordinated to the Obligations on terms reasonably acceptable to the Collateral Agent;

(c) loans and advances to employees, officers and directors in the Ordinary Course of Business not to exceed $100,000 in the aggregate at any time outstanding;

(d) Investments received as the non-cash portion of consideration received in connection with transactions permitted pursuant to Section 5.2(b);

(e) Investments acquired in connection with the settlement of delinquent Accounts in the Ordinary Course of Business or in connection with the bankruptcy or reorganization of suppliers or customers;

(f) Investments consisting of non-cash loans made by a Credit Party to officers, directors and employees of a Credit Party which are used by such Persons to purchase contemporaneously Stock or Stock Equivalents of Holdings;

(g) Investments existing on the Closing Date and set forth on Schedule 5.4 and any modifications, renewals or extensions thereof (in each case other than any increase in the amount thereof);

(h) Investments comprised of Contingent Obligations permitted by Section 5.5(b);

(i) ~~Permitted Acquisitions~~[Reserved];

(j) advances of payroll payments to employees in the Ordinary Course of Business;

(k) Investments by Holdings and its Subsidiaries in their respective Subsidiaries existing as of the Closing Date;

(l) guaranty obligations in respect of leases (other than Capital Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the Ordinary Course of Business;

(m) Investments in deposit accounts and securities accounts opened in the Ordinary Course of Business and in compliance with Section 4.11;

(n) (i) endorsements for collection or deposit in the Ordinary Course of Business consistent with past practice, (ii) extensions of trade credit (other than to Affiliates of the Borrowers) arising or acquired in the Ordinary Course of Business, and (iii) Investments received in settlement in the Ordinary Course of Business of such extensions of trade credit;

(o) to the extent constituting Investments, pledges and deposits in the Ordinary Course of Business to the extent expressly permitted by Section 5.1;

(p) Investments in Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation;

(q) Investments consisting of loans or advances to Holdings in lieu of any Restricted Payments permitted under Section 5.8 at the time of any such loan or advance; provided that such loans or advances shall count against any caps or limitations set forth in the applicable clause of Section 5.8;

(r) [Reserved];

(s) Investments consisting of trade payables incurred in the Ordinary Course of Business;

(t) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable (including, without limitation, bank notes issued to and in favor of a Borrower and their Subsidiaries by local banking institutions as additional

credit support for such receivables in connection with foreign operations) arising from the grant of trade credit in the Ordinary Course of Business;

(u) Holdings may use proceeds of the issuance of Preferred Equity pursuant to the Cynosure 2023 Preferred Equity Agreement to make a loan to Viking Cake BR in an amount not to exceed $5,000,000 for the purpose specified in the A&R Holdings LLC Agreement; and

(v) other Investments in an aggregate amount not to exceed $500,000 in the aggregate at any time outstanding; provided that no Default or Event of Default has occurred and is continuing or would arise as a result of such Investment.

In determining the amount of Investments permitted under this Section 5.4, the amount of any Investment outstanding at such time shall be the aggregate cash Investment by the applicable Person at the time such Investment is made, less all cash dividends or other cash distributions on equity or returns on capital (but, in each case, only to the extent actually received in cash) received by such Person with respect to that particular Investment.

5.5 Limitation on Indebtedness. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, create, incur, assume, permit to exist, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

(a) the Secured Obligations;

(b) Contingent Obligations of any Credit Party with respect to Indebtedness of any Credit Party (other than Holdings) otherwise permitted under this Section 5.5;

(c) Indebtedness existing on the Closing Date and set forth in Schedule 5.5 and Permitted Refinancings thereof;

(d) Indebtedness of the Credit Parties and their Subsidiaries consisting of Capital Leases or Indebtedness incurred to provide all or a portion of the purchase price of an asset and any Permitted Refinancings thereof; provided that (i) such Indebtedness when incurred shall not exceed the purchase price of such asset and (ii) the total amount of all such Indebtedness shall not exceed $1,000,000 at any time outstanding;

(e) unsecured intercompany Indebtedness permitted pursuant to Section 5.4;

(f) Except as set forth in Schedule 5.5(f), Indebtedness consisting of Contingent Acquisition Consideration, which, together with clause (q) hereof, shall not exceed $2,500,000 at any one time outstanding;

(g) unsecured Indebtedness of Holdings or any of its Subsidiaries to former, future or current officers, directors, consultants or employees of Holdings or any of its Subsidiaries or their respective estates to finance the purchase or redemption of Stock of Holdings and any Permitted Refinancings thereof; provided that the applicable Restricted Payment is permitted by Section 5.8;

(h) Indebtedness in respect of bank overdrafts or returned items, netting services, automatic clearinghouse arrangements, employee credit card programs, drafts payable for payroll and other cash management and similar arrangements incurred in the Ordinary Course of Business;

(i) Indebtedness consisting of unpaid insurance premiums owing to insurance companies and insurance brokers incurred in connection with the financing of insurance premiums in the Ordinary Course of Business;

(j) to the extent constituting Indebtedness, unsecured deferred compensation to employees of Holdings and its Subsidiaries incurred in the Ordinary Course of Business;

(k) to the extent constituting Indebtedness, obligations under Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation;

(l) customary reimbursement or indemnity obligations incurred in the Ordinary Course of Business with respect to (x) appeal bonds, performance bonds, bids, trade contracts, governmental contracts and leases (other than for the repayment of Indebtedness) in an aggregate amount not to exceed $100,000 at any one time outstanding, for obligations described in this clause (x), and (y) statutory obligations, workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance;

(m) non-cash accruals of interest, accretion or amortization of original issue discount and/or pay-in-kind interest with respect to Indebtedness permitted under this Section 5.5;

(n) Indebtedness outstanding under corporate credit cards or corporate charge cards for expenditures made in the Ordinary Course of Business;

(o) Indebtedness of a Target existing at the time the Target is acquired (by acquisition, merger, consolidation or otherwise) pursuant to an Acquisition permitted hereby, or Indebtedness assumed by a Borrower or its Subsidiaries in respect of assets acquired by such Person pursuant to such Acquisition, but only to the extent such Indebtedness (i) existed at the time such Acquisition was consummated and was not incurred in connection with, as a result of, or in contemplation of, such Acquisition, (ii) to the extent secured, is only secured by Property acquired in connection with such Acquisition (and is not secured by a blanket lien on all or substantially all such Property) and (iii) does not exceed an amount equal to $1,000,000 in the aggregate at any time outstanding for all such Indebtedness and any Permitted Refinancings thereof;

(p) Indebtedness arising from the endorsement of negotiable instruments for collection in the ordinary course of business;

(q) to the extent constituting Indebtedness, the obligations to make purchase price adjustments, indemnities, earn-outs, non-competition, deferred compensation, working capital adjustments or similar adjustments incurred in connection with any Acquisition, any other Investment or any disposition, in each case, permitted hereunder, which, together with clause (f) hereof, shall not exceed $2,500,000 at any one time outstanding;

(r) so long as no Default or Event of Default exists at the time any such Indebtedness is incurred, other unsecured Indebtedness not exceeding $1,000,000 in the aggregate at any time outstanding;

(s) Indebtedness in respect of reimbursement obligations in favor of any issuer of letters of credit issued for the account of the Credit Parties or their Subsidiaries in an amount not exceeding $100,000 in the aggregate at any time outstanding;

(t) Indebtedness arising under indemnity agreements to title insurers to cause such title insurers to issue to Collateral Agent title insurance policies;

(u) [Reserved];

(v) ~~the Viking Cake Convertible Note~~[Reserved]; and

(w) to the extent constituting Indebtedness, the Preferred Equity Obligations.

Notwithstanding the foregoing, no Subsidiary that is a not Credit Party will guarantee any Indebtedness for borrowed money of a Credit Party unless such Subsidiary becomes a Guarantor.

5.6 Transactions with Affiliates. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, enter into any transaction with any Affiliate of the Borrowers or of any such Subsidiary, except:

(a) transactions (i) solely among and between Credit Parties not prohibited by this Agreement and (ii) transactions solely among Subsidiaries that are not Credit Parties;

(b) transactions pursuant to the reasonable requirements of the business of such Credit Party or such Subsidiary upon fair and reasonable terms no less favorable to such Credit Party or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of the Borrowers or such Subsidiary;

(c) employment, indemnity and severance arrangements (stock option and other compensation plans and benefit programs) between any Credit Party or their Subsidiaries and their members of management, officers and employees in the Ordinary Course of Business;

(d) solely to the extent not otherwise permitted by this Section 5.6, transactions with Affiliates expressly referred to and permitted by Section 5.8;

~~(c) Indebtedness of Holdings evidenced by the Viking Cake Convertible Note in a principal amount not to exceed $7,500,000;~~

(e) [**Reserved];**

(f) the loan transaction between Holdings and Viking Cake BR described in Section 5.4(u);

(g) subject to compliance with the requirements of the Guaranty and Security Agreement, issuances of Stock or Stock Equivalents (other than Disqualified Stock) that do not cause an Event of Default; and

(h) the Related Transactions.

5.7 Inventory Locations. The Borrowers will not permit Inventory or any other Collateral having a fair market value in excess of $20,000 to be stored or located at any location including premises owned or leased by any Credit Party or with a bailee, consignee or other Person, except the roasting facilities located at 3004 NE 112th Avenue, Suite A, Vancouver, Washington 98682 and 1102 West Geneva Drive, Tempe, Arizona 85282.

5.8 Restricted Payments. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to (i) make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any Stock or Stock Equivalent, (ii) purchase, redeem or otherwise acquire for value any Stock or Stock Equivalent now or hereafter outstanding, (iii) make any payment or prepayment of principal of, premium, if any, interest, fees, redemption, exchange, purchase, retirement, defeasance, sinking fund or similar payment with respect to Subordinated Indebtedness (including the Preferred Equity Obligations), (iv) make any payment on account of any return of capital to its stockholders, partners or members (or the equivalent Persons thereof), (v) make any payment or prepayment of Contingent Acquisition Consideration, (vi) directly or indirectly make any payment or distribution of any kind or nature to or for the benefit of Viking Cake (~~other than, to the extent Viking Cake becomes a member of Holdings, payments or distributions permitted to be made to members under this Section 5.8) or otherwise repay the Viking Cake Convertible Note or any outstanding loans on behalf of Viking Cake except as expressly permitted under clause (e) and Section 5.18~~ **or (vii) make any RCC Award Payment** (the items described in clauses (i), (ii), (iii), (iv), (v), (vi) **and (vii)** above are referred to as "**Restricted Payments**"), except that:

(a) Holdings may declare and make dividend payments or other distributions payable solely in its Stock or Stock Equivalents;

(b) the Borrowers make distributions, directly or indirectly, to Holdings, which are promptly used by Holdings to redeem from current or former officers, directors and employees (or their current or former spouses, heirs, estates, estate planning vehicles and family members) (or to pay amounts owing under promissory notes issued in connection with the prior redemption from any such person), but excluding, in all cases,

Founder Group Members, Stock and Stock Equivalents (including to repurchase fractional shares) provided all of the following conditions are satisfied:

(i) the aggregate Restricted Payments permitted (x) in any Fiscal Year of the Borrowers shall not exceed $250,000 per Fiscal Year (with unused amounts in any Fiscal Year carried forward and available in succeeding Fiscal Years) and (y) during the term of this Agreement shall not exceed $1,000,000 unless such Restricted Payments are funded solely with the Net Issuance Proceeds of any substantially concurrent issuance of Stock or Stock Equivalents (other than issuances of Disqualified Stock) or with the proceeds of any substantially concurrent contribution of cash to one or more Borrowers made by Holdings; and

(ii) the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions at the time of making such Restricted Payment;

(c) in the event the Borrowers file a consolidated, combined, unitary or similar type income Tax return with Holdings, the Borrowers may make distributions to Holdings (and Holdings may make distributions to its equity owners) in an amount equal to the amount that would have been payable by the Borrowers and their Subsidiaries had the Borrowers not filed a consolidated, combined, unitary or similar type return with Holdings;

(d) the Credit Parties may make payments, as and when due and payable, on (i) Contingent Acquisition Consideration described in Schedule 5.8 and (ii) other Contingent Acquisition Consideration if, with respect to clause (ii), after giving effect to such payment or distribution on a pro forma basis, the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions;

(e) so long as no Default or Event of Default has occurred and is continuing, or would result from any such distribution, ~~**and subject to Section 5.18 below,**~~ any Subsidiaries of Holdings may make distributions to Holdings from proceeds of the Las Vegas Franchisee Group ~~**Litigation and/or the Roasters**~~ Litigation (which proceeds may include, without limitation, proceeds from judgments, settlements, insurance payments, indemnity payments, sale of claims, or similar forms of recovery)~~**, and (ii) an aggregate amount of Qualified Cash not to exceed $1,000,000, which proceeds and Qualified Cash may be used by Holdings to pay amounts owed under the Viking Cake Convertible Note to the extent permitted under the A&R Holdings LLC Agreement; provided that any such payments reduce the amount owed under the Viking Cake Convertible Note on a dollar-for-dollar basis**~~;

(f) so long as no Default or Event of Default has occurred and is continuing, and subject to ~~**(x) payment in full of amounts referenced in clauses (i) and (ii) of the preceding clause (e), and (y)**~~ satisfaction of the Pro Forma Compliance Conditions before and after giving effect to any such redemption, Holdings may use ~~**excess**~~ proceeds of the ~~**Roasters Litigation and**~~ Las Vegas Franchisee Group Litigation to redeem Common Units to the extent permitted by the A&R Holdings LLC Agreement;

(g) Holdings may (and, to the extent necessary, the Borrowers may make distributions, to Holdings in amounts sufficient to enable Holdings to pay) Restricted Payments to one or more of the Founder Group Members and holders of the Series A-2 Preferred Units in accordance with the A&R Holdings LLC Agreement, provided all of the following conditions are satisfied: (i) the amount of such Restricted Payments do not exceed an aggregate of $600,000 per Fiscal Year and (ii) the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions at the time of making each such Restricted Payment and after giving effect thereto;

(h) (i) any Credit Party may make dividends and distributions to any other Credit Party (other than Holdings), and (ii) any Subsidiary of a Credit Party may make dividends and distributions to a Credit Party (other than Holdings);

(i) so long as no Default or Event of Default has occurred and is continuing, or would result from any such payment, the Borrowers may make distributions to Holdings to enable Holdings to (x) make Tax Advances (as defined in, and in accordance with, Section 7.04 of the A&R Holdings LLC Agreement) and (y) pay or reimburse certain costs of members of Holdings in accordance with the terms of the A&R Holdings LLC Agreement as in effect on the date hereof; ~~and~~

(j) [Reserved];

(k) so long as the RCC Award Payment Conditions are satisfied, and no Default or Event of Default shall have occurred and be continuing, any Credit Party may make the RCC Award Payment at the time and in the amount set forth in the Davis Services Agreement;

(l) ~~(j)~~ so long as no Default or Event of Default has occurred and is continuing **continuing**~~, or would result from any such payment, BRCR and BRSO 67th may make distributions to their members that are neither Credit Parties nor Founder Group Members in an aggregate amount not to exceed $150,000 per Fiscal Year.~~ **Holdings may make Restricted Payments in the form of the Second Tranche Preferred Unit Redemption; and**

(m) to the extent constituting Restricted Payments, Holdings may complete the Fourth Amendment Related Transactions.

5.9 Change in Business; Status as Holding Company. (a) No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in any line of business substantially different from those lines of business carried on by the Credit Parties and their Subsidiaries on the Closing Date and activities reasonably related or complementary thereto, and (b) Holdings shall not (i) engage in any business activities or own any Property other than (A) ownership of the Stock and Stock Equivalents of the Borrowers, (B) activities and contractual rights incidental to maintenance of its organizational existence, (C) the execution and delivery of, and performance of its obligations under, and the Loan Documents to which it is a party, (D) activities expressly permitted under Sections 5.3, 5.4(b)(iii), 5.6 and 5.8, (E) participating in tax,

accounting and other administrative activities as the parent of the consolidated group of companies, including the Credit Parties (including providing indemnification to directors, officers, employees, and consultants), (F) guarantees of Indebtedness and other obligations permitted under Loan Documents, (G) granting of non-consensual Liens arising by operation of law that are permitted by Section 5.1, (H) activities necessary or advisable to consummate the Related Transactions and comply with the documentation related thereto and (I) activities incidental or related to the business or activities described in clause (A) through (I) above, and (ii) not permit the Credit Parties and their Subsidiaries to expand their business by opening new Stores to be owned or operated by any Excluded Subsidiaries; it being understood and agreed that, from and after the Closing Date, all expansion of the business of the Credit Parties and their Subsidiaries, such as the opening of new Stores shall be undertaken by Credit Parties.

5.10 Changes in Organization Documents; Name and Jurisdiction of Organization. Except as expressly permitted under Section 5.3, no Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to amend any of its Organization Documents in any respect that is materially adverse to Agents or Lenders. No Credit Party shall (i) change its name as it appears in official filings in its jurisdiction of organization or (ii) change its jurisdiction of organization or the location of its chief executive office or sole place of business, in each case without providing prior written notice to Collateral Agent within twenty (20) days before such change (or such shorter period as Agents may agree in their sole discretion). The Credit Parties agree not to effect or permit any change referred to in the preceding sentence unless all filings have been made (or arrangements have been approved by Agent for such filings to be made) under the UCC or otherwise that are required in order for Agent to continue at all times following such change to have a valid, legal and perfected Liens in all the Collateral and, thereafter, taking all actions reasonably determined by Collateral Agent as necessary to continue the perfection of its Liens.

5.11 Changes in Accounting. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, (a) without the consent of the Agent, make any significant change in accounting treatment or reporting practices, except as required by GAAP or (b) change the Fiscal Year or method for determining Fiscal Quarters of any Credit Party or of any consolidated Subsidiary of any Credit Party; provided that the fiscal year of a Target under an Acquisition may be changed to conform to the same Fiscal Year of the Credit Parties.

5.12 Amendments to Certain Indebtedness. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries, directly or indirectly, to change or amend the terms of any Subordinated Indebtedness, except to the extent permitted by the applicable subordination agreement (including, with respect to the Preferred Equity Obligations, the Subordination Agreement).

5.13 No Negative Pledges. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual restriction or encumbrance of any kind on the ability of any Credit Party or Subsidiary to pay dividends to a Credit Party or make any other distribution to a Credit Party on any of such Credit Party's or Subsidiary's Stock or Stock Equivalents or to pay fees, including management fees, or make other payments and distributions to the Borrowers or any

other Credit Party except, in each case, pursuant to the Loan Documents. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, enter into, assume or become subject to any Contractual Obligation prohibiting or otherwise restricting the existence of any Lien upon any of its assets in favor of Collateral Agent, whether now owned or hereafter acquired, except in connection with (i) any document or instrument governing Liens permitted pursuant to Section 5.1; provided that any such restriction contained therein relates only to the asset or assets financed by the underlying secured obligations, (ii) customary provisions restricting subletting or assignment of any lease governing a leasehold interest, (iii) with respect to third party contracts, customary limitations on the ability of a party thereto to assign its interest in the underlying contract without the consent of the other party thereto, (iv) restrictions and conditions contained in agreements relating to the sale of assets permitted hereunder (or to be consummated in connection with the payment in full of the Obligations and termination of the Commitments or anticipated modification of the Loan Documents to permit such action); provided that such restrictions are limited to the assets being sold, (v) licenses and contracts entered into in the Ordinary Course of Business which by their terms prohibit the assignment of such agreements (to the extent such prohibition is enforceable by law) or the granting of Liens on the rights contained therein; provided that such licenses and contracts (other than shrink-wrap software licenses) are not, in the aggregate, material to the business of such Credit Party and are not related to any material Property, and (vi) customary provisions in joint venture agreements and similar agreements that restrict the transfer of Stock of, or assets in, joint ventures.

5.14 OFAC; USA Patriot Act; Anti-Corruption Laws.

(a) No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to fail to comply with the laws, regulations and executive orders referred to in Section 3.25.

(b) No Credit Party or Subsidiary, nor to the knowledge of the Credit Party, any director, officer, agent, employee, or other person acting on behalf of the Credit Party or any Subsidiary, will use the proceeds of any Loan, directly or, indirectly, for any payments to any Person, including any government official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, or otherwise take any action, directly or indirectly, that would result in a violation of any Anti-Corruption Laws.

(c) Furthermore, the Credit Parties will not, and will not permit any of their Subsidiaries to, directly or indirectly, use the proceeds of the Loans to lend, contribute or otherwise make available such proceeds to any Subsidiary, Affiliate, joint venture partner or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions, or in any other manner, in each case, that will result in a violation by any Credit Party or its Subsidiaries of any Sanctions.

5.15 Sale-Leasebacks. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in a sale leaseback, synthetic lease or similar transaction involving any of its assets.

5.16 Hazardous Materials. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, cause or suffer to exist any Release of any Hazardous Material at, to or from any Real Estate that would violate any Environmental Law or form the basis for any Environmental Liabilities (whether or not owned by any Credit Party or any Subsidiary of any Credit Party), other than such violations and Environmental Liabilities that could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

5.17 Compliance with ERISA. No Credit Party shall cause or suffer to exist (a) any event that would reasonably be expected to result in the imposition of a Lien on any asset of a Credit Party or a Subsidiary of a Credit Party with respect to any Title IV Plan or Multiemployer Plan securing obligations in excess of $500,000 or (b) any other ERISA Event, that could, in the aggregate with such other ERISA Events, have a Material Adverse Effect.

~~**5.18 Viking Cake Convertible Note. No Credit Party shall make any cash payment on the Viking Cake Convertible Note, except upon satisfaction of the following conditions: (i) no Default or Event of Default has occurred and is continuing at the time of such payment or after giving effect thereto, (ii) such payment is permitted by the terms of the A&R Holdings LLC Agreement and shall reduce the amount owed under the Viking Cake Convertible Note on a dollar-for-dollar basis, and (iii) such payment is made solely using funds distributed to Holdings pursuant to Section 5.8(c), provided, that any payment made using funds distributed to Holdings pursuant to Section 5.8(c)(ii) will be subject to minimum Liquidity of $5,000,000 before and after giving effect to such distribution.**~~

5.18 [Reserved].

5.19 [Reserved].

5.20 Growth Capital Expenditure Available Amount. The Borrowers will not use amounts designated as the "Growth Capital Expenditure Available Amount" on any Compliance Certificate and deposited in a segregated account in accordance with the definition thereof in Annex B of Exhibit 4.2(b) for any purpose other than financing Growth Capital Expenditures (as defined in such Annex B).

ARTICLE VI

FINANCIAL COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date:

6.1 Financial Covenants.

(a) Total Net Leverage Ratio. The Credit Parties shall not permit the Total Net Leverage Ratio for the Measurement Period ending on the last day of any Fiscal

Quarter (commencing with the Fiscal Quarter ending June 30, 20234) to be greater than ~~the ratio set forth in the table below opposite the last day of such Fiscal Quarter~~4.75 to 1.00 (which level shall apply to any pro forma calculation of the Total Net Leverage Ratio prior to such date):

~~Quarter Ending~~	~~Total Net Leverage Ratio~~
~~September 30, 2022~~	~~4.00 to 1.00~~
~~December 31, 2022~~	~~4.00 to 1.00~~
~~March 31, 2023~~	~~3.75 to 1.00~~
~~June 30, 2023~~	~~3.75 to 1.00~~
~~September 30, 2023~~	~~3.50 to 1.00~~
~~December 31, 2023~~	~~3.50 to 1.00~~
~~March 31, 2024~~	~~3.25 to 1.00~~
~~June 30, 2024~~	~~3.25 to 1.00~~
~~September 30, 2024~~	~~3.00 to 1.00~~
~~December 31, 2024~~	~~3.00 to 1.00~~
~~March 31, 2025~~	~~2.75 to 1.00~~

(b) Fixed Charge Coverage Ratio. The Credit Parties shall not permit the Fixed Charge Coverage Ratio for the Measurement Period ending on the last day of any Fiscal Quarter (commencing with the Fiscal Quarter ending ~~September~~June 30, ~~2022~~2024) to be less than 1.10 to 1.00. ~~"Fixed Charge Coverage Ratio" shall be calculated in the manner set forth in Exhibit 4.2(b).~~

ARTICLE VII

EVENTS OF DEFAULT

7.1 Event of Default. Any of the following shall constitute an "**Event of Default**":

(a) Non-Payment. Any Credit Party fails (i) to pay when and as required to be paid herein, any amount of principal of any Loan, or (ii) to pay within three (3) Business Days after the same shall become due, interest on any Loan, any fee payable hereunder or pursuant to any other Loan Document or (iii) to pay or reimburse Agent or Lenders for any other Obligations not described in the preceding clause (i) or (ii), within ten (10) Business Days following the due date therefor (or, if there is no due date therefor, within ten (10) Business Days following Agent's demand for any such payment or reimbursement); or

(b) Representation or Warranty. Any representation, warranty or certification by or on behalf of any Credit Party or any of its Subsidiaries made or deemed made herein, in any other Loan Document, or which is contained in any certificate or financial statement (other than projections, estimates, other forward looking information or general economic or industry information) by any such Person, or their respective Responsible

Officers, furnished at any time under this Agreement, or in or under any other Loan Document, shall prove to have been incorrect in any material respect (without duplication of other materiality qualifiers contained therein) on or as of the date made or deemed made; or

(c) Specific Defaults. Any Credit Party fails to perform or observe any term, covenant or agreement contained in (i) any of Sections 4.3(a), 4.4(a) (with respect to Borrowers), 4.9, 4.10, 4.11, 4.19 or Article V or Article VI or (ii) any of Sections 4.1, 4.2(a), 4.2(b), 4.3 (other than as set forth in clause (i) above) or 4.6 and, with respect to this clause (ii), such failure shall not have been cured within five (5) Business Days; or

(d) Other Defaults. Any Credit Party or Subsidiary of any Credit Party makes any payment in respect of Subordinated Indebtedness other than payments permitted under any subordination agreement, including the Subordination Agreement, or otherwise fails to perform or observe any other term, covenant or agreement contained in this Agreement or any other Loan Document (other than any provision covered by any other clause of this Section 7.1), and such default shall continue unremedied for a period of thirty (30) days after the earlier to occur of (i) the date upon which a Responsible Officer of any Credit Party has actual knowledge of such default and (ii) the date upon which written notice thereof is given to the Borrower Representative by an Agent or Required Lenders; or

(e) Cross-Default. Any Credit Party or any Subsidiary of any Credit Party (i) fails to make any payment in respect of any Indebtedness (other than the Obligations or any obligation owed by any Credit Party to another Credit Party) or Contingent Obligation (other than the Obligations or any obligation owed by any Credit Party to another Credit Party) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than $500,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure continues after the applicable grace or notice period, if any, specified in the document relating thereto on the date of such failure; or (ii) fails to perform or observe any other condition or covenant (after applicable grace periods), or any other event shall occur or condition exist (after applicable grace periods), under any agreement or instrument relating to any such Indebtedness or Contingent Obligation (other than Contingent Obligations owing by one Credit Party with respect to the obligations of another Credit Party permitted hereunder), including any agreement, instrument or certificate relating to the Preferred Equity, if the effect of such failure, event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause such Indebtedness to be declared to be due and payable (or otherwise required to be prepaid, redeemed, purchased or defeased) prior to its stated maturity (without regard to any subordination terms with respect thereto), or such Contingent Obligation to become payable or cash collateral in respect thereof to be demanded; provided that this clause (e)(ii)) shall not apply to secured

Indebtedness that becomes due as a result of the voluntary sale or transfer or other disposition of the property or assets securing such Indebtedness, if such sale, transfer or disposition is permitted hereunder and under the documents providing for such Indebtedness and such Indebtedness is repaid when required under the documents providing for such Indebtedness, to the extent such prepayment is permitted hereunder; or

(f) Insolvency; Voluntary Proceedings. Any Credit Party or any Subsidiary of any Credit Party: (i) generally fails to pay, or admits in writing its inability to pay, its debts as they become due, subject to applicable grace periods, if any, whether at stated maturity or otherwise; (ii) except as expressly permitted under Section 5.3, voluntarily ceases to conduct its business in the ordinary course; (iii) commences any Insolvency Proceeding with respect to itself; or (iv) takes any action to effectuate or authorize any of the foregoing; or

(g) Involuntary Proceedings. (i) Any involuntary Insolvency Proceeding is commenced or filed against any Credit Party or any Subsidiary of any Credit Party, or any writ, judgment, warrant of attachment, execution or similar process, is issued or levied against a substantial part of any such Person's Properties, and any such proceeding or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or fully bonded within forty-five (45) days after commencement, filing or levy; (ii) any Credit Party or any Subsidiary of any Credit Party admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (iii) any Credit Party or any Subsidiary of any Credit Party acquiesces in the appointment of a receiver, trustee, custodian, conservator, liquidator, mortgagee in possession (or agent therefor), or other similar Person for itself or a substantial portion of its Property or business; or

(h) Monetary Judgments. One or more judgments, non-interlocutory orders, decrees or arbitration awards shall be entered against any one or more of the Credit Parties or any of their respective Subsidiaries involving in the aggregate a liability of $50,000 or more (excluding amounts covered by insurance to the extent the relevant independent third-party insurer has not denied coverage therefor), and the same shall remain unsatisfied, unvacated and unstayed pending appeal for a period of thirty (30) days after the entry thereof; or

(i) Non-Monetary Judgments. One or more non-monetary judgments, orders or decrees shall be rendered against any one or more of the Credit Parties or any of their respective Subsidiaries which has could reasonably be expected to have a Material Adverse Effect, and there shall be any period of thirty (30) consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(j) Collateral. Any material provision of any Loan Document shall for any reason (other than pursuant to the express terms hereof or thereof) cease to be valid and binding on or enforceable against any Credit Party or any Subsidiary of any Credit Party

that is party thereto or any Credit Party or any Subsidiary of any Credit Party that is party thereto shall so state in writing or bring an action to limit its obligations or liabilities thereunder; or any Collateral Document shall for any reason (other than pursuant to the terms thereof and other than in respect of any Collateral sold or otherwise disposed of in accordance with the terms of this Agreement) cease to create a valid security interest in Collateral purported to be covered thereby with a fair market value in excess of $500,000 or such security interest shall for any reason (other than failure of the Collateral Agent to take any action within its control) cease to be a perfected (to the extent required by the Loan Documents) and first priority security interest subject only to Permitted Liens, except to the extent that any such loss of perfection or priority results from the failure of the Collateral Agent to maintain possession of certificates or other possessory collateral actually delivered to it representing securities or other collateral pledged under the Collateral Documents or to file UCC financing statements, continuation statements or equivalent filings and except, as to Collateral consisting of Real Estate, to the extent that such losses are sufficiently covered by a solvent insurer under title insurance policy with respect thereto, if any; or

(k) Ownership. At any time (i) Holdings Pledgors at any time cease to own, collectively, (x) at least fifty-one percent (51%) of the issued and outstanding Common Units (as defined in the A&R Holdings LLC Agreement) of Holdings (as the same may be adjusted for any combination, recapitalization or reclassification into a greater or smaller number of shares, interests or other unit of equity security) and (y) Units sufficient to elect the majority of the Board (as defined in the A&R Holdings LLC Agreement as in effect on the Third Amendment Effective Date), in each case other than on account of the occurrence of a "Control Period" pursuant to the A&R Holdings LLC Agreement (the occurrence of which shall not constitute a Default or Event of Default under this Agreement or the other Loan Documents), or (ii) Holdings ceases to own, directly or indirectly, (a) one hundred percent (100%) of the issued and outstanding Stock and Stock Equivalents of the Borrowers (other than BRSO 67th or BRCR) or (b) less than fifty-one percent (51%) of the issued and outstanding Stock and Stock Equivalents of BRSO 67th or BRCR; or

(l) Invalidity of Subordination Provisions. The subordination provisions of the Subordination Agreement or any other agreement or instrument governing any Subordinated Indebtedness shall for any reason be revoked or invalidated by the lenders under the applicable Subordinated Indebtedness, or otherwise cease to be in full force and effect, or any Credit Party or any of its Subsidiaries or any holder of any Subordinated Indebtedness shall contest in writing the validity or enforceability thereof or deny that it has any further liability or obligation thereunder; or

(m) ERISA Event. One or more ERISA Events shall have occurred, that, either individually or in the aggregate with other such ERISA Events, could reasonably be expected to result in (i) monetary liability in excess of $500,000 or (ii) a Material Adverse Effect; or

(n) Subordination Agreement. (i) The Subordination Agreement shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect (other than in accordance with its terms), or any Credit Party, any Founder Group Member or any holder of Preferred Equity shall contest in any manner the validity or enforceability thereof or deny that such Person has any further liability or obligation thereunder, or (ii) any party (other than the Agents or any Lender) to the Subordination Agreement fails to perform or observe any material term, covenant or agreement contained in the Subordination Agreement; or

(o) A&R Holdings LLC Agreement. A Material Breach Event or Sale Event shall occur under and as defined in the A&R Holdings LLC Agreement.

7.2 Remedies. Upon the occurrence and during the continuance of any Event of Default, either Agent may, and shall at the request of the Required Lenders:

(a) declare all or any portion of any one or more of the Commitments of each Lender to make Loans to be suspended or terminated, whereupon all or such portion of such Commitments shall forthwith be suspended or terminated;

(b) declare all or any portion of the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable; without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by each Credit Party; and/or

(c) may, or at the request of the Required Lenders shall, exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law;

provided, however, that upon the occurrence of any Event of Default specified in Sections 7.1(f) or 7.1(g) above (in the case of clause (i) of Section 7.1(g) upon expiration of the thirty (30) day period mentioned therein), the obligation of each Lender to make Loans shall automatically terminate and the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable without further act of either Agent or any Lender.

7.3 Rights Not Exclusive. The rights provided for in this Agreement and the other Loan Documents are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising.

ARTICLE VIII

AGENTS

8.1 Appointment and Duties.

(a) Appointment of Agents. (i) Each Lender hereby appoints RCS (together with any successor Agent pursuant to Section 8.9) as Administrative Agent hereunder and authorizes Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Credit Party, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Administrative Agent (or to either Agent) under this Agreement and the other Loan Documents and (iii) exercise such powers as are reasonably incidental thereto. Administrative Agent represents that it is a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1.

Each Lender hereby appoints TCW (together with any successor Agent pursuant to Section 8.9) as Collateral Agent hereunder and authorizes Collateral Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Credit Party, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Collateral Agent (or to either Agent) under this Agreement and the other Loan Documents and (iii) exercise such powers as are reasonably incidental thereto. Collateral Agent represents that it is a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1.

(b) Duties as Administrative and Collateral Agents. (i) Administrative Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (x) act as the disbursing and collecting agent for the Lenders with respect to all payments and collections arising in connection with the Loan Documents (including in any proceeding described in Sections 7.1(f) or 7.1(g) or any other bankruptcy, insolvency or similar proceeding), and each Person making any payment in connection with any Loan Document to any Secured Party is hereby authorized to make such payment to Administrative Agent, (y) file and prove claims and file other documents necessary or desirable to allow the claims of the Secured Parties with respect to any Secured Obligation in any proceeding described in Section 7.1(f) or (g) or any other bankruptcy, insolvency or similar proceeding (but not to vote, consent or otherwise act on behalf of such Person), and (ii) Collateral Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (w) act as collateral agent for each Secured Party for purposes of the perfection of all Liens created by such agreements and all other purposes stated therein, (x) manage, supervise and otherwise deal with the Collateral, (y) take such other action as is necessary or desirable to maintain the perfection and priority of the Liens created or purported to be created by the Loan Documents, (z) except as may be otherwise specified in any Loan Document, exercise all remedies given to Agent and the other Secured Parties with respect to the Credit Parties and/or the Collateral, whether under the Loan Documents, applicable

Requirements of Law or otherwise and (iii) each Agent may execute any amendment, consent or waiver under the Loan Documents on behalf of any Lender that has consented in writing to such amendment, consent or waiver; provided, however, that Collateral Agent hereby appoints, authorizes and directs each Lender to act as collateral sub-agent for Agent and the Lenders for purposes of the perfection of all Liens with respect to the Collateral, including any deposit account maintained by a Credit Party with, and cash and Cash Equivalents held by, such Lender, and may further authorize and direct the Lenders to take further actions as collateral sub-agents for purposes of enforcing such Liens or otherwise to transfer the Collateral subject thereto to Agent and each Lender hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed.

(c) Limited Duties. Under the Loan Documents, each Agent (i) is acting solely on behalf of the Secured Parties (except to the limited extent provided in Section 1.4(b) with respect to the Register), with duties that are entirely administrative in nature, notwithstanding the use of the defined term "Agent", the terms "agent", "Administrative Agent" and "Collateral Agent" and similar terms in any Loan Document to refer to Agent in any such capacity, which terms are used for title purposes only, (ii) is not assuming any obligation under any Loan Document other than as expressly set forth therein or any role as agent, fiduciary or trustee of or for any Lender or any other Person and (iii) shall have no implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document, and each Secured Party, by accepting the benefits of the Loan Documents, hereby waives and agrees not to assert any claim against Agent based on the roles, duties and legal relationships expressly disclaimed in clauses (i) through (iii) above.

8.2 Binding Effect. Each Secured Party, by accepting the benefits of the Loan Documents, agrees that (i) any action taken (or omitted to be taken) by any Agent or the Required Lenders (or, if expressly required hereby, a greater proportion of the Lenders) in accordance with the provisions of the Loan Documents, (ii) any action taken (or omitted to be taken) by any Agent in reliance upon the instructions of Required Lenders (or, where so required, such greater proportion) and (iii) the exercise by any Agent or the Required Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Secured Parties.

8.3 Use of Discretion.

(a) No Action without Instructions. Agents shall not be required to exercise any discretion or take, or to omit to take, any action, including with respect to enforcement or collection, except any action it is required to take or omit to take (i) under any Loan Document or (ii) pursuant to instructions from the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders).

(b) Right Not to Follow Certain Instructions. Notwithstanding clause (a) above, Agents shall not be required to take, or to omit to take, any action (i) unless, upon

demand, such Agent receives an indemnification satisfactory to it from the Lenders (or, to the extent applicable and acceptable to such Agent, any other Person) against all Liabilities that, by reason of such action or omission, may be imposed on, incurred by or asserted against such Agent or any Related Person thereof or (ii) that is, in the opinion of such Agent or its counsel, contrary to any Loan Document or applicable Requirement of Law.

(c) Exclusive Right to Enforce Rights and Remedies. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Credit Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, Agents in accordance with the terms set forth herein and in the other Loan Documents for the benefit of all the Lenders; provided that the foregoing shall not prohibit (i) each Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents, (ii) any Lender from exercising setoff rights in accordance with Section 9.11 or (iii) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Credit Party under any bankruptcy or other debtor relief law, but in the case of this clause (iii) if, and solely if, an Agent has not filed such proof of claim or other instrument of similar character in respect of the Secured Obligations within five (5) days before the expiration of the time to file the same; and provided further that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (A) the Required Lenders shall have the rights otherwise ascribed to Agent pursuant to Section 7.2 and (B) in addition to the matters set forth in clauses (ii), (iii) and (iv) of the preceding proviso and subject to Section 9.11, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

8.4 Delegation of Rights and Duties. Each Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Loan Document by or through any trustee, co-agent, employee, attorney-in-fact and any other Person (including any Secured Party). Any such Person shall benefit from this Article VIII to the extent provided by an Agent.

8.5 Reliance and Liability.

(a) Administrative Agent may, without incurring any liability hereunder, (i) treat the payee of any Note as its holder until such Note has been assigned in accordance with Section 9.9, (ii) rely on the Register to the extent set forth in Section 1.4, (iii) consult with any of its Related Persons and, whether or not selected by it, any other advisors, accountants and other experts (including advisors to, and accountants and experts engaged by, any Credit Party) and (iv) rely and act upon any document and information (including those transmitted by Electronic Transmission) and any telephone message or

conversation, in each case believed by it to be genuine and transmitted, signed or otherwise authenticated by the appropriate parties.

(b) Neither any Agent nor its Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Secured Party, Holdings, the Borrowers and each other Credit Party hereby waive and shall not assert (and each of Holdings and the Borrowers shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action based thereon, except to the extent of liabilities resulting from the gross negligence, bad faith or willful misconduct of Agent or, as the case may be, such Related Person (each as determined in a final, non-appealable judgment by a court of competent jurisdiction) in connection with the duties expressly set forth herein. Without limiting the foregoing, each Agent and its Related Persons:

(i) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of the Required Lenders or for the actions or omissions of any of its Related Persons selected with reasonable care (other than employees, officers and directors of Agent, when acting on behalf of Agent);

(ii) shall not be responsible to any Lender or other Person for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document;

(iii) makes no warranty or representation, and shall not be responsible, to any Lender or other Person for any statement, document, information, representation or warranty made or furnished by or on behalf of any Credit Party or any Related Person of any Credit Party in connection with any Loan Document or any transaction contemplated therein or any other document or information with respect to any Credit Party, whether or not transmitted or (except for documents expressly required under any Loan Document to be transmitted to the Lenders) omitted to be transmitted by Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by Agent in connection with the Loan Documents;

(iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document, whether any condition set forth in any Loan Document is satisfied or waived, as to the financial condition of any Credit Party or as to the existence or continuation or possible occurrence or continuation of any Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from the Borrower Representative or any Lender describing such Default or Event of Default clearly labeled “notice of default” (in which case Agent shall promptly give notice of such receipt to all Lenders); and

(v) shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Excluded Persons. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is an Excluded Person or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Excluded Person,

and, for each of the items set forth in clauses (i) through (iv) above, each Lender, Holdings and the Borrowers hereby waive and agree not to assert (and each of Holdings and the Borrowers shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action it might have against Agent based thereon.

8.6 Agents Individually. Agents and their Affiliates may make loans and other extensions of credit to engage in any kind of business with, any Credit Party or Affiliate thereof as though it were not acting as Agent and may receive separate fees and other payments therefor. To the extent Agents or any of their Affiliates makes any Loan or otherwise becomes a Lender hereunder, it shall have and may exercise the same rights and powers hereunder and shall be subject to the same obligations and liabilities as any other Lender and the terms "**Lender**", "**Required Lender**", "and any similar terms shall, except where otherwise expressly provided in any Loan Document, include, without limitation, Agents or such Affiliates, as the case may be, in its individual capacity as Lender, or as one of the Required Lenders, respectively.

8.7 Lender Credit Decision.

(a) Each Lender acknowledges that it shall, independently and without reliance upon Agent, any Lender or any of their Related Persons or upon any document (including any offering and disclosure materials in connection with the syndication of the Loans) solely or in part because such document was transmitted by Agent or any of its Related Persons, conduct its own independent investigation of the financial condition and affairs of each Credit Party and make and continue to make its own credit decisions in connection with entering into, and taking or not taking any action under, any Loan Document or with respect to any transaction contemplated in any Loan Document, in each case based on such documents and information as it shall deem appropriate. Except for documents expressly required by any Loan Document to be transmitted by Agent to the Lenders, Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, Property, financial and other condition or creditworthiness of any Credit Party or any Affiliate of any Credit Party that may come in to the possession of Agent or any of its Related Persons.

(b) If any Lender has elected to abstain from receiving MNPI concerning the Credit Parties or their Affiliates, such Lender acknowledges that, notwithstanding such election, Agent and/or the Credit Parties will, from time to time, make available syndicate-information (which may contain MNPI) as required by the terms of, or in the

course of administering the Loans to the credit contact(s) identified for receipt of such information on the Lender's administrative questionnaire who are able to receive and use all syndicate-level information (which may contain MNPI) in accordance with such Lender's compliance policies and contractual obligations and applicable law, including federal and state securities laws; provided, that if such contact is not so identified in such questionnaire, the relevant Lender hereby agrees to promptly (and in any event within one (1) Business Day) provide such a contact to Agent and the Credit Parties upon request therefor by Agent or the Credit Parties. Notwithstanding such Lender's election to abstain from receiving MNPI, such Lender acknowledges that if such Lender chooses to communicate with Agent, it assumes the risk of receiving MNPI concerning the Credit Parties or their Affiliates.

8.8 Expenses; Indemnities; Withholding.

(a) Each Lender agrees to reimburse each Agent and each of its Related Persons (to the extent not reimbursed by any Credit Party) promptly upon demand, severally and ratably, for any costs and expenses (including fees, charges and disbursements of financial, legal and other advisors and Other Taxes paid in the name of, or on behalf of, any Credit Party) that may be incurred by Agent or any of its Related Persons in connection with the preparation, syndication, execution, delivery, administration, modification, consent, waiver or enforcement of, or the taking of any other action (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding (including, without limitation, preparation for and/or response to any subpoena or request for document production relating thereto) or otherwise) in respect of, or legal advice with respect to, its rights or responsibilities under, any Loan Document.

(b) Each Lender further agrees to indemnify Agent, and each of their respective Related Persons (to the extent not reimbursed by any Credit Party), severally and ratably, from and against Liabilities (including, to the extent not indemnified pursuant to Section 8.8(c), Taxes, interests and penalties imposed for not properly withholding or backup withholding on payments made to or for the account of any Lender) that may be imposed on, incurred by or asserted against Agent or any of their respective Related Persons in any matter relating to or arising out of, in connection with or as a result of any Loan Document, any Related Document or any other act, event or transaction related, contemplated in or attendant to any such document, or, in each case, any action taken or omitted to be taken by Agent or any of their respective Related Persons under or with respect to any of the foregoing; provided, however, that no Lender shall be liable to Agent or any of its Related Persons to the extent such liability has resulted from the gross negligence, bad faith or willful misconduct of Agent or, as the case may be, such Related Person, as determined by a court of competent jurisdiction in a final non-appealable judgment or order.

(c) To the extent required by any Requirement of Law, Administrative Agent may withhold from any payment to any Lender under a Loan Document an amount equal

to any applicable withholding Tax (including withholding Taxes imposed under Chapters 3 and 4 of Subtitle A of the Code). If the IRS or any other Governmental Authority asserts a claim that Agent did not properly withhold Tax from amounts paid to or for the account of any Lender (because the appropriate certification form was not delivered, was not properly executed, or fails to establish an exemption from, or reduction of, withholding Tax with respect to a particular type of payment, or because such Lender failed to notify Agent or any other Person of a change in circumstances which rendered the exemption from, or reduction of, withholding Tax ineffective, failed to maintain a Participant Register or for any other reason), or Agent reasonably determines that it was required to withhold Taxes from a prior payment but failed to do so, such Lender shall promptly indemnify Agent fully for all amounts paid, directly or indirectly, by Agent as Tax or otherwise, including penalties and interest, and together with all expenses incurred by Agent, including legal expenses, allocated internal costs and out-of-pocket expenses. Agent may offset against any payment to any Lender under a Loan Document, any applicable withholding Tax that was required to be withheld from any prior payment to such Lender but which was not so withheld, as well as any other amounts for which Agent is entitled to indemnification from such Lender under this Section 8.8(c).

8.9 Resignation of Agent.

(a) Either Agent may resign at any time by delivering written notice of such resignation to the Lenders and the Borrower Representative, effective on the date set forth in such notice or, if no such date is set forth therein, upon the date such notice shall be effective in accordance with the terms of this Section 8.9. If Agent delivers any such notice, the Required Lenders shall have the right to appoint a successor Agent, who shall be a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1, with the consent of the Borrower Representative (which consent shall not be unreasonably withheld, conditioned or delayed and shall not be required during the existence of an Event of Default). If, after 30 days after the date of the retiring Agent's notice of resignation, no successor Agent that has been appointed by the Required Lenders has accepted such appointment, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent from among the Lenders. Each appointment under this clause (a) shall be subject to the prior written consent of the Borrower Representative, which may not be unreasonably withheld but shall not be required during the continuance of an Event of Default.

(b) Effective immediately upon its resignation, (i) the retiring Agent shall be discharged from its duties and obligations under the Loan Documents, (ii) the Required Lenders shall assume and perform all of the duties of such retiring Agent until a successor Agent shall have accepted a valid appointment hereunder, (iii) the retiring Agent and its Related Persons shall no longer have the benefit of any provision of any Loan Document other than with respect to any actions taken or omitted to be taken while such retiring Agent was, or because such Agent had been, validly acting as Agent under the Loan Documents and (iv) subject to its rights under Section 8.3, the retiring Agent shall take such action as may be reasonably necessary to assign to the successor Agent its

rights as Agent under the Loan Documents. Effective immediately upon its acceptance of a valid appointment as Agent, a successor Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Agent under the Loan Documents.

8.10 Release of Collateral or Guarantors. Each Lender hereby consents to the release and hereby directs Collateral Agent to, and Collateral Agent shall, release (or, in the case of clause (b)(ii) below, release or subordinate) the following:

(a) any Subsidiary of a Borrower from its guaranty of any Secured Obligation if all of the Stock and Stock Equivalents of such Subsidiary owned by any Credit Party are sold or transferred in a transaction permitted under the Loan Documents (including pursuant to a waiver or consent) or such Subsidiary becomes an Excluded Domestic Subsidiary, to the extent that, after giving effect to such transaction, such Subsidiary would not be required to guaranty any Secured Obligations pursuant to Section 4.12; and

(b) any Lien held by Collateral Agent for the benefit of the Secured Parties against (i) any Collateral that is sold, transferred, conveyed or otherwise disposed of by a Credit Party in a transaction permitted by the Loan Documents (including pursuant to a valid waiver or consent), to the extent all Liens required to be granted in such Collateral pursuant to Section 4.12 after giving effect to such transaction have been granted, (ii) any Property subject to a Lien permitted hereunder in reliance upon Section 5.1(h) or (i), (iii) Property that does not constitute Collateral, (iv) Property owned by a Subsidiary that is released in accordance with clause (a) above and (v) all of the Collateral and all Credit Parties, upon the occurrence of the Facility Termination Date.

Each Lender hereby directs Collateral Agent, and Agent hereby agrees, upon receipt of reasonable advance notice from the Borrower Representative, to execute and deliver or file such documents and to perform other actions reasonably necessary to release the guaranties and Liens when and as directed in this Section 8.10, in each case, at the Borrowers' expense.

8.11 Additional Secured Parties. The benefit of the provisions of the Loan Documents directly relating to the Collateral or any Lien granted thereunder shall extend to and be available to any Secured Party that is not a Lender party hereto as long as, by accepting such benefits, such Secured Party agrees, as among Collateral Agent and all other Secured Parties, that such Secured Party is bound by (and, if requested by Collateral Agent, shall confirm such agreement in a writing in form and substance acceptable to Agent) this Article VIII, Section 9.3, Section 9.9(a), Section 9.10, Section 9.11, Section 9.17 and Section 9.24 and the decisions and actions of Agent and the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders or other parties hereto as required herein) to the same extent a Lender is bound; provided, however, that, notwithstanding the foregoing, (a) such Secured Party shall be bound by Section 8.8 only to the extent of Liabilities, costs and expenses with respect to or otherwise relating to the Collateral held for the benefit of such Secured Party, in which case the obligations of such Secured Party thereunder shall not be limited by any concept of pro rata share or similar concept, (b) each of Collateral Agent, the Lenders party hereto shall be entitled to act at its sole discretion, without regard to the interest of such Secured Party, regardless of whether

any Secured Obligation to such Secured Party thereafter remains outstanding, is deprived of the benefit of the Collateral, becomes unsecured or is otherwise affected or put in jeopardy thereby, and without any duty or liability to such Secured Party or any such Secured Obligation and (c) except as otherwise set forth herein, such Secured Party shall not have any right to be notified of, consent to, direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under any Loan Document.

8.12 Intercreditor Agreements. The Agents are authorized by the other Secured Parties to enter into subordination agreements (including any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to such agreements in connection with the incurrence by an Credit Party of any permitted Subordinated Indebtedness in order to permit such Indebtedness to be subordinated), intercreditor and similar agreements in respect of debt and/or liens contemplated by this Agreement or referenced in Section 8.10 and the parties hereto acknowledge that any such agreement (if entered into) will be binding upon them.

8.13 Lead Arranger and Other Agents. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document, the Lead Arrangers, and agents (other than the Agent), if any, shall not have any duties or responsibilities in their respective capacities as such, nor shall the Lead Arrangers and such agents have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Lead Arrangers or such agents. At any time that any Lender serving (or whose Affiliate is serving) as an agent hereunder shall have transferred to any other Person (other than any Affiliates) all of its interests in the Loans **and the Delayed Draw Term Loan Commitment or any Incremental Delayed Draw Term Loan Commitment, as applicable**, such Lender (or an Affiliate of such Lender acting as an agent) shall be deemed to have concurrently resigned as such agent.

8.14 Credit Bid. Each of the Lenders hereby irrevocably authorizes (and by entering into a Secured Rate Contract or Bank Product (as applicable), each Secured Swap Provider and Bank Product Provider (as applicable) hereby authorizes and shall be deemed to authorize) Collateral and/or Administrative Agent, on behalf of all Secured Parties, to take any of the following actions upon the instruction of the Collateral Agent or the Required Lenders following the occurrence and during the continuance of any Event of Default:

(a) consent to the disposition of all or any portion of the Collateral free and clear of the Liens securing the Secured Obligations in connection with any disposition pursuant to the applicable provisions of the Bankruptcy Code, including Section 363 thereof;

(b) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any disposition of all or any portion of the Collateral pursuant to the applicable provisions of the Bankruptcy Code, including under Section 363 thereof;

(c) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any disposition of all or any portion of the Collateral pursuant to the applicable provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC;

(d) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any foreclosure or other disposition conducted in accordance with applicable law, including by power of sale, judicial action or otherwise; and/or

(e) estimate the amount of any contingent or unliquidated Secured Obligations of such Lender or other Secured Party;

it being understood that no Secured Party shall be required to fund any amount (other than by means of offset) in connection with any purchase of all or any portion of the Collateral by Agent pursuant to the foregoing clauses (b), (c) or (d) without its prior written consent.

Each Secured Party agrees that Agent is under no obligation to credit bid any part of the Secured Obligations or to purchase or retain or acquire any portion of the Collateral; provided that, in connection with any credit bid or purchase described under clauses (b), (c) or (d) of the preceding paragraph, the Secured Obligations owed to all of the Secured Parties (other than with respect to contingent or unliquidated liabilities as set forth in the next succeeding paragraph) may be, and shall be, credit bid by Agent on a ratable basis.

With respect to each contingent or unliquidated claim that is a Secured Obligation, Agent is hereby authorized, but is not required, to estimate the amount thereof for purposes of any credit bid or purchase described in the second preceding paragraph so long as the estimation of the amount or liquidation of such claim would not unduly delay the ability of Agent to credit bid the Secured Obligations or purchase the Collateral in the relevant disposition. In the event that Agent, in its sole and absolute discretion, elects not to estimate any such contingent or unliquidated claim or any such claim cannot be estimated without unduly delaying the ability of Agent to consummate any credit bid or purchase in accordance with the second preceding paragraph, then any contingent or unliquidated claims not so estimated shall be disregarded, shall not be credit bid, and shall not be entitled to any interest in the portion or the entirety of the Collateral purchased by means of such credit bid.

Each Secured Party whose Secured Obligations are credit bid under clauses (b), (c) or (d) of the third preceding paragraph shall be entitled to receive interests in the Collateral or any other asset acquired in connection with such credit bid (or in the Stock of the acquisition vehicle or vehicles that are used to consummate such acquisition) on a ratable basis in accordance with the percentage obtained by dividing (x) the amount of the Secured Obligations of such Secured Party that were credit bid in such credit bid or other disposition, by (y) the aggregate amount of all Secured Obligations that were credit bid in such credit bid or other disposition.

For purposes of this Section 8.14, "disposition" shall means (a) the sale, lease, conveyance or other disposition of Property and (b) the sale or transfer by a Borrower or any Subsidiary of a Borrower of any Stock issued by any Subsidiary of such Borrower.

8.15 Collateral Agent Advances. (a) The Collateral Agent may from time to time make such disbursements and advances (collectively "Collateral Agent Advances") in an aggregate amount not to exceed $5,000,000 at any time outstanding which the Collateral Agent, in its sole discretion, deems necessary or desirable to preserve, protect, prepare for sale or lease or dispose of the Collateral or any portion thereof, to enhance the likelihood or maximize the amount of repayment by the Borrowers of the Loans and other Obligations or to pay any other amount chargeable to the Borrowers pursuant to the terms of this Agreement, including, without limitation, costs, fees and expenses as described in Section 9.5. The Collateral Agent Advances shall be repayable on demand and be secured by the Collateral and shall bear interest at a rate per annum equal to the rate then applicable to Loans that are Base Rate Loans. The Collateral Agent Advances shall constitute Obligations hereunder. The Collateral Agent shall notify each Lender and the Borrower Representative in writing of each such Collateral Agent Advance, which notice shall include a description of the purpose of such Collateral Agent Advance. Each Lender agrees that it shall make available to the Collateral Agent, upon the Collateral Agent's demand, in Dollars in immediately available funds, the amount equal to such Lender's Commitment Percentage of each such Collateral Agent Advance. If such funds are not made available to the Collateral Agent by such Lender, the Collateral Agent shall be entitled to recover such funds on demand from such Lender, together with interest thereon for each day from the date such payment was due until the date such amount is paid to the Collateral Agent, at the Federal Funds Rate for three Business Days following such demand and thereafter at the Base Rate.

Erroneous Payments. If all or any part of any payment or other distribution by or on behalf of either Agent to the Borrower Representative, any Lender, or any other Person is determined by such Agent in its sole discretion to have been made in error as determined by such Agent (any such payment or other distribution, an "Erroneous Payment"), then the relevant Borrower Representative, Lender, or other Person shall forthwith on written demand (accompanied by a reasonably detailed calculation of such Erroneous Payment) repay to such Agent the amount of such Erroneous Payment received by such Person; provided that such written demand shall have been made no later than one hundred and eighty (180) days following the receipt of such Erroneous Payment by any such Lender or other Person. Any determination by either Agent, in its sole discretion, that all or a portion of any payment or other distribution to the Borrower, any Lender, or any other Person was an Erroneous Payment shall be conclusive absent manifest error. The Borrower, each Lender, and each other potential recipient of an Erroneous Payment hereunder waives any claim of discharge for value and any other claim of entitlement to, or in respect of, any Erroneous Payment.

ARTICLE IX

MISCELLANEOUS

9.1 Amendments and Waivers.

(a) Subject to the provisions of Section 9.1(f) hereof, no amendment, waiver, supplement or other modification of any provision of this Agreement or any other Loan Document (other than the Fee Letter, any Collateral Documents (other than the Guaranty and Security Agreement), or any landlord, bailee or mortgagee agreement, which, in each case, may be amended as provided therein and, if not provided therein, by each of the parties thereto), and no consent with respect to any departure by any Credit Party therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by the Agents with the consent of the Required Lenders), and the Borrowers and then such waiver, modification or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver, modification or consent shall, unless in writing and signed by all the Lenders directly and adversely affected thereby (or by the Agents with the consent of all the Lenders directly and adversely affected thereby), in addition to the Required Lenders (or by the Agents with the consent of the Required Lenders) and the Borrowers, do any of the following:

(i) increase or extend the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 7.2(a));

(ii) postpone or delay any date fixed for, or reduce or waive, any scheduled installment of principal or any payment of interest (other than default rate interest, which may be postponed, delayed, reduced or waived by the Required Lenders), fees or other amounts (other than principal) due to the Lenders (or any of them) hereunder or under any other Loan Document (for the avoidance of doubt, mandatory prepayments pursuant to Section 1.8 (other than scheduled installments under Section 1.8(a)) may be postponed, delayed, reduced, waived or modified with the consent of Required Lenders);

(iii) reduce the principal of, or the rate of interest (other than default rate interest, which may be postponed, delayed or waived by the Required Lenders) specified herein (it being agreed that any waiver or reduction of the default interest margin shall only require the consent of Required Lenders) or the amount of interest payable in cash specified herein on any Loan, or of any fees or other amounts payable hereunder or under any other Loan Documents;

(iv) amend, modify or waive (A) the order in which Secured Obligations are paid or (B) the pro rata sharing of payments by and among the Lenders, in each case in accordance with Section 1.10(c) or any other Section of this Agreement (including voluntary and mandatory prepayments), except in connection with Extended Term Loans as specified in Section 9.1(f)(iii);

(v) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans which shall be required for the Lenders or any of them to take any action hereunder;

(vi) amend this Section 9.1 (other than Section 9.1(e) or, subject to the terms of this Agreement, the definition of Required Lenders, or any provision providing for consent or other action by all Lenders;

(vii) discharge any Credit Party from its respective payment Obligations under the Loan Documents (other than in connection with the release of any Credit Party pursuant to a transaction expressly permitted hereunder or under any other Loan Document), or release all or substantially all of the Collateral, except as otherwise may be provided in this Agreement or the other Loan Documents; or

(viii) subordinate any Loan or any Lien on Collateral to any other Indebtedness or Lien other than as expressly permitted by Section 8.10 hereof.

It being agreed that all Lenders shall be deemed to be directly and adversely affected by an amendment or waiver of the type described in the preceding clauses (v), (vi) and (vii). It being further agreed that the Agents shall receive copies of all final amendments or waivers of this Agreement or any other Loan Documents.

(b) No amendment, waiver or consent shall, unless in writing and signed by Agents, in addition to the Required Lenders or all Lenders directly and adversely affected thereby, as the case may be (or by the Agents with the consent of the Required Lenders or all the Lenders directly and adversely affected thereby, as the case may be), affect the rights or duties of the Agent under this Agreement or any other Loan Document. No amendment, modification or waiver of this Agreement or any Loan Document (i) altering the ratable treatment of Secured Obligations arising under Secured Rate Contracts or Bank Products (as applicable) resulting in such Secured Obligations being junior in right of payment to principal on the Loans or resulting in Secured Obligations owing to any Secured Swap Provider or Bank Product Provider (as applicable) becoming unsecured (other than releases of Liens permitted in accordance with the terms hereof) or (ii) to the definitions of "Secured Obligations", "Rate Contract", "Secured Rate Contract", "Bank Product", "Bank Product Debt" or "Bank Product Provider" (in each case, but only to the extent any such Bank Product Provider has previously provided, to the extent required by the terms of this Agreement, a notice to the Administrative Agent), in each case in a manner adverse to any Secured Swap Provider or Bank Product Provider (as applicable), shall be effective without the written consent of such Secured Swap Provider or such Bank Product Provider (as applicable) (other than in accordance with Section 9.1(a)(vii)).

(c) [Reserved].

(d) This Agreement may be amended with the written consent of the Agents, the Borrower and the Required Lenders to (i) add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding

thereunder and the outstanding principal and accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the accrued interest and fees in respect thereof and (ii) include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

(e) Notwithstanding anything to the contrary contained in this Section 9.1, (i) the Borrowers may amend Schedules 3.19 and 3.21 upon notice to the Agents, (ii) Agents may amend Schedules 1.1(a), and 1.1(b) to reflect Sales entered into pursuant to Section 9.9, (iii) Agents and the Borrowers may amend or modify this Agreement and any other Loan Document to (1) cure any ambiguity, omission, defect or inconsistency therein, (2) grant a new Lien for the benefit of the Secured Parties, extend an existing Lien over additional Property for the benefit of the Secured Parties or join additional Persons as Credit Parties, and (3) [Reserved], and (iv) Agents and Borrowers may amend or modify this Agreement or any other Loan Document to reflect any conforming amendments permitted under Section 5.12.

(f) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "**Extension Offer**") made from time to time by Borrower Representative to all Lenders holding Term Loans with a like maturity date on a pro rata basis (based on the aggregate outstanding principal amount of such respective Term Loans) and on the same terms to each such Lender, Borrowers are hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms contained in any such Extension Offers to extend the maturity date and/or commitment termination of each such Lender's Term Loans and, subject to the terms hereof, otherwise modify the terms of such Term Loans pursuant to the terms of the relevant Extension Offer (including by increasing the interest rate and/or fees payable in respect of such Term Loans (and related outstandings) and/or modifying the amortization schedule in respect of such Lender's Term Loans) (each, an "**Extension**"; and each group of Term Loans, so extended, as well as the original Term Loans not so extended, being a separate Class), so long as the following terms are satisfied:

(i) no Default or Event of Default shall have occurred and be continuing at the time the applicable Extension Offer is delivered to the Lenders;

(ii) [Reserved];

(iii) except as to interest rates, original issue discount, fees, amortization, final maturity date, premium, required prepayment dates and participation in prepayments (which shall, subject to immediately succeeding clauses (iv), (v) and (vi), be determined by Borrower Representative and set forth in the relevant Extension Offer, subject to acceptance by the Extending Term Lenders), the Term Loans of any Term Lender that agrees to an Extension (such commitment, an "**Extended Term Loan Commitment**") with respect to such Term Loans owed to it (an "**Extending Term Lender**") extended pursuant to any Extension ("**Extended Term Loans**") shall have the same terms as the Class of

Term Loans subject to such Extension Offer (except for covenants or other provisions contained therein applicable only to periods after the then Latest Maturity Date of the Term Loans extended thereby);

(iv) the final maturity date of any Extended Term Loans shall be no earlier than the Latest Maturity Date of the Term Loans extended thereby and the amortization schedule applicable to Loans pursuant to Section 1.8(a) for periods prior to the original maturity date of the Term Loans shall not be increased;

(v) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the Weighted Average Life to Maturity of the Term Loans extended thereby;

(vi) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not greater than pro rata basis) with non-extended Classes of Term Loans in any voluntary or mandatory prepayments hereunder, in each case as specified in the respective Extension Offer; and

(vii) if the aggregate principal amount of Term Loans (calculated on the outstanding principal amount thereof) in respect of which Term Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans offered to be extended by Borrower Representative pursuant to such Extension Offer, then the Term Loans of such Term Lenders shall be extended ratably up to such maximum amount based on the respective principal or commitment amounts with respect to which such Term Lenders have accepted such Extension Offer.

With respect to all Extensions consummated by Borrowers pursuant to this Section 9.1(f), (i) such Extensions shall not constitute voluntary or mandatory payments or prepayments for purposes of Sections 1.7 or 1.8 and (ii) no Extension Offer is required to be in any minimum amount or any minimum increment; provided that Borrower Representative may at its election specify as a condition to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in Borrower Representative's sole discretion and may be waived by Borrower) of Term Loans of any or all applicable Classes be tendered. Agents and the Lenders hereby consent to the transactions contemplated by this Section (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Term Loans on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit or conflict with any such Extension or any other transaction contemplated by this Section 9.1(f). Any Lender that does not respond to an Extension Offer by the applicable due date shall be deemed to have rejected such Extension Offer.

No consent of either Agent or any Lender shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Term Loans (or a portion thereof). All Extended Term Loans and all obligations in respect

thereof shall be Obligations under this Agreement and the other Loan Documents and secured by the Collateral on a pari passu basis with all other applicable Obligations. The Lenders hereby irrevocably authorize Agents to enter into amendments to this Agreement and the other Loan Documents with Borrowers (on behalf of all Credit Parties) as may be necessary in order to establish new Classes or sub-Classes in respect of Term Loans so extended and such technical amendments as may be necessary in the reasonable opinion of Agents and Borrowers in connection with the establishment of such new Classes or sub-Classes, in each case on terms consistent with this Section 9.1(f). Without limiting the foregoing, in connection with any Extensions the applicable Credit Parties shall (at their expense) amend (and Collateral Agent is hereby directed by the Lenders to amend) any Mortgage that has a maturity date prior to the later of the then latest maturity date of the Term Loans, so that such maturity date referenced therein is extended to the Latest Maturity Date of the Term Loans. Collateral Agent shall promptly notify each Lender of the effectiveness of each such amendment.

In connection with any Extension, Borrower Representative shall provide Agents at least five (5) Business Days (or such shorter period as may be agreed by Agents) prior written notice thereof, and shall agree to such procedures (including regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, Agent, in each case acting reasonably to accomplish the purposes of this Section 9.1(f).

This Section 9.1(f) shall supersede any provisions of this Section 9.1 or Section 9.11 to the contrary.

9.2 Notices.

(a) Addresses. All notices and other communications required or expressly authorized to be made by this Agreement shall be given in writing, unless otherwise expressly specified herein, and (i) addressed to the address set forth on the applicable signature page hereto, (ii) posted to Syndtrak (to the extent such system is available and set up by or at the direction of Agents prior to posting) in an appropriate location by uploading such notice, demand, request, direction or other communication to www.syndtrak.com or using such other means of posting to Syndtrak as may be available and reasonably acceptable to Agents prior to such posting, (iii) posted to any other E-System approved by or set up by or at the direction of Agents or (iv) addressed to such other address as shall be notified in writing (A) in the case of the Borrowers and Agents, to the other parties hereto and (B) in the case of all other parties, to the Borrowers and Agents. Transmissions made by electronic mail or E-Fax to Agents shall be effective only (x) for notices where such transmission is specifically authorized by this Agreement, (y) if such transmission is delivered in compliance with procedures of Agents applicable at the time and previously communicated to the Borrowers, and (z) if receipt of such transmission is acknowledged by Agents.

(b) Effectiveness.

(i) All communications described in clause (a) above and all other notices, demands, requests and other communications made in connection with this Agreement shall be effective and be deemed to have been received (i) if delivered by hand, upon personal delivery, (ii) if delivered by overnight courier service, one (1) Business Day after delivery to such courier service, (iii) if delivered by mail, three (3) Business Days after deposit in the mail, (iv) if delivered by facsimile (other than to post to an E-System pursuant to clause (a)(ii) or (a)(iii) above), upon sender's receipt of confirmation of proper transmission, (v) if delivered by posting to any E-System, on the later of the Business Day of such posting and the Business Day access to such posting is given to the recipient thereof in accordance with the standard procedures applicable to such E-System and (vi) if delivered by electronic mail, pursuant to sub-clauses (y) and (z) of clause (a) above; provided, however, that no communications to either Agent pursuant to Article I shall be effective until received by such Agent.

(ii) The posting, completion and/or submission by any Credit Party of any communication pursuant to an E-System shall constitute a representation and warranty by the Credit Parties that any representation, warranty, certification or other similar statement required by the Loan Documents to be provided, given or made by a Credit Party in connection with any such communication is true, correct and complete in all material respects except as expressly noted in such communication or E-System.

(c) Each Lender shall notify the Agents in writing of any changes in the address to which notices to such Lender should be directed, of addresses of its Lending Office, of payment instructions in respect of all payments to be made to it hereunder and of such other administrative information as Agent shall reasonably request.

9.3 Electronic Transmissions.

(a) Authorization. Subject to the provisions of Section 9.2(a), each of Agent, Lenders, each Credit Party and each of their Related Persons, is authorized (but not required) to transmit, post or otherwise make or communicate, in its sole discretion, Electronic Transmissions in connection with any Loan Document and the transactions contemplated therein. Each Credit Party and each Secured Party hereto acknowledges and agrees that the use of Electronic Transmissions is not necessarily secure and that there are risks associated with such use, including risks of interception, disclosure and abuse and each indicates it assumes and accepts such risks by hereby authorizing the transmission of Electronic Transmissions.

(b) Signatures. Subject to the provisions of Section 9.2(a), (i)(A) no posting to any E-System shall be denied legal effect merely because it is made electronically, (B) each E-Signature on any such posting shall be deemed sufficient to satisfy any requirement for a "signature" and (C) each such posting shall be deemed sufficient to

satisfy any requirement for a "writing", in each case including pursuant to any Loan Document, any applicable provision of any UCC, the federal Uniform Electronic Transactions Act, the Electronic Signatures in Global and National Commerce Act and any substantive or procedural Requirement of Law governing such subject matter, (ii) each such posting that is not readily capable of bearing either a signature or a reproduction of a signature may be signed, and shall be deemed signed, by attaching to, or logically associating with such posting, an E-Signature, upon which Agents, each other Secured Party and each Credit Party may rely and assume the authenticity thereof, (iii) each such posting containing a signature, a reproduction of a signature or an E-Signature shall, for all intents and purposes, have the same effect and weight as a signed paper original and (iv) each party hereto or beneficiary hereto agrees not to contest the validity or enforceability of any posting on any E-System or E-Signature on any such posting under the provisions of any applicable Requirement of Law requiring certain documents to be in writing or signed; provided, however, that nothing herein shall limit such party's or beneficiary's right to contest whether any posting to any E-System or E-Signature has been altered after transmission.

(c) Separate Agreements. All uses of an E-System shall be governed by and subject to, in addition to Section 9.2 and this Section 9.3, the separate terms, conditions and privacy policy posted or referenced in such E-System (or such terms, conditions and privacy policy as may be updated from time to time, including on such E-System) and related Contractual Obligations executed by Agents and Credit Parties in connection with the use of such E-System.

(d) LIMITATION OF LIABILITY. ALL E-SYSTEMS AND ELECTRONIC TRANSMISSIONS SHALL BE PROVIDED "AS IS" AND "AS AVAILABLE". NONE OF AGENTS, ANY LENDER OR ANY OF THEIR RELATED PERSONS WARRANTS THE ACCURACY, ADEQUACY OR COMPLETENESS OF ANY E-SYSTEMS OR ELECTRONIC TRANSMISSION AND DISCLAIMS ALL LIABILITY FOR ERRORS OR OMISSIONS THEREIN. NO WARRANTY OF ANY KIND IS MADE BY AGENTS, ANY LENDER OR ANY OF THEIR RELATED PERSONS IN CONNECTION WITH ANY E-SYSTEMS OR ELECTRONIC COMMUNICATION, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS. Each of the Borrowers, each other Credit Party executing this Agreement and each Secured Party agrees that Agents have no responsibility for maintaining or providing any equipment, software, services or any testing required in connection with any Electronic Transmission or otherwise required for any E-System.

9.4 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of Agents or any Lender, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. No course of dealing between any Credit Party, any

Affiliate of any Credit Party, Agents or any Lender shall be effective to amend, modify or discharge any provision of this Agreement or any of the other Loan Documents.

9.5 Costs and Expenses. Any action taken by any Credit Party under or with respect to any Loan Document, even if required under any Loan Document or at the request of Agent or Required Lenders, shall be at the expense of such Credit Party, and neither Agent nor any other Secured Party shall be required under any Loan Document to reimburse any Credit Party or any Subsidiary of any Credit Party therefor except as expressly provided therein. In addition, the Borrowers agree to pay or reimburse promptly following written demand (a) each Agent for all reasonable and documented out-of-pocket costs and expenses incurred by it or any of its Related Persons, in connection with the investigation, development, preparation, negotiation, syndication, execution, interpretation or administration of, any modification of any term of or termination of, any Loan Document, any commitment or proposal letter therefor, any other document prepared in connection therewith or the consummation and administration of any transaction contemplated therein, in each case including (and in the case of legal counsel, limited to) Attorney Costs, (b) subject to Section 4.9, if applicable, each Agent for all reasonable and documented out-of-pocket costs and expenses incurred by it or any of its Related Persons in connection with field examinations and Collateral examinations (which shall be reimbursed, in addition to the reasonable, documented out-of-pocket costs and expenses of such examiners, at the per diem rate per individual charged by Agent for its examiners), (c) each Agent, its Related Persons for all reasonable and documented out-of-pocket costs and expenses (provided that legal fees shall be limited to Attorney Costs) incurred in connection with (i) the creation, perfection and maintenance of the perfection of Collateral Agent's Liens upon the Collateral, including Lien search, filing and recording fees, (ii) any refinancing or restructuring of the credit arrangements provided hereunder in the nature of a "work-out", (iii) the enforcement or preservation of any right or remedy under any Loan Document, any Obligation, with respect to the Collateral or any other related right or remedy or any attempt to inspect, verify, protect insure, collect, sell, liquidate or otherwise dispose of any Collateral or (iv) the commencement, defense, conduct of, intervention in, or the taking of any other action (including preparation for and/or response to any subpoena or request for document production relating thereto) with respect to, any proceeding (including any bankruptcy or insolvency proceeding) related to any Credit Party, any Subsidiary of any Credit Party, Loan Document, Obligation or Related Transactions, including Attorney Costs, (d) the cost of purchasing insurance that the Credit Parties fail to obtain as required by the Loan Documents to the extent an Event of Default has resulted therefrom and shall be continuing at the time of such purchase and (e) all reasonable and invoiced fees and out-of-pocket disbursements of one external counsel, any necessary local counsel in each relevant jurisdiction (and, solely in the event of a conflict of interest, one additional primary legal counsel (and, if necessary, one additional local external counsel in each relevant jurisdiction)) on behalf of all Lenders and, if necessary, each Agent, taken as a whole, incurred in connection with any of the matters referred to in clause (c)(ii) through (iv) above.

9.6 Indemnity.

(a) Each Credit Party agrees to indemnify, hold harmless and defend each Agent, and each Lender, and each of their respective Related Persons (each such Person

being an "**Indemnitee**") from and against all actual, out-of-pocket Liabilities (including, and in the case of legal fees, limited to Attorney Costs) that may be imposed on, incurred by or asserted against any such Indemnitee (whether brought by a Credit Party, an Affiliate of a Credit Party or any other Person) including any actual or prospective investigation, litigation or other proceeding, whether or not brought by any such Indemnitee or any of its Related Persons, any holders of securities or creditors (and including Attorney Costs), whether or not any such Indemnitee, Related Person, holder or creditor is a party thereto, and whether or not based on any securities or commercial law or regulation or any other Requirement of Law or theory thereof, including common law, equity, contract, tort or otherwise, in each case, in any matter relating to or arising out of, in connection with or as a result of (i) any Loan Document, any commitment letter or fee letter (including the Fee Letter) executed in connection with any Loan Document or any financial accommodation contemplated by a Loan Document, any Obligation (or the repayment thereof), the use or intended use of the proceeds of any Loan or any securities filing of, or with respect to, any Credit Party or (ii) any other act, event or transaction related, contemplated in or attendant to any of the foregoing (collectively, the "**Indemnified Matters**"); provided, however, that no Credit Party shall have any liability under this Section 9.6 to an Indemnitee with respect to any Indemnified Matter, and such Indemnitee shall have any liability with respect to any Indemnified Matter other than (to the extent otherwise liable), to the extent (i) such liability, as determined by a court of competent jurisdiction in a final non-appealable judgment or order, has resulted directly from (A) the gross negligence, bad faith or willful misconduct of such Indemnitee, (B) a material breach by such Indemnitee of its obligations under the Loan Documents or applicable Requirement of Law or (C) a dispute solely among Indemnitees that does not directly involve or result from any act or omission by a Credit Party or its Subsidiaries or Affiliates, or (ii) any settlement of any pending or threatened claim, litigation, investigation or proceeding is effected without the Borrowers' consent (which shall not be unreasonably withheld, conditioned or delayed). Furthermore, each of the Borrowers and each other Credit Party executing this Agreement waives and agrees not to assert against any Indemnitee, and shall cause each other Credit Party to waive and not assert against any Indemnitee, any right of contribution with respect to any Liabilities that may be imposed on, incurred by or asserted against any Related Person. This Section 9.6(a) shall not apply with respect to Taxes other than any Taxes that represent Liabilities arising from any non-Tax claim. Without limiting the foregoing indemnity for Indemnified Matters that include claims for punitive, exemplary, consequential or indirect damages, no party hereto or any of its respective Affiliates, or, as applicable, Approved Funds, shall be liable for any punitive, exemplary, consequential or indirect damages alleged in connection with, arising out of, or relating to, any Liabilities, the Loan Documents, the Loans and Commitments, the use or the proposed use of the proceeds thereof, the Related Transactions, or any other transaction contemplated by this Agreement.

(b) Without limiting the foregoing, "**Indemnified Matters**" includes all Environmental Liabilities imposed on, incurred by or asserted against any Indemnitee, including those arising from, or otherwise involving, any Property of any Credit Party or

any Related Person of any Credit Party or any actual, alleged or prospective damage to Property or natural resources or harm or injury alleged to have resulted from any Release of Hazardous Materials on, upon or into such Property or natural resource or any Property on or contiguous to any Real Estate of any Credit Party or any Related Person of any Credit Party, whether or not, with respect to any such Environmental Liabilities, any Indemnitee is a mortgagee pursuant to any leasehold mortgage, a mortgagee in possession, the successor-in-interest to any Credit Party or any Related Person of any Credit Party or the owner, lessee or operator of any Property of any Related Person through any foreclosure action, in each case except to the extent such Environmental Liabilities (i) are incurred solely following foreclosure by Collateral Agent or following Collateral Agent or any Lender having become the successor-in-interest to any Credit Party or any Related Person of any Credit Party and (ii) are attributable solely to acts of such Indemnitee.

9.7 Marshaling; Payments Set Aside. No Secured Party shall be under any obligation to marshal any Property in favor of any Credit Party or any other Person or against or in payment of any Secured Obligation. To the extent that any Secured Party receives a payment from the Borrower, from any other Credit Party, from the proceeds of the Collateral, from the exercise of its rights of setoff, any enforcement action or otherwise, and such payment is subsequently, in whole or in part, invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not occurred.

9.8 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that any assignment by any Lender shall be subject to the provisions of Section 9.9, and provided further that neither the Borrowers nor Holdings may assign or transfer any of its respective rights or obligations under this Agreement without the prior written consent of Agent and each Lender.

9.9 Binding Effect; Assignments and Participations.

(a) Binding Effect. This Agreement shall become effective when it shall have been executed by Holdings, the Borrowers, the other Credit Parties signatory hereto and each Agent and when Administrative Agent shall have been notified by each Lender that such Lender has executed it. Thereafter, it shall be binding upon and inure to the benefit of, but only to the benefit of, Holdings, the Borrowers, the other Credit Parties hereto, each Agent, and each Lender receiving the benefits of the Loan Documents and, to the extent provided in Section 8.11, each other Secured Party and, in each case, their respective successors and permitted assigns. Except as expressly provided in any Loan Document (including in Sections 5.3 and 8.9), none of Holdings, the Borrowers, any other Credit Party, or any Agent shall have the right to assign any rights or obligations hereunder or any interest herein.

(b) Right to Assign. Each Lender may sell, transfer, negotiate or assign (a "**Sale**") all or a portion of its rights and obligations hereunder (including all or a portion

of its Commitments and its rights and obligations with respect to Loans and Letters of Credit) to:

(i) any existing Lender (other than a Non-Funding Lender, Impacted Lender or Excluded Person);

(ii) any Affiliate or Approved Fund of any existing Lender (other than a Non-Funding Lender, Impacted Lender or Excluded Person); or

(iii) any other Person (other than a natural person and, so long as no Event of Default is continuing, an Excluded Person) acceptable (which acceptance shall not be unreasonably withheld or delayed) to Agents (each an "**Eligible Assignee**"); provided, however, that:

(A) [Reserved];

(B) for each Loan, the aggregate outstanding principal amount (determined as of the effective date of the applicable Assignment) of the Loans and Commitments subject to any such Sale shall be in a minimum amount of $1,000,000, unless such Sale is made to an existing Lender or an Affiliate or Approved Fund of any existing Lender, is of the assignor's (together with its Affiliates and Approved Funds) entire interest in such facility or is made with the prior consent of the Borrower Representative (to the extent the Borrower Representative's consent is otherwise required) and Agents;

(C) interest accrued, other than any interest that is payable-in-kind, prior to and through the date of any such Sale may not be assigned; and

(D) such Sales by Lenders who are Non-Funding Lenders due to clause (a) of the definition of Non-Funding Lender shall be subject to Agents' prior written consent in all instances, unless in connection with such sale, such Non-Funding Lender cures, or causes the cure of, its Non-Funding Lender status as contemplated in Section 1.11(e)(v) and shall not be an Impacted Lender.

Agents' refusal to accept a Sale to a holder of Subordinated Indebtedness or a Person that would be a Non-Funding Lender or an Impacted Lender, or the imposition of conditions or limitations (including limitations on voting) upon Sales to such Persons, shall not be deemed to be unreasonable**.**

(c) Procedure. The parties to each Sale made in reliance on clause (b) above (other than those described in clause (e)or (f) below) shall execute and deliver to Administrative Agent an Assignment via an electronic settlement system designated by Administrative Agent (or, if previously agreed with Administrative Agent, via a manual

execution and delivery of the Assignment) evidencing such Sale, together with any existing Note subject to such Sale (or any affidavit of loss therefor reasonably acceptable to Administrative Agent and the Borrower Representative (whose consent shall not be unreasonably withheld, conditioned or delayed)), any Tax forms required to be delivered pursuant to Section 10.1 and all other requested "know your customer" documentation and information required by anti-money laundering rules and regulations, including, without limitation, the Patriot Act, and payment of an assignment fee in the amount of $3,500 to Administrative Agent, unless waived or reduced by Administrative Agent; provided that (i) if a Sale by a Lender is made to an Affiliate or an Approved Fund of such assigning Lender, then no assignment fee shall be due in connection with such Sale, and (ii) if a Sale by a Lender is made to an assignee that is not an Affiliate or Approved Fund of such assignor Lender, and concurrently to one or more Affiliates or Approved Funds of such assignee, then only one assignment fee of $3,500 shall be due in connection with such Sale (unless waived or reduced by Administrative Agent). Upon receipt of all the foregoing, and conditioned upon such receipt and, if such Assignment is made in accordance with clause (iii) of Section 9.9(b), upon Agents (and the Borrower Representative, if applicable) consenting to such Assignment, from and after the recordation date specified in such Assignment, Administrative Agent shall record or cause to be recorded in the Register the information contained in such Assignment.

(d) Effectiveness. ~~Subject to~~**From and after** the recording of an Assignment by Administrative Agent in the Register pursuant to Section 1.4(b), (i) the assignee thereunder shall become a party hereto and, to the extent that rights and obligations under the Loan Documents have been assigned to such assignee pursuant to such Assignment, shall have the rights and obligations of a Lender, (ii) any applicable Note shall be transferred to such assignee through such entry and (iii) the assignor thereunder shall, to the extent that rights and obligations under this Agreement have been assigned by it pursuant to such Assignment, relinquish its rights (except for those surviving the termination of the Commitments and the payment in full of the Secured Obligations) and be released from its obligations under the Loan Documents, other than those relating to events or circumstances occurring prior to such assignment (and, in the case of an Assignment covering all or the remaining portion of an assigning Lender's rights and obligations under the Loan Documents, such Lender shall cease to be a party hereto).

(e) Grant of Security Interests. In addition to the other rights provided in this Section 9.9, each Lender may grant a security interest in, or otherwise assign as collateral, any of its rights under this Agreement, whether now owned or hereafter acquired (including rights to payments of principal or interest on the Loans), to (A) any federal reserve bank (pursuant to Regulation A of the Federal Reserve Board), without notice to Agents or (B) any holder of, or trustee for the benefit of the holders of, such Lender's Indebtedness or equity securities, by notice to Agents; provided, however, that no such holder or trustee, whether because of such grant or assignment or any foreclosure thereon (unless such foreclosure is made through an assignment in accordance with clause (b) above), shall be entitled to any rights of such Lender hereunder and no such Lender shall be relieved of any of its obligations hereunder.

(f) Participants and SPVs. In addition to the other rights provided in this Section 9.9, each Lender may, (x) with notice to Agents, grant to an SPV the option to make all or any part of any Loan that such Lender would otherwise be required to make hereunder (and the exercise of such option by such SPV and the making of Loans pursuant thereto shall satisfy the obligation of such Lender to make such Loans hereunder) and such SPV may assign to such Lender the right to receive payment with respect to any Obligation and (y) without notice to or consent from Agents or the Borrowers, sell participations to one or more Persons other than an Excluded Person, a Credit Party, a Founder Group Member or an Affiliate of a Credit Party or a Founder Group Member in or to all or a portion of its rights and obligations under the Loan Documents (including all its rights and obligations with respect to the Term Loans **and the Delayed Draw Term Loan or any Incremental Delayed Draw Term Loan Commitment, as the case may be**); provided, however, that, whether as a result of any term of any Loan Document or of such grant or participation, (i) no such SPV or participant shall have a commitment, or be deemed to have made an offer to commit, to make Loans hereunder, and, except as provided in the applicable option agreement, none shall be liable for any obligation of such Lender hereunder, (ii) such Lender's rights and obligations, and the rights and obligations of the Credit Parties and the Secured Parties towards such Lender, under any Loan Document shall remain unchanged and each other party hereto shall continue to deal solely with such Lender, which shall remain the holder of the Obligations in the Register, except that (A) each such participant and SPV shall be entitled to the benefit of Article X, but, with respect to Section 10.1 and Section 10.3, such participant and SPV shall be subject to the requirements and limitations therein, and shall be entitled to the benefits thereunder only to the extent such participant or SPV delivers the Tax forms required to be delivered pursuant to Section 10.1(g) to the same extent as if it were a Lender (it being understood that the documentation required under Section 10.1(g) shall be delivered to the Participating Lender) and to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section and (B) each such SPV may receive other payments that would otherwise be made to such Lender with respect to Loans funded by such SPV to the extent provided in the applicable option agreement and set forth in a notice provided to Agents by such SPV and such Lender, provided, however, that in no case (including pursuant to clause (A) or (B) above) shall an SPV or participant have the right to enforce any of the terms of any Loan Document, and (iii) the consent of such SPV or participant shall not be required (either directly, as a restraint on such Lender's ability to consent hereunder or otherwise) for any amendments, waivers or consents with respect to any Loan Document or to exercise or refrain from exercising any powers or rights such Lender may have under or in respect of the Loan Documents (including the right to enforce or direct enforcement of the Obligations), except for those described in clauses (ii) and (iii) of Section 9.1(a) with respect to amounts, or dates fixed for payment of amounts, to which such participant or SPV would otherwise be entitled and, in the case of participants, except for those described in clause (vii) of Section 9.1(a). No party hereto shall institute (and the Borrowers and Holdings shall cause each other Credit Party not to institute) against any SPV grantee of an option pursuant to this clause (f) any bankruptcy, reorganization, insolvency, liquidation or similar proceeding, prior to the date that is one year and one

day after the payment in full of all outstanding commercial paper of such SPV; provided, however, that each Lender having designated an SPV as such agrees to indemnify each Indemnitee against any Liability that may be incurred by, or asserted against, such Indemnitee as a result of failing to institute such proceeding (including a failure to be reimbursed by such SPV for any such Liability). The agreement in the preceding sentence shall survive the termination of the Commitments and the payment in full of the Secured Obligations. Each Lender that makes a grant to an SPV or sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each SPV or participant and the principal amounts (and stated interest) of each SPV's 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 SPV or participant or any information relating to an SPV's or 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 or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations or where disclosure is otherwise required under the Code or 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, Agents shall have no responsibility for maintaining a Participant Register.

9.10 Non-Public Information; Confidentiality.

(a) MNPI. Each Agent and each Lender acknowledges and agrees that it may receive material non-public information ("**MNPI**") hereunder concerning the Credit Parties and their Affiliates and agrees to use such information in compliance with all relevant policies, procedures and applicable Requirements of Laws (including United States federal and state securities laws and regulations).

(b) Confidential Information. Each Agent and each Lender agrees to maintain the confidentiality of information obtained by it pursuant to any Loan Document (it being understood and agreed that all such information shall be deemed to be confidential except to the extent designated in writing by any Credit Party as non-confidential), except that such information may be disclosed, solely, as applicable, in the scope necessary for each subsequently stated purpose, (i) with the Borrower Representative's consent, (ii) on a "need to know" basis to Related Persons of such Lender or Agent, as the case may be, in each case, in connection with matters arising out of this Agreement and that are advised of the confidential nature of such information and are instructed to keep such information confidential in accordance with the terms hereof, (iii) to the extent such information presently is or hereafter becomes (A) publicly available other than as a result of a breach of this Section 9.10 or (B) available to such Lender or Agent or any of their Related Persons, as the case may be, on a non-confidential basis from a source (other than any

Credit Party or any of its representatives) not in violation of any confidentiality agreement or obligation owed to any Credit Party or its Related Persons with respect thereto, (iv) to the extent disclosure is required by applicable Requirements of Law or other compulsory legal process or requested or demanded by any Governmental Authority; provided, unless prohibited by Requirement of Law or court order, such Lender or Agent, as the case may be, shall make reasonable efforts to notify the Borrower Representative of any request by any Governmental Authority or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Person by such Governmental Authority) for disclosure of any such nonpublic information prior to disclosure of such information or, in any case, promptly notify the Borrower Representative thereof after such disclosure, (v) to the extent necessary or customary for inclusion in league table measurements (which disclosure shall not include any information other than the names of the Credit Parties and Secured Parties and customarily reported terms with respect to this Agreement), (vi) (A) to the National Association of Insurance Commissioners or any similar organization, any examiner or any nationally recognized rating agency or (B) otherwise to the extent consisting of general portfolio information that does not identify Credit Parties, (vii) on a "need to know" basis to current or prospective assignees, SPVs (including the investors or prospective investors therein), participants or any Eligible Assignee, direct or contractual counterparties to any Secured Rate Contracts and to their respective Related Persons, in each case to the extent such assignees, investors, participants, counterparties or Related Persons agree in writing to be bound by provisions substantially similar to the provisions of this Section 9.10 (and such Person may disclose information to their respective Related Persons in accordance with clause (ii) above), (viii) to any other party hereto, and (ix) in connection with the exercise or enforcement of any right or remedy under any Loan Document, in connection with any litigation or other proceeding to which such Lender or Agent or any of their Related Persons is a party or bound, or to the extent necessary to respond to public statements or disclosures by Credit Parties or their Related Persons referring to a Lender or Agent or any of their Related Persons. In addition, the Agents and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments. In the event of any conflict between the terms of this Section 9.10 and those of any other Contractual Obligation entered into with any Credit Party (whether or not a Loan Document), the terms of this Section 9.10 shall govern.

(c) Tombstones. The publication by Agents or any Lender of any press releases, tombstones, advertising or other promotional materials (including via any Electronic Transmission) relating to the financing transactions contemplated by this Agreement using Holdings' and the Borrowers' names, product photographs, logo or trademark; and all contents thereof, are subject to the prior written consent of the Borrower Representative (not to be unreasonably withheld or delayed).

(d) Press Release and Related Matters. No Credit Party shall, and no Credit Party shall permit any of its Affiliates to, issue any press release or other public disclosure (other than any document filed with any Governmental Authority relating to a public offering of securities of any Credit Party) using the name, logo or otherwise referring to RCS or of any of its Affiliates, the Loan Documents or any transaction contemplated herein or therein to which RCS or any of its Affiliates is party without the prior written consent of RCS or such Affiliate (not to be unreasonably withheld or delayed) except to the extent required to do so under applicable Requirements of Law and then, unless prohibited by applicable Requirements of Law or a court order, only after consulting with RCS.

(e) Distribution of Materials to Lenders. The Credit Parties acknowledge and agree that the Loan Documents and all reports, notices, communications and other information or materials provided or delivered by, or on behalf of, the Credit Parties hereunder (collectively, the "**Borrower Materials**") may be disseminated by, or on behalf of, Administrative Agent, and made available, to the Lenders by posting such Borrower Materials on an E-System. The Credit Parties authorize Agents to download copies of their logos from its website and post copies thereof on an E-System.

(f) Material Non-Public Information. The Credit Parties hereby agree that if either they, Holdings or any Subsidiary of the Credit Parties has publicly traded equity or debt securities in the United States, they shall (and shall cause Holdings or Subsidiary, as the case may be, to) (i) identify in writing, and (ii) to the extent reasonably practicable, clearly and conspicuously mark such Borrower Materials that contain only information that is publicly available or that is not material for purposes of United States federal and state securities laws as "PUBLIC". The Credit Parties agree that by identifying such Borrower Materials as "PUBLIC" or publicly filing such Borrower Materials with the Securities and Exchange Commission, then Agents and the Lenders shall be entitled to treat such Borrower Materials as not containing any MNPI for purposes of United States federal and state securities laws. The Credit Parties further represent, warrant, acknowledge and agree that the following documents and materials shall be deemed to be PUBLIC, whether or not so marked, and do not contain any MNPI: (A) the Loan Documents, including the schedules and exhibits attached thereto, and (B) administrative materials of a customary nature prepared by the Credit Parties or Agents (including, Notices of Borrowing, Notices of Conversion/Continuation, swingline requests and any similar requests or notices posted on or through an E-System). Before distribution of Borrower Materials, the Credit Parties agree to execute and deliver to Agents a letter authorizing distribution of the evaluation materials to prospective Lenders and their employees willing to receive MNPI, and a separate letter authorizing distribution of evaluation materials that do not contain MNPI and represent that no MNPI is contained therein.

9.11 Set-off; Sharing of Payments.

(a) Right of Setoff. Each Agent and each Lender and each Affiliate (including each branch office thereof) of any of them is hereby authorized, without notice or demand (each of which is hereby waived by each Credit Party), at any time and from time to time during the continuance of any Event of Default and to the fullest extent permitted by applicable Requirements of Law, to set off and apply any and all deposits (whether general or special, time or demand, provisional or final) at any time held and other Indebtedness, claims or other obligations at any time owing by Agent, such Lender, or any of their respective Affiliates to or for the credit or the account of the Borrowers or any other Credit Party against any Obligation of any Credit Party now or hereafter existing, whether or not any demand was made under any Loan Document with respect to such Obligation and even though such Obligation may be unmatured. No Lender shall exercise any such right of setoff without the prior consent of Agents or the Required Lenders. Each Agent and each Lender agrees promptly to notify the Borrower Representative and Agents after any such setoff and application made by such Lender or its Affiliates; provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights under this Section 9.11 are in addition to any other rights and remedies (including other rights of setoff) that Agent, the Lenders, their Affiliates and the other Secured Parties, may have.

(b) Sharing of Payments, Etc. If any Lender, directly or through an Affiliate or branch office thereof, obtains any payment of any Obligation of any Credit Party (whether voluntary, involuntary or through the exercise of any right of setoff or the receipt of any Collateral or "proceeds" (as defined under the applicable UCC) of Collateral) (and other than pursuant to Section 9.9, Section 9.22, Article X or any payment to a Lender that has not accepted an Extension Offer in respect of the original terms of those of its Loan and Commitments that, as to Lenders that accepted such Extension Offer, were extended as to such Lenders) and such payment exceeds the amount such Lender would have been entitled to receive if all payments had gone to, and been distributed by, Administrative Agent in accordance with the provisions of the Loan Documents, such Lender shall purchase for cash from other Lenders such participations in their Obligations as necessary for such Lender to share such excess payment with such Lenders to ensure such payment is applied as though it had been received by Administrative Agent and applied in accordance with this Agreement (or, if such application would then be at the discretion of the Borrowers, applied to repay the Obligations in accordance herewith); provided, however, that (i) if such payment is rescinded or otherwise recovered from such Lender in whole or in part, such purchase shall be rescinded and the purchase price therefor shall be returned to such Lender without interest and (ii) such Lender shall, to the fullest extent permitted by applicable Requirements of Law, be able to exercise all its rights of payment (including the right of setoff) with respect to such participation as fully as if such Lender were the direct creditor of the applicable Credit Party in the amount of such participation. If a Non-Funding Lender or Impacted Lender receives any such payment as described in the previous

sentence, such Lender shall turn over such payments to Administrative Agent in an amount that would satisfy the cash collateral requirements set forth in Section 1.11(e).

9.12 Counterparts; Electronic Transmission. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. Delivery of an executed signature page of this Agreement by facsimile transmission or Electronic Transmission shall be as effective as delivery of a manually executed counterpart hereof.

9.13 Severability. The illegality or unenforceability of any provision of this Agreement or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder.

9.14 Captions. The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

9.15 Independence of Provisions. The parties hereto acknowledge that this Agreement and the other Loan Documents may use several different limitations, tests or measurements to regulate the same or similar matters, and that such limitations, tests and measurements are cumulative and must each be performed, except as expressly stated to the contrary in this Agreement.

9.16 Interpretation. This Agreement is the result of negotiations among and has been reviewed by counsel to Credit Parties, Agents, each Lender and other parties hereto, and is the product of all parties hereto. Accordingly, this Agreement and the other Loan Documents shall not be construed against the Lenders or Agents merely because of Agents' or Lenders' involvement in the preparation of such documents and agreements. Without limiting the generality of the foregoing, each of the parties hereto has had the advice of counsel with respect to Sections 9.18 and 9.19.

9.17 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and legal benefit of the Borrowers and the Lenders party hereto**,** Agents and, subject to the provisions of Section 8.11, each other Secured Party, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents. Neither Agent nor any Lender shall have any obligation to any Person not a party to this Agreement or the other Loan Documents.

9.18 Governing Law and Jurisdiction.

(a) Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Agreement, including its validity, interpretation, construction, performance and enforcement (including any claims

sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest).

(b) Submission to Jurisdiction. Any legal action or proceeding with respect to any Loan Document shall be brought exclusively in the courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America for the Southern District of New York and, by execution and delivery of this Agreement, each Person executing this Agreement hereby accepts for itself and in respect of its Property, generally and unconditionally, the jurisdiction of the aforesaid courts; provided that nothing in this Agreement shall limit the right of any Agent to commence any proceeding in the federal or state courts of any other jurisdiction to the extent such Agent reasonably determines that such action is necessary or appropriate to exercise its rights or remedies under the Loan Documents with respect to the Collateral. The parties hereto (and, to the extent set forth in any other Loan Document, each other Credit Party) hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum *non conveniens*, that any of them may now or hereafter have to the bringing of any such action or proceeding in courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America for the Southern District of New York.

(c) Service of Process. Each party hereto hereby irrevocably waives personal service of any and all legal process, summons, notices and other documents and other service of process of any kind and consents to such service in any suit, action or proceeding brought in the United States with respect to or otherwise arising out of or in connection with any Loan Document by any means permitted by applicable Requirements of Law, including by the mailing thereof (by registered or certified mail, postage prepaid) to the address of such party specified herein (and shall be effective when such mailing shall be effective, as provided therein). Each party hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(d) Non-Exclusive Jurisdiction. Nothing contained in this Section 9.18 shall affect the right of any Agent or any Lender to serve process in any other manner permitted by applicable Requirements of Law or commence legal proceedings or otherwise proceed against any Credit Party in any other jurisdiction.

9.19 Waiver of Jury Trial. THE PARTIES HERETO, TO THE EXTENT PERMITTED BY LAW, WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, IN CONNECTION WITH OR RELATING TO, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ANY OTHER TRANSACTION CONTEMPLATED HEREBY AND THEREBY. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE. EACH PARTY HERETO (A) CERTIFIES THAT NO OTHER PARTY AND NO RELATED PERSON 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 THE LOAN DOCUMENTS, AS APPLICABLE, BY THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

9.20 Entire Agreement; Release; Survival.

(a) THE LOAN DOCUMENTS EMBODY THE ENTIRE AGREEMENT OF THE PARTIES AND SUPERSEDE ALL PRIOR AGREEMENTS AND UNDERSTANDINGS RELATING TO THE SUBJECT MATTER THEREOF AND ANY PRIOR LETTER OF INTEREST, COMMITMENT LETTER, CONFIDENTIALITY AND SIMILAR AGREEMENTS INVOLVING ANY CREDIT PARTY AND ANY LENDER OR ANY OF THEIR RESPECTIVE AFFILIATES RELATING TO A FINANCING OF SUBSTANTIALLY SIMILAR FORM, PURPOSE OR EFFECT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS AGREEMENT AND ANY OTHER LOAN DOCUMENT, THE TERMS OF THIS AGREEMENT SHALL GOVERN (UNLESS OTHERWISE EXPRESSLY STATED IN SUCH OTHER LOAN DOCUMENTS OR SUCH TERMS OF SUCH OTHER LOAN DOCUMENTS ARE NECESSARY TO COMPLY WITH APPLICABLE REQUIREMENTS OF LAW, IN WHICH CASE SUCH TERMS SHALL GOVERN TO THE EXTENT NECESSARY TO COMPLY THEREWITH).

(b) In no event shall any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings). Each of the Credit Parties and the Secured Parties hereby waives, releases and agrees (and, with respect to the Credit Parties, shall cause each other Credit Party to waive, release and agree) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(c) (i) Any indemnification or other protection provided to any Indemnitee pursuant to this Section 9.20, Sections 9.5 (Costs and Expenses), and 9.6 (Indemnity), and Article VIII (Agents) and Article X (Taxes, Yield Protection and Illegality), and (ii) the provisions of Section 8.1 of the Guaranty and Security Agreement, in each case, shall (x) survive the termination of the Commitments and the payment in full of all other Secured Obligations and (y) with respect to clause (i) above, inure to the benefit of any Person that at any time held a right thereunder (as an Indemnitee or otherwise) and, thereafter, its successors and permitted assigns.

9.21 USA Patriot Act; Beneficial Ownership Regulation. Each Lender that is subject to the USA Patriot Act (and Agents (for themselves and not on behalf of any Lender)) hereby notifies the Credit Parties that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Lender or Agent to identify each Credit Party in accordance with the USA Patriot Act. The Credit Parties shall, promptly following a request by Agent or any Lender, provide all

documentation and other information that Agent or such Lender reasonably requests in order to comply with its ongoing obligations under the Beneficial Ownership Regulation.

9.22 Replacement of Lender. Within forty-five days after: (i) receipt by the Borrower Representative of written notice and demand from (A) any Lender (an "**Affected Lender**") for payment of additional costs as provided in Sections 10.1, 10.3 and/or 10.6 or that has become a Non-Funding Lender or Impacted Lender or (B) any SPV or participant (an "**Affected SPV/Participant**") for payment of additional costs as provided in Section 9.9(f), unless the option or participation of such Affected SPV/Participant shall have been terminated prior to the exercise by Borrower Representative of its rights hereunder; or (ii) any failure by any Lender (other than Agent or an Affiliate of Agent) to consent to a requested amendment, waiver or modification to any Loan Document in which Required Lenders (or the relevant directly affected Lenders holding a majority of the Loans and Commitments of such group of directly affected Lenders) have already consented to such amendment, waiver or modification but the consent of each Lender (or each Lender directly affected thereby, as applicable) is required with respect thereto, or any failure by any Lender to accept any Extension Offer, the Borrower Representative may, at its option, notify (A) in the case of clause (i)(A) or (ii) above, Agents and such Affected Lender (or such non-consenting Lender) of the Borrower Representative's intention to obtain, at the Borrowers' expense, a replacement Lender ("**Replacement Lender**") for such Affected Lender (or such non-consenting Lender), or (B) in the case of clause (i)(B) above, Agents, such Affected SPV/Participant, if known, and the applicable Lender (such Lender, a "**Participating Lender**") that (1) granted to such Affected SPV/Participant the option to make all or any part of any Loan that such Participating Lender would otherwise be required to make hereunder or (2) sold to such Affected SPV/Participant a participation in or to all or a portion of its rights and obligations under the Loan Documents, of the Borrower Representative's intention to obtain, at the Borrowers' expense, a Replacement Lender for such Participating Lender, in each case, which Replacement Lender shall be reasonably satisfactory to Agents. In the event the Borrower Representative obtains a Replacement Lender within forty-five (45) days following notice of its intention to do so, the Affected Lender (or such non-consenting Lender) or Participating Lender, as the case may be, shall sell and assign its Loans and Commitments to such Replacement Lender (provided that no Excluded Person may be a Replacement Lender), at par, provided that the Borrowers have reimbursed such Affected Lender or Affected SPV/Participant, as applicable, for its increased costs for which it is entitled to reimbursement under this Agreement through the date of such sale and assignment, and in the case of a Participating Lender being replaced by a Replacement Lender, (x) all right, title and interest in and to the Obligations and Commitments so assigned to the Replacement Lender shall be assigned free and clear of all Liens or other claims (including pursuant to the underlying option or participation granted or sold to the Affected SPV/Participant, but without affecting any rights, if any, of the Affected SPV/Participant to the proceeds constituting the purchase price thereof) of the Affected SPV/Participant, and (y) to the extent required by the underlying option or participation documentation, such Participating Lender shall apply all or a portion of the proceeds received by it as a result of such assignment, as applicable, to terminate in full the option or participation of such Affected SPV/Participant. In the event that a replaced Lender does not execute an Assignment pursuant to Section 9.9 within five (5) Business Days after receipt by such replaced Lender of notice of replacement pursuant to this Section 9.22 and presentation to such replaced

Lender of an Assignment evidencing an assignment pursuant to this Section 9.22, the Borrower Representative shall be entitled (but not obligated) to execute such an Assignment on behalf of such replaced Lender, and any such Assignment so executed by the Borrower Representative, the Replacement Lender (provided that no Excluded Person may be a Replacement Lender) and Agents, shall be effective for purposes of this Section 9.22 and Section 9.9. Notwithstanding the foregoing, with respect to a Lender that is a Non-Funding Lender or Impacted Lender, Agents may, but shall not be obligated to, obtain a Replacement Lender (provided that no Excluded Person may be a Replacement Lender) and execute an Assignment on behalf of such Non-Funding Lender or Impacted Lender at any time with three (3) Business Days' prior notice to such Lender (unless notice is not practicable under the circumstances) and cause such Lender's Loans and Commitments to be sold and assigned, in whole or in part, at par. Upon any such assignment and payment and compliance with the other provisions of Section 9.9, such replaced Lender shall no longer constitute a "**Lender**" for purposes hereof; provided, any rights of such replaced Lender to indemnification hereunder shall survive.

9.23 Joint and Several. The obligations of the Credit Parties hereunder and under the other Loan Documents are joint and several. Without limiting the generality of the foregoing, reference is hereby made to Article II of the Guaranty and Security Agreement, to which the obligations of the Borrowers and the other Credit Parties are subject.

9.24 Creditor-Debtor Relationship. The relationship between Agents and each Lender on the one hand, and the Credit Parties, on the other hand, is solely that of creditor and debtor. No Secured Party has any fiduciary relationship or duty to any Credit Party arising out of or in connection with, and there is no agency, tenancy or joint venture relationship between the Secured Parties and the Credit Parties by virtue of, any Loan Document or any transaction contemplated therein.

9.25 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 Credit Party to honor all of its payment obligations under the Guaranty and Security Agreement in respect of Swap Obligations under any Secured Rate Contract (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 9.25 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 9.25, or otherwise under the Guaranty and Security Agreement, voidable under applicable Requirements of Law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 9.25 shall remain in full force and effect until the guarantees in respect of Swap Obligations under each Secured Rate Contract have been discharged, or otherwise released or terminated in accordance with the terms of this Agreement. Each Qualified ECP Guarantor intends that this Section 9.25 constitute, and this Section 9.25 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Credit Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

9.26 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement,

arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

9.27 Borrower Representative. Each Borrower hereby designates and appoints Holdings as its representative and agent on its behalf (the "**Borrower Representative**") for the purposes of (a) issuing Notices of Borrowing, Notices of Conversion/Continuation, swingline requests and any similar requests or notices, (b) delivering certificates, including Compliance Certificates, (c) giving instructions with respect to the disbursement of the proceeds of the Loans, (d) selecting interest rate options, giving and receiving all other notices and consents hereunder or under any of the other Loan Documents and (e) taking all other actions (including in respect of compliance with covenants, but without relieving any other Borrower of its joint and several obligations to pay and perform the Obligations) on behalf of any Borrower or the Borrowers under the Loan Documents. The Borrower Representative hereby accepts such appointment. Agents and each Lender may regard any notice or other communication pursuant to any Loan Document from the Borrower Representative as a notice or communication from all Borrowers. Each warranty, covenant, agreement and undertaking made on behalf of a Borrower by the Borrower Representative shall be deemed for all purposes to have been made by such Borrower and shall be binding upon and enforceable against such Borrower to the same extent as if the same had been made directly by such Borrower.

ARTICLE X

TAXES, YIELD PROTECTION AND ILLEGALITY

10.1 Taxes.

(a) Except as required by a Requirement of Law, each payment by any Credit Party under any Loan Document shall be made free and clear of 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) with respect thereto (collectively, "**Taxes**").

(b) If any Taxes shall be required by any Requirement of Law (as determined in good faith discretion of the relevant Credit Party or other withholding agent) to be deducted or withheld from or in respect of any amount payable under any Loan Document to any Lender or Agent (each, a "**Recipient**") then (i) if such Tax is an Indemnified Tax, such amount payable by the Credit Party shall be increased as necessary to ensure that, after all required deductions for Indemnified Taxes are made (including deductions applicable to any increases to any amount under this Section 10.1), such Recipient receives the amount it would have received had no such deductions been made, (ii) the relevant withholding agent shall make such deductions or withholdings, (iii) the relevant withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Requirements of Law and (iv) as soon as practicable after such payment is made, the relevant Credit Party shall deliver to Administrative Agent an original or certified copy of a receipt issued by such Governmental Authority evidencing such payment or other evidence of payment reasonably satisfactory to Administrative Agent.

(c) In addition, but without duplication of amounts otherwise payable by a Credit Party pursuant to this Article X, the Borrowers agree to pay, and authorizes Administrative Agent to pay in its name, any stamp, court or documentary, intangible, recording, filing or similar Tax imposed by any applicable Requirement of Law or Governmental Authority and all interest, additions to tax, or penalties with respect thereto (including by reason of any delay in payment thereof), in each case 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, grant of a participation, designation of a new office for receiving payments by or on account of the Borrowers or other transfer (other than an assignment or designation of a new office made pursuant to Section 9.22) (collectively, "**Other Taxes**"). As soon as practicable after the date of any payment of Other Taxes by any Credit Party, the Borrowers shall furnish to Administrative Agent, at its address referred to in Section 9.2, the original or a certified copy of a receipt issued by the relevant Governmental Authority evidencing payment thereof or other evidence of payment reasonably satisfactory to Administrative Agent.

(d) The Borrowers shall reimburse and indemnify, within ten (10) days after receipt of demand therefor (with copy to Administrative Agent), each Recipient for all Indemnified Taxes (including any Indemnified Taxes imposed by any jurisdiction on amounts payable under this Section 10.1) paid or payable by such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally asserted. A certificate of the Recipient (or of Agent on behalf of such Recipient) claiming any compensation under this clause (d), setting forth in reasonable detail the nature and amounts of Indemnified Taxes to be paid thereunder and delivered to the Borrower with copy to Administrative Agent, shall be conclusive absent manifest error.

(e) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 10.1 shall not constitute a waiver of such Lender's right to demand such compensation; provided, however that the Borrowers shall not be required to compensate a Lender pursuant to this Section 10.1 for any Indemnified Taxes incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative of the event giving rise to such Indemnified Tax and of such Lender's intention to claim compensation therefor; provided further, that if the event giving rise to such Indemnified Tax is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(f) Any Lender claiming any additional amounts payable pursuant to this Section 10.1 shall use its reasonable efforts (consistent with its internal policies of general application and Requirements of Law) to change the jurisdiction of its Lending Office if such a change would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender. In determining such amount, Agent and such Lender may use any reasonable averaging and attribution methods.

(g)

(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 Representative and the Administrative Agent, at the time or times reasonably requested by the Borrower Representative or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower Representative 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 Representative or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower Representative or the Administrative Agent as will enable the Borrower Representative 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 described in this paragraph (g)(i) (other than such documentation set forth in paragraphs (g)(ii), (iii) and (iv) of this Section) 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) Each Non-U.S. Lender Party that, at any of the following times, is entitled to an exemption from United States withholding Tax or, is subject to such withholding Tax at a reduced rate under an applicable Tax treaty, shall (w) on or prior to the date such Non-U.S. Lender Party becomes a "Non-U.S. Lender Party" hereunder, (x) on or prior to the date on which any such form or certification expires or becomes obsolete, (y) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (ii) and (z) from time to time if reasonably requested by the Borrower Representative or Administrative Agent and at the time or times prescribed by a Requirement of Law (or, in the case of a participant or SPV, the relevant Lender), provide Administrative Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed and executed originals of each of the following, as applicable: (A) Forms W-8ECI (claiming exemption from U.S. withholding Tax because the income is effectively connected with a U.S. trade or business), W-8BEN or W-8BEN-E (claiming exemption from, or a reduction of, U.S. withholding Tax under an income Tax treaty (x) with respect to payments of interest under any Loan Document, pursuant to the "interest" article of such tax treaty, and (y) with respect to any other payments under any Loan Document, pursuant to the "business profits" or "other income" article of such tax treaty) and/or W-8IMY (together with appropriate forms, certifications and supporting statements from each beneficial owner, as applicable) or any successor forms, (B) in the case of a Non-U.S. Lender Party claiming exemption under Sections 871(h) or 881(c) of the Code, Form W-8BEN or W-8BEN-E (claiming exemption from U.S. withholding Tax under the portfolio interest exemption) or any successor form and a certificate in form and substance acceptable to Administrative Agent that such Non-U.S. Lender Party is not (1) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (2) a "10 percent shareholder" of Holdings or a Borrower within the meaning of Section 881(c)(3)(B) of the Code or (3) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code or (C) any other applicable document prescribed by the IRS certifying as to the entitlement of such Non-U.S. Lender Party to such exemption from United States withholding Tax or reduced rate with respect to all payments to be made to such Non-U.S. Lender Party under the Loan Documents. Unless the Borrower Representative and Administrative Agent have received forms or other documents reasonably satisfactory to them indicating that payments under any Loan Document to or for a Non-U.S. Lender Party are not subject to United States withholding Tax or are subject to such Tax at a rate reduced by an applicable Tax

treaty, the Credit Parties and Administrative Agent shall be entitled to withhold amounts required to be withheld by applicable Requirements of Law from such payments at the applicable statutory rate.

(iii) Each U.S. Lender Party shall (A) on or prior to the date such U.S. Lender Party becomes a "U.S. Lender Party" hereunder, (B) on or prior to the date on which any such form or certification expires or becomes obsolete, (C) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (iii) and (D) from time to time if reasonably requested by the Borrower Representative or Administrative Agent and at the time or times prescribed by a Requirement of Law (or, in the case of a participant or SPV, the relevant Lender), provide Administrative Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed and executed originals of Form W-9 (certifying that such U.S. Lender Party is entitled to an exemption from U.S. backup withholding Tax) or any successor form.

(iv) Each Lender having sold a participation in any of its Obligations or identified an SPV as such to Administrative Agent shall collect from such participant or SPV the documents described in this clause (g) and provide them to Administrative Agent.

(v) If a payment made to a Lender Party would be subject to United States federal withholding Tax imposed by FATCA if such Lender Party fails to comply with the applicable reporting requirements of FATCA (including those contained in Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender Party shall deliver to Administrative Agent and the Borrower Representative at the time or times prescribed by law and at such time or times reasonably requested by Borrower Representative or Administrative Agent any documentation under any Requirement of Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) or reasonably requested by Administrative Agent or the Borrower Representative sufficient for Administrative Agent or the Borrowers to comply with their obligations under FATCA and to determine that such Lender Party has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for the purposes of this clause (v), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(vi) On or before the date the Agents become a party to this Agreement, the Agents shall provide to the Borrower Representative, two duly-signed, properly completed copies of the documentation prescribed in clause (i) or (ii) below, as applicable (together with all required attachments thereto): (i) IRS Form W-9 or any successor thereto, or (ii) (A) IRS Form W-8ECI or any successor thereto, and (B) with respect to payments received on account of any Lender, a U.S. branch withholding certificate on IRS Form W-8IMY or any

successor thereto evidencing its agreement with the Borrowers to be treated as a U.S. person for U.S. federal withholding purposes. At any time thereafter, the Agents shall provide updated documentation previously provided (or a successor form thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower Representative.

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, provide such successor form, or promptly notify the Borrower Representative and the Agents in writing of its legal inability to do so.

(h) If any ~~indemnified~~ party determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes as to which it has been indemnified pursuant to this Section 10.1 (including by the payment of additional amounts pursuant to Section 10.1(b)), it shall pay to the relevant indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 10.1 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 Section 10.1(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 Section 10.1(h), in no event shall the indemnified party be required to pay any amount to a indemnifying party pursuant to this Section 10.1(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 and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 10.1(h) 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.

10.2 Illegality. If after the date hereof any Lender shall determine that the introduction of any Requirement of Law, or any change in any Requirement of Law or in the interpretation or administration thereof, has made it unlawful, or that any central bank or other Governmental Authority has asserted that it is unlawful, for any Lender or its Lending Office to make SOFR Rate Loans, then, on notice thereof by such Lender to the Borrower Representative through Administrative Agent, the obligation of that Lender to make SOFR Rate Loans shall be suspended until such Lender shall have notified Administrative Agent and the Borrower Representative that the circumstances giving rise to such determination no longer exists.

(a) Subject to clause (c) below, if any Lender shall determine that it is unlawful to maintain any SOFR Rate Loan, the Borrowers shall prepay in full all SOFR Rate Loans of such Lender then outstanding, together with interest accrued thereon, either on the last day of the Interest Period thereof if such Lender may lawfully continue to maintain such SOFR Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such SOFR Rate Loans, together with any amounts required to be paid in connection therewith pursuant to Section 10.4.

(b) If the obligation of any Lender to make or maintain SOFR Rate Loans has been terminated, the Borrowers may elect, by giving notice to such Lender through Agent that all Loans which would otherwise be made by any such Lender as SOFR Rate Loans shall be instead Base Rate Loans.

(c) Before giving any notice to Administrative Agent pursuant to this Section 10.2, the affected Lender shall designate a different Lending Office with respect to its SOFR Rate Loans if such designation will avoid the need for giving such notice or making such demand and will not, in the judgment of the Lender, be illegal or otherwise disadvantageous to the Lender.

10.3 Increased Costs and Reduction of Return.

(a) If any Lender shall determine that, due to either (i) the introduction of, or any change in, or in the interpretation of, any Requirement of Law or (ii) the compliance with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), in the case of either clause (i) or (ii) subsequent to the date hereof, (x) there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining any SOFR Rate Loans or (y) the Lender shall be subject to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (e) 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, then the Borrowers shall be liable for, and shall from time to time, within thirty (30) days of demand therefor by such Lender (with a copy of such demand to Administrative Agent), pay to Administrative Agent for the account of such Lender, additional amounts as are sufficient to compensate such Lender for such increased costs or such Taxes; provided, that the Borrowers shall not be required to compensate any Lender pursuant to this Section 10.3(a) for any increased costs incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative, in writing of the increased costs and of such Lender's intention to claim compensation thereof; provided, further, that if the circumstance giving rise to such increased costs is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If any Lender shall have determined that:

(i) the introduction of any Capital Adequacy Regulation;

(ii) any change in any Capital Adequacy Regulation;

(iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof; or

(iv) compliance by such Lender (or its Lending Office) or any entity controlling the Lender, with any Capital Adequacy Regulation;

affects the amount of capital required or expected to be maintained by such Lender or any entity controlling such Lender and (taking into consideration such Lender's or such entities' policies with respect to capital adequacy and such Lender's desired return on capital) determines that the amount of such capital is increased as a consequence of its Commitment(s), loans, credits or obligations under this Agreement, then, within thirty (30) days of demand of such Lender (with a copy to Administrative Agent), the Borrowers shall pay to such Lender, from time to time as specified by such Lender, additional amounts sufficient to compensate such Lender (or the entity controlling the Lender) for such increase; provided, that the Borrowers shall not be required to compensate any Lender pursuant to this Section 10.3(b) for any amounts incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative, in writing of the amounts and of such Lender's intention to claim compensation thereof; provided, further, that if the event giving rise to such increase is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(c) Notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case in respect of this clause (ii) pursuant to Basel III, shall, in each case, be deemed to be a change in a Requirement of Law under Section 10.3(a) above and/or a change in Capital Adequacy Regulation under Section 10.3(b) above, as applicable, regardless of the date enacted, adopted or issued.

10.4 Funding Losses. The Borrowers agree to reimburse each Lender and to hold each Lender harmless from any loss or expense which such Lender may sustain or incur as a consequence of:

(a) the failure of the Borrowers to make any payment or mandatory prepayment of principal of any SOFR Rate Loan as and when due hereunder (including payments made after any acceleration thereof);

(b) the failure of the Borrowers to borrow, continue or convert a Loan after the Borrower Representative has given (or is deemed to have given) a Notice of Borrowing or a Notice of Conversion/Continuation;

(c) the failure of the Borrowers to make any prepayment after the Borrower Representative has given a notice in accordance with Section 1.7;

(d) the prepayment (including pursuant to Section 1.7 or Section 1.8) of a SOFR Rate Loan on a day which is not the last day of the Interest Period with respect thereto; or

(e) the conversion pursuant to Section 1.6 of any SOFR Rate Loan to a Base Rate Loan on a day that is not the last day of the applicable Interest Period;

including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its SOFR Rate Loans hereunder or from fees payable to terminate the deposits from which such funds were obtained; provided that, with respect to the expenses described in clauses (d) and (e) above, such Lender shall have notified Administrative Agent of any such expense within two (2) Business Days of the date on which such expense was incurred. Solely for purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 10.4 and under Section 10.3(a): each SOFR Rate Loan made by a Lender (and each related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the SOFR used in determining the interest rate for such SOFR Rate Loan by a matching deposit or other borrowing in the interbank Eurodollar market for a comparable amount and for a comparable period, whether or not such SOFR Rate Loan is in fact so funded.

10.5 [Reserved].

10.6 [Reserved].

10.7 Certificates of Lenders. Any Lender claiming reimbursement or compensation pursuant to this Article X shall deliver to the Borrower Representative (with a copy to Agent) a certificate setting forth in reasonable detail the amount payable to such Lender hereunder and such certificate shall be conclusive and binding on the Borrowers in the absence of manifest error.

ARTICLE XI

DEFINITIONS

11.1 Defined Terms. The following terms are defined in the Section referenced opposite such terms:

"Administrative Agent"	Preamble
"**Affected Lender**"	9.22
"**Affected SPV/Participant**"	9.22
"**Agents**"	Preamble
"**Aggregate Excess Funding Amount**"	1.11(e)(iv)

"**Agreement**"	Preamble
"**Anti-Corruption Laws**"	3.25(c)
"**Borrower(s)**"	Preamble
"**Borrower Materials**"	9.10(e)
"**Borrower Representative**"	9.27
"**BRCB**"	Preamble
"BRCR"	Preamble
"**BRD**"	Preamble
"**BRR**"	Preamble
"**BRSO**"	Preamble
"BRSO PNW"	Preamble
"BRSO 67th"	Preamble
"**Cash Flow**"	Exhibit 4.2(b)
"Collateral Agent"	Preamble
"Collateral Agent Advances"	8.15
"**Compliance Certificate**"	4.2(b)
"DDTL Funding Conditions"	**1.5(c)**
"Delayed Draw Term Loan Commitment Fee"	**1.5(c)**
"**EBITDA**"	Exhibit 4.2(b)
"**ECF Payment Date**"	1.8(e)
"**Eligible Assignee**"	9.9(b)(iii)
"Equity Recap Distributions"	5.8(f)
"Erroneous Payment"	**8.16**
"**Event of Default**"	7.1
"**Excess Cash Flow**"	Exhibit 4.2(b)
"**Excluded Accounts**"	4.11
"**Extended Term Loans**"	9.1(f)(iii)
"**Extended Term Loan Commitment**"	9.1(f)(iii)
"**Extending Term Lender**"	9.1(f)(iii)
"**Extension**"	9.1(f)
"**Extension Offer**"	9.1(f)
"**FCPA**"	3.25(c)
"**Fee Letter**"	1.9(a)
"**Fixed Charge Coverage Ratio**"	6.1(b) and Exhibit 4.2(b)
~~"Founder Group Members Pledge Agreements~~**Fourth Amendment Term Loan"**	~~Article IV~~**1.1(b)**
"**Holdings**"	Preamble
"Increase Effective Date"	**1.14(a)**
"Increase Joinder"	**1.14(d)**
"Incremental Delayed Draw Term Loan"	**1.14(b)(i)**
"Incremental Delayed Draw Term Loan Commitment"	**1.14(a)**
"Incremental Delayed Draw Term Loan Lenders"	**1.14(a)**

"Incremental Delayed Draw Term Loan Maturity Date"	**1.14(c)(ii)**
"**Indemnified Matters**"	9.6(a)
"**Indemnitee**"	9.6(a)
"**Investments**"	5.4
"**Lender**" and "**Lenders**"	Preamble
"**Maximum Lawful Rate**"	1.3(d)
"**MNPI**"	9.10(a)
"**Net Interest Expense**"	Exhibit 4.2(b)
"**Non-Recurring Expenses**"	Exhibit 4.2(b)
"**Notice of Conversion/Continuation**"	1.6(a)
"**OFAC**"	3.25(a)
"OID"	**1.14(c)(iv)**
"**Other Taxes**"	10.1(c)
"**Participant Register**"	9.9(f)
"**Participating Lender**"	9.22
"**Permitted Liens**"	5.1
"**Prepayment Period**"	1.7(c)
"Principal Place of Business"	3.9(b)
"**RCS**"	Preamble
"**Recipient**"	10.1(b)
"**Register**"	1.4(b)
"**Rejection Notice**"	1.8(h)
"**Restricted Payments**"	5.8
"**Replacement Lender**"	9.22
"**Sale**"	9.9(b)
"**Sanctioned Country**"	3.25(a)
"**Sanctions**"	3.25(a)
"**SDN List**"	3.25(a)
"**Senior Leverage Ratio**"	Exhibit 4.2(b)
"**Tax Returns**"	3.10
"**Taxes**"	10.1(a)
"**Term Loan A**"	1.1(a)
"**TSC**"	Preamble

In addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

"**Account**" means, as at any date of determination, all "accounts" (as such term is defined in the UCC) of a Borrower and its Subsidiaries, including the unpaid portion of the obligation of a customer of a Borrower or any of its Subsidiaries in respect of Inventory purchased by and shipped to such customer and/or the rendition of services by a Borrower or such Subsidiary, as

stated on the respective invoice of a Borrower or such Subsidiary, net of any credits, rebates or offsets owed to such customer.

"**Account Debtor**" means the customer of a Borrower or any of its Subsidiaries who is obligated on or under an Account.

"**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 (including by way of a merger or other business combination) and (b) the acquisition of in excess of fifty percent (50%) of the Stock and Stock Equivalents of any Person or otherwise causing any Person to become a Subsidiary of a Borrower (in either case, including by way of a merger or other business combination).

"Adjusted Term SOFR Rate" means the sum of: (i) the Term SOFR Screen Rate, and (ii) 0.11448% (11.448 basis points) for an Available Tenor of one-month's duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months' duration, and 0.42826% (42.826 basis points) for an Available Tenor of six-months' duration; provided that, if the Adjusted Term SOFR Rate determined as provided above shall ever be less than the Floor, then the Adjusted Term SOFR Rate shall be deemed to be the Floor.

"**Affected Financial Institution**" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"**Affiliate**" means, with respect to any Person, any Person that directly or indirectly controls, is controlled by, or is under common control with, such Person; provided, however, that no Secured Party shall be an Affiliate of any Credit Party or of any Subsidiary of any Credit Party solely by reason of the provisions of the Loan Documents. For purposes of this definition, "**control**" means the possession of either (a) the power to vote, or the beneficial ownership of, 10% or more of the voting Stock of such Person (either directly or through the ownership of Stock Equivalents) or (b) the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, any director, officer or general partner that owns ten percent (10%) or more of the Stock (either directly or through ownership of Stock Equivalents) of a Person shall for purposes of this agreement be deemed an Affiliate of such other Person.

"**Aggregate Term Loan Commitment**" means **the sum of (a)** the combined Term Loan Commitments of the Lenders, which shall initially be in the amount up to $80,000,000, **and (b) the combined Fourth Amendment Term Loan Commitments of the Fourth Amendment Term Lenders, which shall initially be in the amount up to $12,500,000,** as **each** such amount may be reduced from time to time pursuant to this Agreement.

"**Applicable Margin**" means~~,~~ (a) from the ~~**Third**~~**Fourth** Amendment Effective Date through the date upon which the Administrative Agent receives a Compliance Certificate pursuant to Section 4.2(b) for the fiscal quarter ended June 30, 202~~3~~4, Pricing Level ~~1~~2 below, and (b) from and after delivery of the Compliance Certificate referred to in clause (a), the applicable rate per annum set forth below determined by reference to the Total Net Leverage

Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 4.2(b):

		Applicable Margin	
Pricing Level	Total Net Leverage Ratio	Term SOFR Loans	Base Rate Loans
1	~~>~~5~~4~~.25:1.00	6.50% plus the PIK Amount	5.50% plus the PIK Amount
2	~~>~~>3.25:1.00, but <~~5.~~4.25:1.00	6.00% plus the PIK Amount	5.00% plus the PIK Amount
3	<3.25:1.00	~~5.50% plus the PIK Amount~~6.00%	~~4.50% plus the PIK Amount~~5.00%

"PIK Amount" means, in all instances, 0.50%

Any increase or decrease in the Applicable Margin resulting from a change in the Total Net Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 4.2(b); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Lenders, Pricing Level 1 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and in each case shall remain in effect until the date on which such Compliance Certificate is delivered.

In the event that the Administrative Agent and the Borrowers determine in good faith that any financial statement or Compliance Certificate delivered pursuant to Sections 4.1(a) or 4.2(b), respectively, is inaccurate, and such inaccuracy, if corrected, would have led to a higher Applicable Margin pursuant to clause (b) above for any period (an "Applicable Period") than the Applicable Margin pursuant to clause (b) above applied for such Applicable Period, then (i) the Borrowers shall immediately deliver to the Administrative Agent a correct Compliance Certificate for such Applicable Period, (ii) the Applicable Margin pursuant to clause (b) above shall be determined by reference to the corrected Compliance Certificate (but in no event shall the Lenders owe any amounts to the Borrowers), and (iii) the Borrowers shall within five (5) Business Days of demand therefor by the Administrative Agent pay to the Administrative Agent the additional interest or fees owing as a result of such increased Applicable Margin pursuant to clause (b) above for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with the terms hereof; provided, that (x) any nonpayment of such additional interest or fees shall not constitute a Default or Event of Default until the expiration of such five (5) Business Day period and (y) no such amounts shall be deemed overdue or accrue interest at the rate pursuant to Section 1.3(c) until the expiration of such five

(5) Business Day period; provided, further, that if, as a result of such correction, a proper calculation of the Total Net Leverage Ratio would have resulted in higher pricing for one or more periods and lower pricing for one or more other periods (due to the shifting of income or other expenses from one period to another period or any similar reason), then the amount payable by the Borrowers pursuant to clause (iii) above shall be based upon the excess, if any, of the amount of interest and fees that should have been paid for all Applicable Periods over the amount of interest and fees paid for all such periods.

"**Applicable Prepayment Premium**" means, at the date of determination (i) during the period from the Closing Date through the first anniversary of the Closing Date, an amount equal to 2.00% times the principal amount of the Term Loan prepaid on such date, (ii) during the period after the first anniversary of the Closing Date and through the second anniversary of the Closing Date, an amount equal to 1.00% times the principal amount of the Term Loan prepaid on such date and (iii) 0% thereafter.

"**Approved Fund**" means, with respect to any Lender, any Person (other than a natural Person) that (a) (i) 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 Business or (ii) temporarily warehouses loans for any Lender or any Person described in clause (i) above and (b) is advised or managed by (i) such Lender, (ii) any Affiliate of such Lender or (iii) any Person (other than an individual) or any Affiliate of any Person (other than an individual) that administers or manages such Lender.

"A&R Holdings LLC Agreement" means the ~~**Fifth**~~**Sixth** Amended and Restated Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC dated on or about and as in effect on the ~~**Third**~~**Fourth** Amendment Effective Date.

"**Assignment**" means an assignment agreement entered into by a Lender, as assignor, and any Person, as assignee, pursuant to the terms and provisions of Section 9.9 (with the consent of any party whose consent is required by Section 9.9), and accepted by Administrative Agent, substantially in the form of Exhibit 11.1(a) or any other form approved by Administrative Agent.

"**Attorney Costs**" means and includes all reasonable and invoiced fees and out-of-pocket disbursements of one external counsel and any necessary local counsel in each relevant jurisdiction (and, solely in the event of a conflict of interest, one additional primary legal external counsel (and, if necessary, one additional local external counsel in each relevant jurisdiction)), in each case, for Agents, the Secured Parties and any Related Persons as a group and selected by Agents.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current 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 or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, pursuant to this Agreement as of such date.

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

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

"**Bank Product**" means any of the following products, services or facilities extended to any Credit Party or any Subsidiary by any Bank Product Provider: (a) cash management services; and (b) commercial credit card, purchase card and merchant card services; provided, however, that for any of the foregoing to be included as "Secured Obligations" for purposes of a distribution under Section 1.11(c), the applicable Bank Product Provider must have previously provided a written notice to the Administrative Agent which shall provide the following information: (i) the existence of such Bank Product and (ii) the maximum dollar amount of obligations arising thereunder, which must be satisfactory to both Agents in their sole discretion (the "Bank Product Amount"). The Bank Product Amount may be changed from time to time upon written notice to each Agent by the Bank Product Provider. Any Bank Product established from and after the time that the Lenders have received written notice from the Borrowers or the Administrative Agent that an Event of Default exists and is continuing, until such Event of Default has been waived in accordance with Section 9.1, shall not be included as "Secured Obligations" for purposes of a distribution under Section 1.11(c).

"**Bank Product Amount**" has the meaning set forth in the definition of Bank Product.

"**Bank Product Debt**" means the Indebtedness and other obligations of any Credit Party or Subsidiary relating to Bank Products.

"**Bank Product Provider**" means any Person that provides Bank Products to a Credit Party or any Subsidiary to the extent that such Person is a Lender, an Affiliate of a Lender or any other Person that was a Lender (or an Affiliate of a Lender) at the time it entered into the Bank Product but has ceased to be a Lender (or whose Affiliate has ceased to be a Lender) under this Agreement.

"**Bankruptcy Code**" means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. §101 *et seq.*, as amended and in effect from time to time.

"**Base Rate**" for any day the greatest of (a) 2.50% per annum, (b) the Federal Funds Rate plus 0.5%, (c) the Prime Rate, and (d) the Adjusted Term SOFR Rate for a one-month tenor in effect on such date plus 1.0%; provided that for purposes of determining the Base Rate during any period that the Term SOFR Screen Rate is unavailable (as determined by the Administrative

Agent), the Base Rate shall be determined using, for clause (d) hereof, the Term SOFR Screen Rate in effect immediately prior to the Term SOFR Screen Rate becoming unavailable plus, in each instance.

"**Base Rate Loan**" means a Loan that bears interest based on the Base Rate.

"BE Facility Agreement" means, collectively, the transactions contemplated by that certain Loan Agreement between Viking Cake and BEL 44, LLC, an Arizona limited liability company ("BE Lending"), together with its successors and assigns, dated as of February 23, 2023 (the "BE Loan Agreement"), the Promissory Note of Viking Cake in favor of BE Lending dated February 23, 2023 in the maximum principal amount of $10,000,000, the "Deed of Trust", "Guaranty", "Mortgage", "Environmental Indemnity Agreement" and each of the other "Loan Documents", as each such term is defined in the BE Loan Agreement.

"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 1.12.

"Benchmark Replacement" means either of the following to the extent selected by the Administrative Agent:

(1) Daily Simple SOFR; or

(2) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower Representative 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.

If the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor for SOFR Rate Loans, the Benchmark Replacement will be deemed to be the Floor for SOFR Rate Loans 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 pursuant to clause (2) thereof for any applicable Interest Period and Available Tenor for any setting of such 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 Representative for the applicable Benchmark giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for

calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities that are substantially similar to the credit facilities under this Agreement.

"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 the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

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

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

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

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

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

"Benchmark 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 1.12 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 1.12.

"**Beneficial Ownership Certification**" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation, which certification shall be in form and substance reasonably acceptable to Administrative Agent, and as of the Closing Date, substantially similar in form and substance to the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly in May 2018 by the Loan Syndications and Trading Association and Securities Industry and Financial Markets Association.

"**Beneficial Ownership Regulation**" means 31 C.F.R. § 1010.230.

"**Board of Directors**" means, for any Person, the board of directors (or equivalent governing body) of such Person or, if such Person does not have such a board of directors (or equivalent governing body) and is owned or managed by another entity or entities, the board of directors (or equivalent governing body) of such entity or entities.

"**Borrowing**" means a borrowing hereunder consisting of Loans made to or for the benefit of the Borrowers on the same day by the Lenders pursuant to Article I.

"**Business Day**" means any day that is not a Saturday, Sunday or a day on which banks are required or authorized to close in New York City; provided that, when used in connection with SOFR, Term SOFR, Term SOFR Screen Rate or Term SOFR Rate, the term "Business

Day" excludes any day on which the Securities Industry and Financial Markets Association (SIFMA) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"**Capital Adequacy Regulation**" means any guideline, request or directive of any central bank or other Governmental Authority, or any other law, rule or regulation, whether or not having the force of law, in each case, regarding capital adequacy of any Lender or of any corporation controlling a Lender.

"**Capital Lease**" means, with respect to any Person, any lease of, or other arrangement conveying the right to use, any Property by such Person as lessee that has been or should be accounted for as a capital lease on a balance sheet of such Person prepared in accordance with GAAP, subject to the last sentence of Section 11.3.

"**Capital Lease Obligations**" means, at any time, with respect to any Capital Lease, any lease entered into as part of any sale leaseback transaction of any Person or any synthetic lease, the amount of all obligations of such Person that is (or that would be, if such synthetic lease or other lease were accounted for as a Capital Lease) capitalized on a balance sheet of such Person prepared in accordance with GAAP, subject to the last sentence of Section 11.3.

"**Cash Equivalents**" means (a) any readily-marketable securities (i) issued by, or directly, unconditionally and fully guaranteed or insured by the United States federal government or (ii) issued by any agency of the United States federal government the obligations of which are fully backed by the full faith and credit of the United States federal government, (b) any readily-marketable direct obligations issued by any other agency of the United States federal government, any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case having a rating of at least "A-1" from S&P or at least "P-1" from Moody's, (c) any commercial paper rated at least "A-1" by S&P or "P-1" by Moody's and issued by any Person organized under the laws of any state of the United States, (d) any Dollar-denominated time deposit, insured certificate of deposit, overnight bank deposit or bankers' acceptance issued or accepted by (i) any Lender or (ii) any commercial bank that is (A) organized under the laws of the United States, any state thereof or the District of Columbia, (B) "adequately capitalized" (as defined in the regulations of its primary federal banking regulators) and (C) has Tier 1 capital (as defined in such regulations) in excess of $250,000,000 and (e) shares of any United States money market fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clause (a), (b), (c) or (d) above with maturities as set forth in the proviso below, (ii) has net assets in excess of $500,000,000 and (iii) has obtained from either S&P or Moody's the highest rating obtainable for money market funds in the United States; provided, however, that the maturities of all obligations specified in any of clauses (a), (b), (c) or (d) above shall not exceed 365 days.

"Cash Interest Portion" means, with respect to each interest payment on each Interest Payment Date, an amount equal to accrued interest on such Interest Payment Date minus the PIK Amount.

~~**"City Brew Acquisition" means the purchase by a Credit Party of all of the issued and outstanding ownership interests of, or all or substantially all of the assets of, City Roasting Company LLC, a Wyoming limited liability company.**~~

"**Class**" (a) when used with respect to Commitments, refers to ~~a~~**whether such Commitment is a Term Loan Commitment, Delayed Draw Term Loan Commitment, Incremental Delayed Draw Term Loan Commitment** or Extended Term Loan Commitment, (b) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are initial Term Loans, **Delayed Draw Term Loans, Incremental** Delayed Draw Term Loans or Extended Term Loans that result from the same Extension, and (c) when used with respect to any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments. Notwithstanding the foregoing, Commitments (and in each case, the Loans made pursuant to such Commitments) that have identical terms and conditions shall be construed to be in the same Class.

"**Closing Date**" means April 29, 2022.

"**Closing Leverage**" means 4.91:1.00.

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

"**Collateral**" means all Property and interests in Property and proceeds thereof now owned or hereafter acquired by any Credit Party in or upon which a Lien is granted, purported to be granted, or now or hereafter exists in favor of any Lender or Collateral Agent for the benefit of Agents, Lenders and other Secured Parties, whether under this Agreement or under any other documents executed by any Credit Party and delivered to Collateral Agent. Notwithstanding the foregoing, Collateral shall not include Excluded Collateral (as defined in the Guaranty and Security Agreement).

"**Collateral Access Agreement**" means any landlord waiver or other agreement, in form or substance satisfactory to the Agents, between the Collateral Agent and any third party (including any landlord, bailee, consignee, customs broker, or other Person) in possession of any Collateral or acting as landlord of any real property where any Collateral is located, as such landlord waiver or other agreement may be amended, restated, supplemented or otherwise modified from time to time.

"**Collateral Documents**" means, collectively, the Guaranty and Security Agreement, the Mortgages, each Collateral Access Agreement, each Control Agreement and all other security agreements, pledge agreements, patent and trademark security agreements, lease assignments, guaranties and other similar agreements, and all amendments, restatements, modifications or supplements thereof or thereto, by or between any one or more of any Credit Party pledging or granting a lien on Collateral or guaranteeing the payment and performance of the Obligations, and any Lender or Agent for the benefit of Agents, the Lenders and other Secured Parties now or hereafter delivered to the Lenders or Agents pursuant to or in connection with the transactions contemplated hereby, and all financing statements (or comparable documents now or hereafter filed in accordance with the UCC or comparable law) against any such Person as debtor in favor

of any Lender or Agent for the benefit of Agents, the Lenders and the other Secured Parties, as secured party, as any of the foregoing may be amended, restated and/or modified from time to time.

"**Commitment**" means, for each Lender, **the sum of** its Term Loan Commitment **and Delayed Draw Term Loan Commitment (or Incremental Delayed Draw Term Loan Commitment, as the case may be)**.

"**Commitment Percentage**" means, as to any Lender, the percentage equivalent of such Lender's Term Loan Commitment **or Delayed Draw Term Loan Commitment or Incremental Delayed Draw Term Loan Commitment, as the case may be,** divided by the Aggregate Term Loan Commitment **and Delayed Draw Term Loan Commitment or Incremental Delayed Draw Term Loan Commitment, as the case may be**, as applicable; provided that after any Term Loan**, Delayed Draw Term Loan or Incremental Delayed Draw Term Loan** has been funded, Commitment Percentages shall be determined for such Term Loan **(including any funded Delayed Draw Term Loan and Incremental Delayed Draw Term Loan)** by reference to the outstanding principal balances thereof as of any date of determination rather than the Commitments therefor; provided, further, that following acceleration of the Loans, such term means, as to any Lender, the percentage equivalent of the principal amount of the Loans held by such Lender, divided by the aggregate principal amount of the Loans held by all Lenders.

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

"**Common Units**" has the meaning given such term in the A&R Holdings LLC Agreement as in effect on the Closing Date.

"Conforming Changes" means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "Term SOFR Screen Rate", the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 1.12 and other technical, administrative or operational matters) that the Administrative Agent decide 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 decide that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determine that no market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent decide 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 income (however denominated) or that are franchise Taxes or branch profit Taxes.

"**Consolidated EBITDA**" means, for any Measurement Period, for any Person, without duplication, an amount equal to Consolidated Net Income for such period plus (a) the following to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges for such period, (ii) the provision for federal, state, local and foreign income taxes (and franchise tax in the nature of income tax) payable by such Person for such period, (iii) depreciation and amortization expense, (iv) other non-cash items of such Person reducing Consolidated Net Income which do not represent a cash item in such period or any future period (and excludes write-downs of accounts and inventory), (v) any extraordinary, exceptional, unusual or non-recurring items, charges, expenses or losses not otherwise described or contemplated under any of the other numbered clauses or sub-clauses including initial public offering expenses and costs and expenses related to growth objectives; provided that (A) such items, charges, expenses or losses are reasonably identifiable, factually supportable and described in a reasonably detailed statement certified by a Responsible Officer of the Borrower Representative and (B) the aggregate amount added back pursuant to this clause (v) plus the amount added back pursuant to clause (ix) below shall not exceed twenty percent (20.0%) of Consolidated EBITDA for any Measurement Period (without giving effect to such addbacks), (vi) an amount equal to the difference between Rental Expense as determined pursuant to GAAP and Rental Expense as determined on a cash basis (if GAAP basis Rental Expense is greater than cash basis Rental Expense), (vii) an amount equal to the pre-opening costs of each Store opened and incurred during such Measurement Period not to exceed $125,000 per Store, (viii) transaction fees, costs and expenses incurred and paid (A) to the Agents, Lenders or their counsel in connection with any amendment or waiver of the Loan Documents; ~~and~~ (B) to counsel on behalf of the Credit Parties in connection with the BE Facility Agreement, the Cynosure 2023 Preferred Equity Agreement, **the Fourth Amendment Related Transactions (including for the avoidance of doubt, and without limitation, the sale and issuance of Series A-1 Preferred Units on May 20, 2024 in order to fund the repurchase of Series A Preferred Units pursuant to and in accordance with the terms and provisions of the Series A Redemption Agreement), the Second Tranche Preferred Unit Redemption** and any amendment or waiver of the Loan Documents**; and (C) to the Agents, Lenders, holders of Preferred Equity or each's respective counsel in connection with the Fourth Amendment Related Transactions and the Second Tranche Preferred Unit Redemption (including, without limitation, the payment of fees in connection with the aforementioned transactions in the aggregate amount of $4,000,000, as and when paid, pursuant to the Cynosure Fee Letter)**; provided in each instance that such transaction fees, costs and expenses are reasonably identifiable, and certified by a Responsible Officer of the Borrower Representative, and (ix) new store run rate adjustment equal to $~~20~~150,000 per store, less actual contribution to Consolidated EBITDA from each such store for the first twelve (12) months after the grand opening, provided, that the amount added back pursuant to this clause (ix), plus the amount added back pursuant to clause (v) above, shall not exceed twenty present (20.0%) of Consolidated EBITDA for any Measurement Period (without giving effect to such addbacks) minus (b) the following to the extent included in calculating such Consolidated Net Income for such period: (i) Federal, state, local and foreign income tax credits of such Person for such period, (ii) all non-cash items increasing Consolidated Net Income for such period, (iii) any gain from extraordinary items or net gains from disposition of property outside of ordinary course of business, (iv) an amount equal to the difference between Rental Expense as determined on a cash basis and Rental

Expense as determined pursuant to GAAP (if cash basis Rental Expense is greater than GAAP basis rental expense), and (v) whether or not included in calculating Consolidated Net Income for such period, the aggregate amount of Restricted Payments under Section 5.8(g) during such period.

"**Consolidated Interest Charges**" means, for any period, for any Person, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of such Person paid in cash (and non- cash to the extent provided below) in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP and (b) the portion of rent expense of such Person with respect to such period under Capital Leases and Synthetic Lease Obligations that is treated as interest in accordance with GAAP. For purposes of calculating Consolidated EBITDA, such Consolidated Interest Charges shall include both cash and any non-cash interest charges. For the avoidance of doubt, the "Yield Maintenance Premium" of up to $27,000,000 paid by Holdings in connection with the conversion of the Subordinated Term Loans to Preferred Equity Obligations as part of the Existing Debt Refinancing Transactions and any paid-in-kind yield on such Preferred Equity Obligations and Existing Preferred Units shall be excluded from the calculation of Consolidated Interest Charges.

"**Consolidated Net Income**" means, for any period, for any Person on a consolidated basis, the net income of such Person for that period determined in accordance with GAAP.

"Consolidated Total Debt" means, at any date of determination, the aggregate principal amount of the outstanding Term Loans and other Funded Indebtedness, in each case for Holdings and the Borrowers on a consolidated basis. For avoidance of doubt, Preferred Equity Obligations and Existing Preferred Units are excluded when calculating Consolidated Total Debt.

"**Contingent Acquisition Consideration**" means any earn-out obligation or similar deferred obligation of a Borrower or any of its Subsidiaries incurred or created in connection with any Permitted Acquisition (as defined in the Credit Agreement prior to the Third Amendment Effective Date).

"Contingent Obligation" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person: (a) with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (b) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (c) under any Rate Contracts; (d) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (e) for the obligations of another Person through any agreement to purchase, repurchase or otherwise acquire such obligation or any Property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another Person. The amount of any Contingent Obligation shall be equal to the outstanding

amount of the primary obligation so guarantied or otherwise supported or, if not a fixed and determined amount, the maximum amount so guarantied or supported.

"**Contractual Obligations**" means, as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, deed of trust or other instrument, document or agreement (other than a Loan Document) to which such Person is a party or by which it or any of its Property is bound or to which any of its Property is subject.

"**Control Agreement**" means, with respect to any deposit account, securities account, commodity account, securities entitlement or commodity contract, an agreement, in form and substance reasonably satisfactory to Agents, among Collateral Agent, the financial institution or other Person at which such account is maintained or with which such entitlement or contract is carried and the Credit Party maintaining such account or owning such entitlement or contract, effective to grant "control" (within the meaning of Articles 8 and 9 under the applicable UCC) over such account to Collateral Agent.

"**Conversion Date**" means any date on which the Borrower Representative converts a Base Rate Loan to a Term SOFR ~~Rate~~ Loan or a Term SOFR ~~Rate~~ Loan to a Base Rate Loan.

"**Copyrights**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to copyrights and all mask work, database and design rights, whether or not registered or published, all registrations and recordations thereof and all applications in connection therewith.

"**Credit Parties**" means the Borrowers, Holdings and the other Guarantors and **"Credit Party"** means any of the foregoing.

"Cynosure 2023 Preferred Equity Agreement" means that certain Securities Purchase Agreement, dated as of the Third Amendment Effective Date **(and as amended by that certain Amendment to Securities Purchase Agreement, dated as of May 20, 2024)**, providing for the purchase by the investors named therein of ~~at least~~ $25,000,000 of Preferred Equity of Holdings on the Third Amendment Effective Date and an additional $~~25~~**10**,000,000 of such Preferred Equity on or prior to the ~~first anniversary of the Third~~**Fourth** Amendment Effective Date, all on terms and conditions set forth in such agreement.

"Cynosure Fee Letter" means that certain fee letter by and among Holdings, Cynosure Partners 2020, LP, Cynosure Partners 2020 PV, LP, Cynosure Partners 2020 Co-Investment LLC, Cynosure Partners III, LP, Riverside Credit Solutions Fund I, LP and RCS I Blocker I, LLC, dated on or about the Fourth Amendment Effective Date.

"Daily Simple SOFR" means for any day, an interest rate per annum equal to SOFR plus 0.11448% (11.448 basis points), 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 their reasonable discretion.

"Davis Services Agreement" means that certain Services Agreement, dated as of March 23, 2023, by and between Holdings and Mark Davis, as in effect on the Fourth Amendment Effective Date.

"**Default**" means any event or circumstance that, with the passing of time or the giving of notice or both, would (if not cured or otherwise remedied during such time) become an Event of Default.

"Delayed Draw Availability Period" means the period beginning on the Fourth Amendment Effective Date and ending on the earlier to occur of (a) September 30, 2025 and (b) the date upon which the Delayed Draw Term Loan Commitment shall have been fully funded or reduced to zero ($0.00) by the Borrowers in accordance with Section 1.7(b).

"Delayed Draw Term Facility" means the Delayed Draw Term Loan Commitments and the Delayed Draw Term Loans provided to or for the benefit of the Borrower pursuant to the terms of this Agreement.

"Delayed Draw Term Lender" means any Lender with a Delayed Draw Term Loan Commitment or an outstanding Delayed Draw Term Loan.

"Delayed Draw Term Loan" means any term loan made by the Delayed Draw Term Lenders to the Borrower pursuant to Section 1.1(c).

"Delayed Draw Term Loan Commitment" means, with respect to each Delayed Draw Term Lender, the commitment of such Delayed Draw Term Lender to make a Delayed Draw Term Loan hereunder in an aggregate amount not to exceed the applicable amount set forth opposite such Delayed Draw Term Lender's name on Schedule 1.1 or in the Assignment pursuant to which such Delayed Draw Term Lender becomes a party hereto, as the same may be (a) reduced from time to time pursuant to Section 1.7, (b) increased from time to time pursuant to Section 1.14 or (c) reduced or increased from time to time pursuant to assignments by or to such Delayed Draw Term Lender pursuant to Section 9.8. The aggregate amount of the Delayed Draw Term Lenders' Delayed Draw Term Loan Commitments on the Fourth Amendment Effective Date is $25,000,000. The Delayed Draw Term Loan Commitment of each Delayed Draw Term Lender shall expire on the last day of the Delayed Draw Availability Period if not funded in accordance with Section 1.1(c)..

"Delayed Draw Term Loan Funding Fee" means a fee payable from proceeds of each Delayed Draw Term Loan and Incremental Delayed Draw Term Loan in an amount equal to one percent (1.00%) of such Delayed Draw Term Loan or Incremental Delayed Draw Term Loan, as applicable.

"**Development Overview Report**" means the Development Overview Report in the form delivered by the Borrower Representative to the Lenders prior to the Closing Date.

"**Disposition**" means the sale, lease, conveyance or other disposition of Property.

"**Disqualified Stock**" means any Stock or Stock Equivalent which, by its terms (or by the terms of any security or other Stock into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days following the final maturity date of the Term Loans at the time of issuance (excluding any provisions requiring redemption upon a "change of control" or similar event; provided that such "change of control" or similar event would result in the prior payment in full in cash of the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), the termination of all commitments to lend hereunder and the termination of this Agreement), (b) is convertible into or exchangeable for (i) debt securities or (ii) any Stock or Stock Equivalents referred to in clause (a) above, in each case, at any time on or prior to the date that is ninety-one (91) days following the final maturity date of the Term Loans at the time of issuance, or (c) is entitled to receive scheduled dividends or distributions in cash (except for distributions for taxes attributable to the operations of the business) prior to the time that the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) are paid in full in cash.

"**Division**" means, in reference to any Person which is an entity, the division of such Person into two (2) or more separate Persons with the dividing Person either continuing or terminating its existence as part of the division including as contemplated under Section 18-217 of the Delaware Limited Liability Act for limited liability companies formed under Delaware law or any analogous action taken pursuant to any applicable law with respect to any corporation, limited liability company, partnership or other entity. The word "***Divide***", when capitalized shall have correlative meaning.

"**Dollars**", "**dollars**" and "**$**" each mean lawful money of the United States.

"**Domestic Subsidiary**" means any Subsidiary incorporated, organized or otherwise formed under the laws of the United States, any state thereof or the District of Columbia.

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

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

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

"**E-Fax**" means any system used to receive or transmit faxes electronically.

"**E-Signature**" means the process of attaching to or logically associating with an Electronic Transmission an electronic symbol, encryption, digital signature or process (including the name or an abbreviation of the name of the party transmitting the Electronic Transmission) with the intent to sign, authenticate or accept such Electronic Transmission.

"**E-System**" means any electronic system approved by Agents, including DebtX, Syndtrak®, Intralinks® and ClearPar® and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by Agents, any of its Related Persons or any other Person, providing for access to data protected by passcodes or other security system.

"**Electronic Transmission**" means each document, instruction, authorization, file, information and any other communication transmitted, posted or otherwise made or communicated by e-mail or E-Fax, or otherwise to or from an E-System.

"**Environmental Laws**" means all Requirements of Law relating to the protection of human health and safety (from exposure to Hazardous Materials), the environment and natural resources, and including transaction-triggered environmental transfer statutes.

"**Environmental Liabilities**" means all Liabilities (including costs of Remedial Actions, natural resource damages and costs and expenses of investigation and feasibility studies, including the reasonable and documented cost of environmental consultants and Attorney Costs) that may be imposed on, incurred by or asserted against any Credit Party or any Subsidiary of any Credit Party as a result of, or related to, any written claim, suit, action, investigation, proceeding or written demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law or otherwise, arising under any Environmental Law, including without limitation those Liabilities arising in connection with any Release and resulting from the ownership, lease, sublease or other operation or occupation of Real Estate by any Credit Party or any Subsidiary of any Credit Party, whether on, prior or after the date hereof.

"**Equity Contribution**" means all amounts received by Holdings or any of the other Credit Parties in consideration of the issuance by any of them of any Stock or Stock Equivalents.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**ERISA Affiliate**" means, collectively, any Credit Party, any Subsidiary of a Credit Party, and any Person under common control or treated as a single employer with any Credit Party or any Subsidiary of a Credit Party, within the meaning of Section 414(b) or (c) of the Code (and, for purposes of Section 302 of ERISA and each "applicable section" under Section 414(t)(2) of the Code, under Section 414(b), (c), (m) or (o) of the Code).

"**ERISA Event**" means any of the following: (a) a reportable event described in Section 4043(c) of ERISA (unless the 30-day notice requirement has been duly waived under the applicable regulations) occurs with respect to a Title IV Plan; (b) the withdrawal of any ERISA Affiliate from a Title IV Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (c) liability with respect

to the "withdrawal" or "partial withdrawal" (as such terms are defined in Part I of Subtitle E of Title IV of ERISA) of any ERISA Affiliate from any Multiemployer Plan; (d) with respect to any Multiemployer Plan, the filing of a notice of reorganization, insolvency or termination (or treatment of a plan amendment as termination) under Section 4041A of ERISA; (e) the filing of a notice of intent to terminate a Title IV Plan (or treatment of a plan amendment as termination) under Section 4041 of ERISA; (f) the institution of proceedings to terminate a Title IV Plan or Multiemployer Plan by the PBGC; (g) the failure of any ERISA Affiliate to make any required contribution to any Title IV Plan or Multiemployer Plan unless such failure is cured within thirty (30) days; (h) the imposition of a Lien under Section 412 or 430(k) of the Code or Section 303 or 4068 of ERISA on any property (or rights to property, whether real or personal) of any ERISA Affiliate (i) the failure of a Title IV Plan or any trust thereunder intended to qualify for tax exempt status under Section 401 or 501 of the Code; (j) a Title IV plan is in "at risk" status within the meaning of Code Section 430(i); (k) a Multiemployer Plan is in "endangered status" or "critical status" within the meaning of Section 432(b) of the Code; and (l) any other event or condition that would reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan or for the imposition of any material liability upon any ERISA Affiliate under Title IV of ERISA other than for PBGC premiums due but not delinquent.

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

"**Event of 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.

"**Excess Cash Flow Reference Period**" means, on any date of determination, the period commencing on the first day of the immediately preceding Fiscal Year and ending on the last day of such Fiscal Year.

"**Excluded Domestic Holdco**" means a Domestic Subsidiary substantially all of the assets of which consist, directly or indirectly of Stock (or Stock and indebtedness) of one or more Foreign Subsidiaries or Excluded Domestic Subsidiaries.

"**Excluded Domestic Subsidiary**" means any Domestic Subsidiary that is (a) a direct or indirect Subsidiary of a Foreign Subsidiary, (b) an Excluded Domestic Holdco, (c) a captive insurance company, and (d) a not-for-profit Subsidiary.

"**Excluded Person**" means (a) any Credit Party or any Subsidiary or Affiliate thereof, (b) any Founder Group Member or Affiliate thereof and (c) any other natural person. Until the disclosure of the identity of an Excluded Person to the Lenders generally by the Administrative Agent, such Person shall not constitute an Excluded Person for purposes of a sale of a participation in a Loan (as opposed to an assignment of a Loan) by a Lender.

"**Excluded Rate Contract Obligation**" means, with respect to any Guarantor, any guarantee of any Swap Obligations under a Secured Rate Contract if, and only to the extent that and for so long as, 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 under a Secured Rate Contract (or any guarantee thereof) is or becomes illegal or unlawful 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 to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time the guarantee of such Guarantor or the grant of such security interest would otherwise have become effective with respect to such Swap Obligation under a Secured Rate Contract but for such Guarantor's failure to constitute an "eligible contract participant" at such time. If a Swap Obligation under a Secured Rate Contract arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation under a Secured Rate Contract that is attributable to swaps for which such guarantee or security interest is or becomes illegal or unlawful 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).

"**Excluded Subsidiary**" means (a)(i) any Excluded Domestic Subsidiary described in clauses (a) and (b) of the definition thereof and (ii) any Foreign Subsidiary, and (b) any Domestic Subsidiary that is prohibited by law, rule or regulation from providing a guaranty.

"**Excluded Taxes**" means with respect to any Recipient: (a) Taxes imposed on or measured by net income (however denominated) and franchise Taxes and branch profits taxes, in each case (i) imposed on any Recipient as a result of 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 to the extent imposed pursuant to a Requirement of Law in effect on the date that such Person became a Lender under this Agreement (other than pursuant to Section 9.22) or designates a new Lending Office, except in each case to the extent such Person is a direct or indirect assignee of any other Lender that was entitled, at the time the assignment to such Person became effective, to receive additional amounts under Section 10.1(b) or such Lender was entitled to receive additional amount under Section 10.1(b) immediately before it changed its Lending Office; (c) Taxes that are directly attributable to the failure by any Recipient to deliver the documentation required to be delivered pursuant to Section 10.1(g); (d) any withholding Taxes imposed under FATCA; and (e) Taxes excluded from the definition of Other Taxes.

"**Existing Debt Agreements**" means, collectively, (a) that certain Credit Agreement, dated as of June 29, 2021, by and among Holdings, and the Borrowers, as borrowers or guarantors, and Bank Midwest, a division of NHB Bank, as Administrative Agent for the Lenders named therein, as amended, supplemented or otherwise modified prior to the Closing Date, (b) the Subordinated Term Loan Agreement.

"**Existing Debt Refinancing Transactions**" means the refinancing, repayment (and, in the case of the Subordinated Term Loan Agreement, conversion to Preferred Equity) of the Indebtedness outstanding under the Existing Debt Agreements, the termination of all commitments under the Existing Debt Agreements and termination and release of any and all Liens and guarantees in connection therewith.

"Existing Preferred Units" means the aggregate ~~19,974,660~~ Preferred Units held by ~~Jeremy Brand, Jack Brand and Rob Hernandez in the respective amounts set forth on Schedule A to the A&R Holdings LLC Agreement~~Viking Cake BR as of immediately prior to the Fourth Amendment Effective Date.

~~"Existing Preferred Unit Redemption" means, following the consummation of the Equity Recap Transaction and concurrent satisfaction of the Pro Forma Compliance Conditions in accordance with Section 5.8(f), the redemption or repurchase by Holdings of some or all of the issued and outstanding Existing Preferred Units for a price not to exceed the amount specified in clause (2) of such Section 5.8(f).~~

"Extraordinary Receipts" shall mean any cash received by any Credit Party consisting of (a) pension plan reversions, (b) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action (other than to the extent such proceeds are (i) payable to a Person that is not an Affiliate of Holdings or any of its Subsidiaries, or (ii) received by any Credit Party as reimbursement for any costs previously incurred or any payment previously made by such Person to a Person that is not an Affiliate of Holdings or any of its Subsidiaries (c) indemnity payments (other than to the extent such indemnity payments are (i) payable to a Person that is not an Affiliate of Holdings or any of its Subsidiaries, or (ii) received by any Credit Party as reimbursement for any costs previously incurred or any payment previously made by such Person to a Person that is not an Affiliate of Holdings or any of its Subsidiaries and (d) any purchase price adjustment (other than working capital adjustments) received in connection with any purchase agreement.

"**Facility Termination Date**" means the date on which (a) all Commitments have terminated and (b) all Loans and all other Obligations (excluding contingent indemnification Obligations as to which no claim has been asserted) under the Loan Documents and, solely for purposes of Section 8.10(b)(v), all Secured Obligations arising under Secured Rate Contracts (other than those for which the Borrowers have entered into an alternative arrangement with the provider of such Secured Rate Contract acceptable thereto), that Agents have theretofore been notified in writing by the holder of such Secured Obligation are then due and payable have been paid and satisfied in full and all Secured Obligations arising under Bank Products provided by a Bank Product Provider that the Agents have theretofore been notified in writing by the holder of such Secured Obligation are then due and payable, in each case, have been paid and satisfied in full in cash.

"**FATCA**" means Sections 1471, 1472, 1473 and 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), current or future United States Treasury Regulations promulgated thereunder and published guidance or official interpretations with respect thereto,

any agreements entered into pursuant to Section 1471(b)(1) of the Code and any applicable intergovernmental agreements with respect thereto (including any fiscal or regulatory legislation, rules or practices adopted pursuant to any such intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code).

"**Federal Flood Insurance**" means federally backed Flood Insurance available under the National Flood Insurance Program to owners of real property improvements located in Special Flood Hazard Areas in a community participating in the National Flood Insurance Program.

"**Federal Funds Rate**" means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System as published on the next succeeding Business Day by the Federal Reserve Board, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

"**FEMA**" means the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security that administers the National Flood Insurance Program.

"**FIRREA**" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"**Fiscal Month**" means any of the monthly accounting periods of the Credit Parties ending on January 31, February 28 (or February 29, if applicable), March 31, April 30, May 31, June 30, July 31, August 31, September 30, October 31, November 30 and December 31 of each year.

"**Fiscal Quarter**" means any of the quarterly accounting periods of the Credit Parties ending on March 31, June 30, September 30 and December 31 of each year.

"**Fiscal Year**" means any of the annual accounting periods of the Credit Parties ending on December 31 of each year.

"**Flood Insurance**" means, for any Real Estate of a Credit Party located in a Special Flood Hazard Area, Federal Flood Insurance or private insurance reasonably satisfactory to Collateral Agent, in either case, that (a) meets the requirements set forth by FEMA in its *Mandatory Purchase of Flood Insurance Guidelines*, and (b) shall have a coverage amount equal to the lesser of (i) the "replacement cost value" of the buildings and any personal property Collateral located on the Real Estate as determined under the National Flood Insurance Program or (ii) the maximum policy limits set under the National Flood Insurance Program.

"Floor" means, with respect to SOFR Rate Loans, a rate of interest equal to 1.00%, and with respect to Base Rate Loans, a rate of interest equal to 2.50%.

"**Foreign Subsidiary**" means, with respect to any Person, a Subsidiary of such Person, which Subsidiary is not a Domestic Subsidiary.

"Fourth Amendment" means that certain Fourth Amendment and Limited Waiver to Credit Agreement, dated as of the Fourth Amendment Effective Date, by and among, the Credit Parties, the Lenders and the Agents.

"Fourth Amendment Effective Date" means May 31, 2024.

"Fourth Amendment Fee Letter" means that certain Fourth Amendment Fee letter agreement dated as of the Fourth Amendment Effective Date among the Borrower Representative (on behalf of the Borrowers) and the Agents.

"Fourth Amendment Related Transactions" means, collectively, (a) the execution and delivery by the Credit Parties of the Fourth Amendment and other Loan Documents executed in connection therewith; (b) the Borrowing of the Fourth Amendment Term Loans; (c) the execution and delivery by the Credit Parties of (i) the A&R Holdings LLC Agreement, (ii) the Series A Redemption Agreement and (iii) the Cynosure Fee Letter, (d) the redemption by Holdings of $10,000,000 of Existing Preferred Units pursuant to and in accordance with the terms and provisions of the aforementioned Series A Redemption Agreement; and (e) the payment of all fees, costs and expenses in connection with the foregoing (including, without limitation, the payment of fees in the amount of $1,500,000 pursuant to the Cynosure Fee Letter).

"Fourth Amendment Term Lender" means each Lender that has a Fourth Amendment Term Loan Commitment.

"Fourth Amendment Term Loan Commitment" as to each Fourth Amendment Term Lender, its obligation to make a Term Loan to the Borrowers hereunder, expressed as an amount in dollars representing the maximum principal amount of such Term Loan to be made by such Fourth Amendment Term Lender under this Agreement, as such commitment may be reduced or increased from time to time pursuant to assignments by or to such Fourth Amendment Term Lender pursuant to an Assignment. The initial amount of each Fourth Amendment Term Lender's Fourth Amendment Term Loan Commitment is set forth on Schedule 1.1(a) under the caption "Fourth Amendment Term Loan Commitment" or, otherwise, in the Assignment pursuant to which such Fourth Amendment Term Lender shall have assumed its Fourth Amendment Term Loan Commitment, as the case may be. The aggregate amount of the Fourth Amendment Term Loan Commitment on the Fourth Amendment Effective Date is $12,500,000. The Fourth Amendment Term Loan Commitment of each Fourth Amendment Term Lender set forth on Schedule 1.1(a) as in effect on the Fourth Amendment Effective Date shall expire on the Fourth Amendment Effective Date if not funded in accordance with Section 1.1(b) on the Fourth Amendment Effective Date.

"**Founder Group Members**" means, severally, any of Viking Cake BR, ~~LLC, a Delaware limited liability company,~~ Jeffrey Hernandez, Daniel Brand, Jake Spellmeyer, Bryan

Pereboom and, with respect to each individual, their spouse and any trust under which such individual or their spouse are trustees or beneficiaries.

"Founder Group Members Pledge Agreements" means, collectively, **(i)** the Limited Guaranty and Pledge Agreement of Viking Cake BR ~~, LLC~~ in favor of the Collateral Agent, dated as of April 29, 2022, ~~and~~ **(ii)** the **Second** Amended and Restated Limited Guaranty and Pledge Agreements ~~dated as of January 13, 2023~~ of Daniel Brand, Jeffrey Hernandez, Jake Spellmeyer~~,~~ **and** Bryan Pereboom, **each in favor of the Collateral Agent, and each dated as of the Fourth Amendment Effective Date and (iii) the Limited Guaranty and Pledge Agreements of** Vahalda, LLC and Aureata, LLC, **each** in favor of the Collateral Agent, **and** each ~~as~~**dated as of January 13, 2023, as each of the foregoing may be** amended**, restated, amended and restated, supplemented and/or otherwise modified** from time to time.

"**Franchise Agreement**" means an agreement entered into by any Credit Party pursuant to which such Credit Party as Franchisor agrees to allow a Franchisee to operate a coffee shop using the "Black Rock Coffee Bar" concepts.

"**Franchisee**" means each third party unaffiliated coffee shop operator identified as a franchisee in any Franchise Agreement.

"**Franchised Store Locations**" means, collectively, the property comprising franchised Store locations described in Part (b) of Schedule 3.27 (as such Schedule may be updated from time to time).

"**Franchisor**" means any Credit Party **that is** party to a Franchise Agreement.

"**Funded Indebtedness**" means, as of any date of measurement, all Indebtedness of Holdings and its Subsidiaries as of the date of measurement (other than Indebtedness of the type described in clauses (e), (h), (j) (with respect to Indebtedness described in clauses (e) and (h) in the definition of Indebtedness) and (k) (other than with respect to clause (k), guaranties of Indebtedness of others of the type not described in clauses (e), (h) and (j) of the definition of Indebtedness) of the definition of Indebtedness; provided that Letters of Credit shall only be treated as Funded Indebtedness to the extent drawn and unreimbursed.

"**GAAP**" means generally accepted accounting principles in the United States, as in effect from time to time, set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants, in the statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions and comparable stature and authority within the accounting profession) that are applicable to the circumstances as of the date of determination. Subject to Section 11.3, all references to "GAAP" shall be to GAAP applied consistently throughout the relevant period, except as expressly noted in the relevant financial statements.

"**Governmental Authority**" means any nation, sovereign or government, any state or other political subdivision thereof, any agency, authority or instrumentality thereof and any entity or authority exercising executive, legislative, taxing, judicial, regulatory or administrative

functions of or pertaining to government, including any central bank, stock exchange, regulatory body, arbitrator, public sector entity, supra-national entity (including the European Union and the European Central Bank) and any self-regulatory organization (including the National Association of Insurance Commissioners).

"**Guarantors**" means collectively, (a) Holdings, (b) each Borrower (in each case, other than with respect to its own obligations), (c) each Subsidiary and any Person that from time to time guarantees any Secured Obligations. For purposes of clarity, Excluded Subsidiaries shall not be deemed to be Guarantors.

"**Guaranty and Security Agreement**" means that certain Guaranty and Security Agreement, dated as of even date herewith, in form and substance reasonably acceptable to Agents and the Borrowers, made by the Credit Parties in favor of Collateral Agent, for the benefit of the Secured Parties, as the same may be amended, restated and/or modified from time to time.

"**Hazardous Material**" means any substance, material or waste that is classified, regulated or otherwise characterized under any Environmental Law as hazardous, toxic, a contaminant or a pollutant or by other words of similar meaning or regulatory effect, including petroleum or any fraction thereof, asbestos, polychlorinated biphenyls and radioactive substances.

"Holdings Pledge Agreements" means, collectively, the Limited Guaranty and Pledge Agreements of each Holdings Pledgor in favor of (and in form and substance satisfactory in the sole discretion of) the Collateral Agent, as the same may be amended from time to time.

"Holdings Pledgors", means, collectively, each of the following Persons, in each instance, solely to the extent such Person is party to a fully executed, valid and enforceable Holdings Pledge Agreement, and the Collateral Agent has a first priority perfected security interest in the Pledged Collateral (as defined in each such Holdings Pledge Agreement) thereunder: Viking Cake BR ~~LLC~~, Brand 2021 Irrevocable Trust dated September 10, 2021, Daniel J. Brand 2021 Trust dated September 10, 2021, DJB 2021 Grantor Retained Annuity Trust dated October 6, 2021, Tanya N. Brand 2021 Trust dated September 10, 2021, Hernandez 2021 Irrevocable Trust dated September 10, 2021, Jeffrey R. Hernandez 2021 Trust dated September 10, 2021, Tiffany S. Hernandez 2021 Trust dated September 10, 2021, Bryan D. Pereboom 2021 Trust dated September 10, 2021, Nicole R. Pereboom 2021 Trust dated September 10, 2021, Pereboom 2021 Irrevocable Trust dated September 10, 2021, JRH 2021 Grantor Retained Annuity Trust dated October 4, 2021, Jacob V. Spellmeyer 2021 Trust dated September 10, 2021, Juliet A. Spellmeyer 2021 Trust dated September 10, 2021, Spellmeyer 2021 Irrevocable Trust dated September 10, 2021, Joshua M. Pike 2021 Trust dated September 10, 2021, Shannon R. Pike 2021 Trust dated September 10, 2021.

"**Impacted Lender**" means any Lender that fails to provide Agent, within three (3) Business Days following Agent's written request, written confirmation that such Lender will comply with its prospective funding obligations and otherwise not become a Non-Funding Lender (provided that such Lender shall cease to be an Impacted Lender upon provision of such

written confirmation), or any Lender that has a Person that directly or indirectly controls such Lender and such Person (a) becomes subject to a voluntary or involuntary case under the Bankruptcy Code or any similar bankruptcy laws, (b) has appointed a custodian, conservator, receiver or similar official for such Person or any substantial part of such Person's assets, (c) makes a general assignment for the benefit of creditors, is liquidated, or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent or bankrupt, or (d) becomes the subject of a Bail-in Action, and for each of clauses (a) through (d), Agent has determined that such Lender is reasonably likely to become a Non-Funding Lender. For purposes of this definition, control of a Person shall have the same meaning as in the second sentence of the definition of Affiliate.

"**Indebtedness**" of any Person means, without duplication: (a) all indebtedness for borrowed money; (b) all obligations issued, undertaken or assumed as the deferred purchase price of Property or services, including earn-outs (other than (i) trade payables entered into or incurred in the Ordinary Course of Business and not more than ninety (90) days past due, (ii) deferred compensation liabilities and (iii) deferred employment bonus liabilities, in each case, incurred and/or accrued in the Ordinary Course of Business); (c) the face amount of all letters of credit issued for the account of such Person and without duplication, all drafts drawn thereunder and all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments issued by such Person; (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of Property, assets or businesses; (e) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to Property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such Property); (f) all Capital Lease Obligations; (g) the principal balance outstanding under any synthetic lease, off-balance sheet loan or similar off balance sheet financing product; provided, however, that no obligations in respect of any operating lease shall be treated as "Indebtedness" for any purposes under this Agreement solely as a result of its required treatment as Indebtedness under GAAP; (h) all obligations of such Person, whether or not contingent, to purchase, redeem, retire, defease or otherwise acquire for value or make any cash payments in respect of Disqualified Stock, valued at, in the case of redeemable preferred Stock, the greater of the voluntary liquidation preference and the involuntary liquidation preference of such Stock plus accrued and unpaid dividends; (i) obligations under any Rate Contract; (j) all indebtedness referred to in clauses (a) through (i) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in Property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness; (k) all Contingent Obligations described in clause (a) of the definition thereof in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (j) above; provided that, if such obligation is limited in recourse against a specific asset, the amount of such Contingent Obligation shall be calculated as the lesser of the obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed or supported and the fair market value of such asset.

"**Indemnified Tax**" means (a) any Tax imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes, in each case, other than Excluded Taxes.

"**Insolvency Proceeding**" means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors; in each case in (a) and (b) above, undertaken under U.S. federal, state or foreign law, including the Bankruptcy Code.

"**Intellectual Property**" means all rights, title and interests in or relating to intellectual property and industrial property arising under any Requirement of Law and all IP Ancillary Rights relating thereto, including all Copyrights, Patents, Software, Trademarks, Internet Domain Names and Trade Secrets.

"**Interest Payment Date**" means, (a) with respect to any SOFR Rate Loan (other than a SOFR Rate Loan having an Interest Period exceeding (3) months) the last day of each Interest Period applicable to such Loan, (b) with respect to any SOFR Rate Loan having an Interest Period exceeding three (3) months, the last day of each three (3) month interval and, without duplication, the last day of such Interest Period, and (c) with respect to Base Rate Loans, the last Business Day of each Fiscal Quarter.

"**Interest Period**" means, as to any Borrowing, the period commencing on the date of such Loan or Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter (in each case, subject to the availability thereof), as specified in the applicable Notice of Borrowing; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period, (iii) no Interest Period shall extend beyond the Term Loan Maturity Date and (iv) no tenor that has been removed from this definition pursuant to Section 10.5 shall be available for specification in such Notice of Borrowing. For purposes hereof, the date of a Loan or Borrowing initially shall be the date on which such Loan or Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Loan or Borrowing.

"**Internet Domain Name**" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to internet domain names.

"**Inventory**" means all of the "inventory" (as such term is defined in the UCC) of a Borrower and its Subsidiaries, including, but not limited to, all merchandise, raw materials, parts,

supplies, work-in-process and finished goods intended for sale, together with all the containers, packing, packaging, shipping and similar materials related thereto, and including such inventory as is temporarily out of a Borrower's or such Subsidiary's custody or possession, including inventory on the premises of others and items in transit.

"**IP Ancillary Rights**" means, with respect to any Intellectual Property, as applicable, all foreign counterparts to, and all divisionals, reversions, continuations, continuations-in-part, reissues, reexaminations, renewals and extensions of, such Intellectual Property and all income, royalties, proceeds and Liabilities at any time due or payable or asserted under or with respect to any of the foregoing or otherwise with respect to such Intellectual Property, including all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any other IP Ancillary Right.

"**IP License**" means all Contractual Obligations (and all related IP Ancillary Rights), whether written or oral, granting any right, title and interest in or relating to any Intellectual Property.

"**IRS**" means the Internal Revenue Service of the United States and any successor thereto.

"**Las Vegas Franchisee Group Litigation**" has the meaning set forth on Schedule 3.5.

"**Latest Maturity Date**" means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Term Loan or any Extended Term Loan, in each case as extended in accordance with this Agreement from time to time.

"**Lead Arrangers"** mean, collectively, Riverside Credit Solutions Fund I, L.P. and TCW Asset Management Company LLC.

"**Leases**" means, collectively, each lease of Real Estate of a Credit Party or a Subsidiary, including each such lease related to a Store or to the operation of the business of the Credit Parties or their Subsidiaries.

"**Lending Office**" means, with respect to any Lender, the office or offices of such Lender specified as its "Lending Office" beneath its name on the applicable signature page hereto, or such other office or offices of such Lender as it may from time to time notify the Borrower Representative and Administrative Agent.

"**Liabilities**" means all claims, actions, suits, judgments, damages, losses, liability, obligations, responsibilities, fines, penalties, sanctions, costs, fees, Taxes, commissions, charges, disbursements and expenses (including, without limitation, those incurred upon any appeal or in connection with the preparation for and/or response to any subpoena or request for document production relating thereto), in each case of any kind or nature (including interest accrued thereon or as a result thereto and fees, charges and disbursements of financial, legal and other

advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

"**Lien**" means any mortgage, deed of trust, pledge, hypothecation, assignment, charge, deposit arrangement, encumbrance, easement, lien (statutory or otherwise), security interest or other security arrangement and any other preference, priority or preferential arrangement of any kind or nature whatsoever, including any conditional sale contract or other title retention agreement, the interest of a lessor under a Capital Lease and any synthetic or other financing lease having substantially the same economic effect as any of the foregoing.

"**Liquidity**" means the aggregate amount of the Credit Parties' Qualified Cash.

"**Loan**" means any loan made or deemed made by any Lender hereunder.

"**Loan Documents**" means this Agreement, the Notes, the Fee Letter, the Collateral Documents, the Subordination Agreement, the Limited Guaranty and Pledge Agreements, duly executed by each Founder Group Members, the Holdings Pledge Agreements and all documents, instruments or agreements delivered by or on behalf of any Credit Party in favor of the Agents and/or any Lender, each in form satisfactory to the Agents, in connection with any of the foregoing, other than Secured Rate Contracts or agreements relating to Bank Products.

"**Margin Stock**" means "margin stock" as such term is defined in Regulation T, U or X of the Federal Reserve Board.

"**Material Adverse Effect**" means a material adverse change in any of (a) the financial condition, business, operations, prospects or Property of the Credit Parties and their Subsidiaries taken as a whole; (b) the ability of the Credit Parties and their Subsidiaries taken as a whole to perform their obligations under any Loan Document; or (c) the (i) validity or enforceability of any Loan Document or the rights and remedies (taken as a whole) of Collateral Agent, Administrative Agent, the Lenders and the other Secured Parties under any Loan Document and (ii) the perfection or priority of any Liens with respect to the Collateral granted to the Lenders or Collateral Agent for the benefit of the Secured Parties under any Loan Document (except to the extent resulting from an action or failure to act by Collateral Agent).

"**Measurement Period**" means, at any date of determination, the most recently completed four Fiscal Quarters of the Credit Parties ended on or prior to such time (taken as one accounting period) for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(a) or Section 4.1(b), as applicable; provided that, solely for purposes of determining the Fixed Charge Coverage Ratio (or any component definition thereof) for any purposes under the Loan Document in respect of any period ended prior to March 31, 2024, Measurement Period shall mean (i) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of June 30, 2023 but prior to the date specified in clause (ii) below, the one Fiscal Quarter ending as of such date, (ii) at any date of determination occurring on or after the date for which financial

statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(a) or Section 4.1(b), as applicable, for the Fiscal Quarter ending as of September 30, 2023 but prior to the date specified in clause (iii) below, the two most recently completed Fiscal Quarters ending as of such date (taken as one accounting period), and (iii) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of December 31, 2023 but prior to the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of March 31, 2024, the three (3) most recently completed Fiscal Quarters ending as of such date (taken as one accounting period).

"**Moody's**" means Moody's Investors Service, Inc.

"**Mortgage**" means any deed of trust, leasehold deed of trust, mortgage, leasehold mortgage, deed to secure debt, leasehold deed to secure debt or other document creating a Lien on Real Estate or any interest in Real Estate.

"**Multiemployer Plan**" means any multiemployer plan, as defined in Section 3(37) or 4001(a)(3) of ERISA, as to which any ERISA Affiliate incurs or otherwise has any obligation or liability under ERISA or the Code, contingent or otherwise.

"**National Flood Insurance Program**" means the program created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as revised by the National Flood Insurance Reform Act of 1994, that mandates the purchase of flood insurance to cover real property improvements located in Special Flood Hazard Areas in participating communities and provides protection to property owners through a federal insurance program.

"**Net Issuance Proceeds**" means, in respect of any issuance of equity or incurrence of Indebtedness, cash proceeds (including cash proceeds as and when received in respect of non-cash proceeds received or receivable in connection with such issuance), net of underwriting discounts and reasonable out-of-pocket costs and expenses paid or incurred in connection therewith in favor of any Person not an Affiliate of the Borrowers.

"**Net Proceeds**" means proceeds in cash, checks or other cash equivalent financial instruments (including Cash Equivalents) as and when received by the Person making a Disposition, as well as insurance proceeds and condemnation and similar awards received on account of an Event of Loss or otherwise constituting Extraordinary Receipts, net of: (a) in the event of a Disposition (i) the transaction costs, fees and expenses relating to such Disposition excluding amounts payable to the Borrowers or any Affiliate of the Borrowers, (ii) Taxes paid or reasonably estimated to be payable as a result thereof, and (iii) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness (other than the Obligations) secured by a Lien on the asset which is the subject of such Disposition and (b) in the event of an Event of Loss, (i) all money actually applied to repair or reconstruct the damaged

Property or Property affected by the condemnation or taking, (ii) all of the costs and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, (iii) Taxes paid or payable as a result thereof, and (iv) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments. After netting out the items in clauses (a) and (b) of the foregoing definition, as applicable, if the amount of Net Proceeds would be less than zero, such amount shall be deemed to be zero.

"**Non-Financing Lease Obligation**" means a lease obligation that is not required to be accounted for as a financing lease or Capital Lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

"**Non-Funding Lender**" means any Lender that has (a) failed to fund all or any portion of any Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment required to be made by it under the Loan Documents within two (2) Business Days after any such Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment is due (excluding expense and similar reimbursements that are subject to good faith disputes), (b) given written notice (and Agent has not received a revocation in writing), to the Borrower, Administrative Agent, any Lender, or has otherwise publicly announced (and Administrative Agent has not received notice of a public retraction) that such Lender has failed or believes it will fail to fund any Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment required to be funded by it under the Loan Documents or one or more other syndicated credit facilities or other financing agreements, (c) failed to fund, and not cured, loans, participations, advances, or reimbursement obligations under one or more other syndicated credit facilities or other financing agreements, unless subject to a good faith dispute, or (d) (i) become subject to a voluntary or involuntary case under the Bankruptcy Code or any similar bankruptcy laws, (ii) a custodian, conservator, receiver or similar official appointed for it or any substantial part of such Person's assets, (iii) made a general assignment for the benefit of creditors, been liquidated, or otherwise been adjudicated as, or determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent or bankrupt, or (e) become the subject of a Bail-in Action, and for this clause (e), Administrative Agent has determined that such Lender is reasonably likely to fail to fund any payments required to be made by it under the Loan Documents.

"**Non-U.S. Lender Party**" means each of the Agents, each Lender, each SPV and each participant, in each case that is not a United States person as defined in Section 7701(a)(30) of the Code.

"**Note**" means any Term Note and "**Notes**" means all such Notes.

"**Notice of Borrowing**" means a **written** notice given by the Borrower Representative to Administrative Agent pursuant to Section 1.5 or 2.1(r), in substantially the form of Exhibit 11.1(b) hereto **or such other form approved by the Administrative Agent.**

"**Obligations**" means all Loans, and other Indebtedness, advances, debts, liabilities, obligations, covenants and duties owing by any Credit Party to any Lender, Agent or any other

Indemnitee, that arises under any Loan Document, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired; provided that Obligations of any Guarantor shall not include any Excluded Rate Contract Obligations solely of such Guarantor.

"**Ordinary Course of Business**" means, in respect of any transaction involving any Person, the ordinary course of such Person's business, as conducted by any such Person in accordance with past practice and undertaken by such Person in good faith and not for purposes of evading any covenant or restriction in any Loan Document.

"**Organization Documents**" means, (a) for any corporation, the certificate or articles of incorporation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, and any shareholder rights agreement, (b) for any partnership, the partnership agreement and, if applicable, certificate of limited partnership, (c) for any limited liability company, the operating agreement and articles or certificate of formation or (d) any other document setting forth the manner of election or duties of the officers, directors, managers or other similar persons, or the designation, amount or relative rights, limitations and preference of the Stock of a Person.

"**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 any such connection arising from the Recipient having executed, delivered, become a party to, performed its obligations or received a payment under, received or perfected as 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.

"**Patents**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to letters patent and applications therefor.

"**Patriot Act**" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56.

"**PBGC**" means the United States Pension Benefit Guaranty Corporation or any successor thereto.

"**Permits**" means, with respect to any Person, (i) any permit, approval, authorization, license, registration, certificate, concession, grant, franchise, variance or permission from any Governmental Authority or (ii) any other Contractual Obligations with any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Permitted Refinancing**" means Indebtedness constituting a refinancing, replacement or extension of Indebtedness permitted under Section 5.5(c), 5.5(d), 5.5(g), 5.5(o), 5.5(u), or 5.5(v) that (a) has an aggregate outstanding principal amount not greater than the aggregate principal

amount of the Indebtedness being refinanced, replaced or extended, (b) has a Weighted Average Life to Maturity (measured as of the date of such refinancing or extension) and maturity no shorter than that of the Indebtedness being refinanced, replaced or extended, (c) is not entered into as part of a sale leaseback transaction, (d) is not secured by a Lien on any assets other than the collateral securing the Indebtedness being refinanced, replaced or extended, (e) to the extent that the holders of such Indebtedness being refinanced, replaced or extended are subject to an intercreditor or subordination agreement or arrangement with an Agent, the holders of such refinancing Indebtedness shall enter into a similar intercreditor or subordination agreement or arrangement with such Agent on terms no less favorable to the Lenders as those contained in the intercreditor or subordination agreement or arrangement governing the Indebtedness being refinanced, replaced or extended (as determined by the Agent in its reasonable discretion), (f) the obligors of which are the same as the obligors of the Indebtedness being refinanced, replaced or extended, and (g) is otherwise on terms no less favorable to the Credit Parties and their Subsidiaries or the Lenders, taken as a whole, than those of the Indebtedness being refinanced, replaced or extended.

"**Person**" means any individual, partnership, corporation (including a business trust and a public benefit corporation), joint stock company, estate, association, firm, enterprise, trust, limited liability company, unincorporated association, joint venture and any other entity or Governmental Authority.

"PIK Amount" has the meaning set forth in the definition of Applicable Margin.

"Preferred Equity" means, the **"Series A-1 Preferred Units"** and the **"Series A-2 Preferred Units"** as each such term is defined in the A&R Holdings LLC Agreement.

"Preferred Equity Obligations" means the obligations of Holdings in respect of the Series A-1 Preferred Units and Series A-2 Preferred Units (as each such term is defined in the A&R Holdings LLC Agreement), in an aggregate principal amount of up to approximately $~~320~~361,000,000 as of the ~~Third~~Fourth Amendment Effective Date, together with paid-in-kind yield accruing thereon and other amounts due in connection therewith, in each instance in accordance with the terms of the A&R Holdings LLC Agreement.

"Prime Rate" means for any day a fluctuating rate of interest per annum equal to the highest of (a) the rate last quoted by The Wall Street Journal as the "Prime Rate" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by Administrative Agent) or any similar release by the Federal Reserve Board (as determined by Administrative Agent). Any change in the Prime Rate due to a change in any of the foregoing shall be effective at the opening of business on the day any such change is publicly announced or quoted as being effective.

"**Pro Forma Financial Statements**" means the unaudited pro forma consolidated balance sheet and related pro forma statements of income and cash flows of Holdings and its Subsidiaries for and as of the last day of the most recent twelve (12) month period ended at least

thirty (30) days prior to the Closing Date, prepared after giving effect to the Related Transactions and the transactions contemplated hereunder to occur on the Closing Date as if such transactions have occurred on the date thereof or at the beginning of the period covered thereby, as the case may be.

"**Pro Forma Compliance Conditions**" means, at any time of determination, the following conditions: (a) no Default or Event of Default exists or, on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, would result therefrom, (b) on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, the Total Net Leverage Ratio shall not be greater than the Credit Parties shall be in compliance with the Fixed Charge Coverage Ratio in Section 6.1(b), as recomputed for the most recently ended Measurement Period, and (d) on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, Liquidity is not less than $5,000,000.

"**Pro Forma Transaction**" means any Investment that results in a Person becoming a Subsidiary~~, any Permitted Acquisition~~, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or a Store whether by merger, consolidation, amalgamation or otherwise, incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), any issuance of Stock or Stock Equivalents (other than Disqualified Stock), and any Restricted Payment that by the terms of this Agreement requires such test to be calculated on a "pro forma basis" or after giving "pro forma effect."

"**Projections**" means the financial model and projections of Holdings and its Subsidiaries delivered to the Agent on or prior to the Closing Date, such projections to include a five year, three-statement base case financial model of the Credit Parties.

"**Property**" means any interest in any kind of property or asset, whether real, personal or mixed, and whether tangible or intangible.

"**Qualified Cash**" means unrestricted cash and Cash Equivalents of the Credit Parties in which Collateral Agent, after giving effect to the time periods set forth in Section 4.11, has a perfected first priority Lien.

"Qualified Cash Summary" means a summary of Qualified Cash to be delivered in accordance with Section 4.1(d).

"**Qualified ECP Guarantor**" means, in respect of any Swap Obligation under a Secured Rate Contract, each Credit 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 under a Secured Rate Contract or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act 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.

"**Rate Contracts**" means swap agreements (as such term is defined in Section 101 of the Bankruptcy Code) designed to provide protection against fluctuations in interest or currency exchange rates and any other agreements or arrangements designed to provide such protection.

"RCC Award Payment" means the payment of any RCC Award (as defined in the Davis Services Agreement) to Mark Davis pursuant to and in accordance with the terms of the Davis Services Agreement, in an amount not to exceed $8,000,000.

"RCC Award Payment Conditions" means the delivery of a certificate of a Responsible Officer of the Borrower Representative certifying to the Agent that (i) prior to giving effect to such proposed RCC Award Payment, Borrowers are in pro forma compliance with the financial covenants set forth in Section 6.1 and (ii) after giving effect to such proposed RCC Award Payment, the Credit Parties have Qualified Cash of no less than $5,000,000.

"**Real Estate**" means any real property owned, leased, subleased or otherwise operated or occupied by any Credit Party or any Subsidiary of any Credit Party.

"**Related Persons**" means, with respect to any Person, each Affiliate of such Person and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisor (including those retained in connection with the satisfaction or attempted satisfaction of any condition set forth in Article II) and other consultants and agents of or to such Person or any of its Affiliates; provided that, with respect to any reference to such Person or Affiliate of such Person acting in the capability of an agent or other representative, Related Person shall be deemed to include such Person or Affiliate acting in an individual capacity or other capacity.

"**Related Transactions**" means, collectively, (a) the execution and delivery by the Credit Parties of the Loan Documents to which they are a party and the making of the Loans on the Closing Date, (b) the consummation of the Existing Debt Refinancing Transactions, and (c) the payment of any fees or expenses incurred or paid by the Credit Parties or any of their Subsidiaries in connection with the foregoing (including in connection with this Agreement and the other Loan Documents).

"**Releases**" means any release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, disposal, discharge, dumping or leaching of Hazardous Material into the environment.

"Relevant Governmental Body" means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

"**Remedial Action**" means all actions required under applicable Environmental Laws to (a) clean up, remove or treat any Hazardous Material in the environment, (b) prevent or minimize any Release so that a Hazardous Material does not migrate or endanger or threaten to endanger

public health or welfare or the environment or (c) perform pre-remedial studies and investigations and post-remedial monitoring and care with respect to any Hazardous Material.

"**Rental Expense**" means, for any period, all rental expense of Borrowers (but excluding lease termination expenses and lease exit costs, whether accounted for as a restructuring costs, lease expense or otherwise in connection with no more than three stores in any Fiscal Year), determined on a consolidated basis in accordance with.

"**Required Lenders**" means at any time, Lenders then holding more than fifty percent (50%) of the sum of (1) the **aggregate Delayed Draw Term Loan Commitment or Incremental Delayed Draw Term Loan Commitment, as the case may be, then in effect plus (2) the** aggregate unpaid principal balance of the Term Loans then outstanding, provided, that if there are two Lenders at any date of determination (each Lender and its Affiliates being considered a single Lender), Required Lenders means both Lenders.

"**Requirement of Law**" means, with respect to any Person, the common law and any federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case whether or not having the force of law and that are applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject.

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Responsible Officer**" means the chief executive officer, chief financial officer, president, vice president, treasurer, secretary or controller of a Borrower or a Credit Party, as applicable, or any other officer having substantially the same authority and responsibility; or, with respect to compliance with financial covenants or delivery of financial information, the chief financial officer or the treasurer of a Borrower or any other officer having substantially the same authority and responsibility.

~~**"Roasters Litigation" has the meaning set forth on Schedule 3.5.**~~

"SBA" means the United States Small Business Administration,

"**SBIA**" means the Small Business Investment Act of 1958, as amended.

"**S&P**" means Standard & Poor's Rating Services.

"Second Tranche Preferred Unit Redemption" means, following the receipt by the Agents of the financial reporting due under Section 4.1(b) for the Fiscal Quarter ending June 30, 2024, and concurrent delivery of a certificate of a Responsible Officer of the Borrower Representative certifying to the Agents that no Default or Event of Default has

occurred and is continuing, and the Borrowers are in pro forma compliance with the financial covenants set forth in Section 6.1, the (i) redemption or repurchase by Holdings of all of the issued and then outstanding Existing Preferred Units for a price not to exceed $8,000,000 and (ii) the payment of fees pursuant to the Cynosure Fee Letter, in an amount not to exceed $2,500,000.

"**Secured Obligations**" means (a) all Obligations, (b) all Indebtedness, advances, debts, liabilities, obligations, covenants and duties owing by any Credit Party to any Secured Swap Provider that arises under any Secured Rate Contract, whether or not for the payment of money, whether arising by reason of an extension of credit, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and (c) for purposes of the Collateral Documents and all provisions under the other Loan Documents relating to the Collateral, the sharing thereof and/or payments from proceeds of the Collateral, all Bank Product Debt; provided that Secured Obligations of any Guarantor shall not include any Excluded Rate Contract Obligations solely of such Guarantor.

"**Secured Party**" means Collateral Agent, each Lender, each other Indemnitee, each Secured Swap Provider and each Bank Product Provider.

"**Secured Rate Contract**" means any Rate Contract between a Credit Party (other than Holdings) and a Secured Swap Provider, in effect on the Closing Date or entered into thereafter, to the extent that (x) RCS or any of its Affiliates is the Secured Swap Provider or (y) a Borrower and such Secured Swap Provider have notified Administrative Agent in writing of the intent to include the obligations of such Credit Party arising under such Rate Contract as Secured Rate Contract Obligations, and such Secured Swap Provider shall have acknowledged and agreed to the terms contained herein applicable to Secured Obligations related to Secured Rate Contracts.

"**Secured Swap Provider**" means RCS, a Lender or an Affiliate of a Lender (or a Person who was a Lender or an Affiliate of a Lender at the time of execution and delivery of a Rate Contract) who has entered into a Secured Rate Contract with a Credit Party (other than Holdings).

"Series A Redemption Agreement" means that certain Series A Redemption Agreement, dated on or about the Fourth Amendment Effective Date, by and between Viking Cake BR and Holdings.

"SOFR" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Rate Loan" means a Loan that bears interest at the Term SOFR Rate or Daily Simple SOFR.

"**Software**" means (a) all computer programs, including source code and object code versions, (b) all data, databases and compilations of data, whether machine readable or otherwise, and (c) all documentation, training materials and configurations related to any of the foregoing.

"**Solvent**" means, as to any Person as of any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature and (d) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's property would constitute an unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"**Special Flood Hazard Area**" means an area that FEMA's current flood maps indicate has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year.

"**SPV**" means any special purpose funding vehicle identified as such in a writing by any Lender to Agents (other than an Excluded Person).

"**Stock**" means all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting.

"**Stock Equivalents**" means all securities convertible into or exchangeable for Stock or any other Stock Equivalent and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any Stock or any other Stock Equivalent, whether or not presently convertible, exchangeable or exercisable.

"**Store**" means any store location operated, or to be operated, by a Credit Party or any Subsidiary, which complies with Section 5.9.

"**Subsidiary**" means, with respect to any Person, any corporation, partnership, joint venture, limited liability company, association or other entity, the management of which is, directly or indirectly, controlled by, or of which an aggregate of more than fifty percent (50%) of the voting Stock is, at the time, owned or controlled directly or indirectly by, such Person or one or more Subsidiaries of such Person.

"Subordinated Indebtedness" means, as of the Closing Date, (i) the Preferred Equity Obligations, and (ii) after the Closing Date, shall include any other Indebtedness of any Credit

Party or any Subsidiary of any Credit Party which is subordinated to the Obligations as to right and time of payment and other rights and remedies thereunder and having such other terms as are, in each case, reasonably satisfactory to Agents, including, without limitation, permitted Indebtedness incurred in connection with Acquisition permitted hereunder.

"**Subordinated Term Loans**" means the "Term Loans" as defined in the Subordinated Term Loan Agreement.

"**Subordinated Term Loan Agent**" means Cynosure Partners 2020, LP., a Delaware limited partnership, and its permitted successors of assigns.

"**Subordinated Term Loan Agreement**" means that certain Loan Agreement, dated as of December 21, 2020, by and among Holdings, BRSO, BRD, BRCB, BRR, the lenders party thereto, and the Subordinated Term Loan Agent, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**Subordination Agreement**" means that certain **Second Amended and Restated** Subordination Agreement, dated as of the ~~Closing~~**Fourth Amendment Effective** Date, by and among the Agents and the holders of the Preferred Equity, and acknowledged by the Credit Parties, as amended, amended and restated, replaced, renewed, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"**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.

"**Target**" means any Person engaged in the same business as the Credit Parties or reasonably related thereto which is acquired or proposed to be acquired in an Acquisition.

"**Tax Affiliate**" means, (a) the Borrowers and their Subsidiaries and (b) each other Credit Party.

"**Term Lender**" means each Lender that (a) has a Term Loan Commitment or (b) who holds a Term Loan.

"**Term Loan**" means, as applicable, and as the context may require, (a) a Term Loan A, (b**) a Fourth Amendment Term Loan, (c**) a funded Delayed Draw Term Loan**, (d) a funded Incremental Delayed Draw Term Loan** or (~~e~~**e**) an Extended Term Loan.

"**Term Loan Amortization Amount**" means, at any applicable time, a fixed dollar amount equal to the product of (a) the sum of (x) the aggregate principal amount of the Term Loan A funded on the Closing Date ~~)~~, plus (y) the aggregate principal amount of **the Fourth Amendment Term Loan funded on the Fourth Amendment Effective Date, plus (z) the aggregate principal amount of** all funded Delayed ~~Draw Term~~**Draw Term Loans and Incremental Delayed Draw Term** Loans times (b) the applicable Term Loan Amortization Percentage.

"**Term Loan Amortization Percentage**" means, at any applicable time, a percentage equal to 0.250%.

"**Term Loan Commitment**" as to each Term Lender, its obligation to make a Term Loan to the Borrowers hereunder, expressed as an amount in dollars representing the maximum principal amount of such Term Loan to be made by such Term Lender under this Agreement, as such commitment may be reduced or increased from time to time pursuant to assignments by or to such Term Lender pursuant to an Assignment. The initial amount of each Term Lender's Term Loan Commitment is set forth on Schedule 1.1(a) under the caption "Term Loan Commitment" or, otherwise, in the Assignment pursuant to which such Term Lender shall have assumed its Term Loan Commitment, as the case may be. The Term Loan Commitment of each Term Lender set forth on Schedule 1.1(a) as in effect on the Closing Date shall expire on the Closing Date if not funded in accordance with Section 1.1(a) on the Closing Date.

"**Term Loan Maturity Date**" means ~~**April 29, 2025**~~**September 30, 2026. If such date is not a Business Day, the immediately succeeding Business Day**.

"**Term Note**" means a promissory note of the Borrowers payable to a Lender, in substantially the form of Exhibit 11.1(d), in the case of the Term Loans, evidencing the Indebtedness of the Borrowers to such Lender resulting from the Term Loans made to the Borrowers by such Lender or its predecessor(s).

"Term SOFR" means the rate per annum determined by the Administrative Agent as the forward-looking term rate based on SOFR.

"Term SOFR Administrator" means CME Group Benchmark Administration Ltd. (or a successor administrator of Term SOFR).

"Term SOFR Administrator's Website" means https://www.cmegroup.com/market-data/cme-group-benchmark-administration/term-sofr, or any successor source for Term SOFR identified as such by the Term SOFR Administrator from time to time.

"Term SOFR Determination Date" means with respect to any Term SOFR Loan for the relevant Interest Period, two Business Days before the first day of such Interest Period.

"Term SOFR Loan" means a Loan that, except as otherwise provided in Sections 8.2 or 8.3, bears interest at the applicable Term SOFR Rate other than pursuant to clause (d) of the definition of Base Rate.

"Term SOFR Rate" means, for the relevant Interest Period, the sum of (a) the Adjusted Term SOFR Rate applicable to such Interest Period, plus (b) the Applicable Margin.

"Term SOFR Screen Rate" means, for the relevant Interest Period, the Term SOFR rate for such Interest Period quoted by the Administrative Agent from the Term SOFR Administrator's Website or the applicable Bloomberg screen (or other commercially available source providing such quotations as may be selected by the Administrative Agent from time to

time) (the "Screen") for such Interest Period, which shall be the Term SOFR rate published on the Term SOFR Determination Date. If as of 5:00 p.m. (New York time) on any Term SOFR Determination Date, the Term SOFR rate has not been published by the Term SOFR Administrator or on the Screen, then the rate used will be that as published by the Term SOFR Administrator or on the Screen for the first preceding Business Day for which such rate was published on such Screen so long as such first preceding Business Day is not more than three (3) Business Days prior to such Term SOFR Determination Date.

"Third Amendment Effective Date" means May 8, 2023.

"**Title IV Plan**" means a pension plan subject to Title IV of ERISA, other than a Multiemployer Plan, to which any ERISA Affiliate incurs or otherwise has any obligation or liability under ERISA or the Code, contingent or otherwise.

"Total Net Leverage Ratio" means, at any date of determination, the ratio of (a) an amount equal to Consolidated Total Debt outstanding as of the last day of the Measurement Period most recently ended, less cash and Cash Equivalents of Borrowers on such date in an amount greater than $3,000,000 but not more than $20,500,000 (for avoidance of doubt, a maximum of $17,500,000) deposited in a deposit account subject to a Control Agreement) to (b) Consolidated EBITDA for the Measurement Period most recently ended, in each case for Holdings and the Borrowers on a Consolidated basis. For avoidance of doubt, paid-in-kind yield dividends on the Preferred Equity are excluded from the calculation of the Total Net Leverage Ratio, regardless of whether such paid-in-kind yield dividends constitute Indebtedness under GAAP.

"**Trade Secrets**" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trade secrets.

"**Trademark**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers and, in each case, all goodwill associated therewith, all registrations and recordations thereof and all applications in connection therewith.

"**Type**" means, with respect to a Loan, its character as a SOFR Rate Loan or a Base Rate Loan.

"**UCC**" means the Uniform Commercial Code of any applicable jurisdiction and, if the applicable jurisdiction shall not have any Uniform Commercial Code, the Uniform Commercial Code as in effect from time to time in the State of New York.

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Unadjusted EBITDA" means Consolidated EBITDA excluding the addbacks in clauses (v), (vii) and (ix) of the definition thereof.

"**United States**" and "**U.S.**" each means the United States of America.

"**U.S. Lender Party**" means each Agent, each Lender, each SPV and each participant, in each case that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"Viking Cake" means Viking Cake Holdings II, LLC, a Delaware limited liability company.

"Viking Cake ~~Convertible Note" means that certain Convertible Promissory Note of Holdings in favor of~~ BR" means Viking Cake ~~**dated as of January 31, 2023 and in the principal amount of $7,500,000**~~**BR, LLC, a Delaware limited liability company.**

"**Weighted Average Life to Maturity** " means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (b) the then outstanding principal amount of such Indebtedness; provided that, for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended, the effects of any prepayments made on such Indebtedness prior to the date of the applicable extension shall be disregarded.

"**Wholly-Owned Subsidiary**" of a Person means any Subsidiary of such Person, all of the Stock and Stock Equivalents of which (other than directors' qualifying shares required by law) are owned by such Person, either directly or through one or more Wholly-Owned Subsidiaries of such Person.

"**Write-Down and Conversion Powers**" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

11.2 Other Interpretive Provisions.

(a) Defined Terms. Unless otherwise specified herein or therein, all terms defined in this Agreement or in any other Loan Document shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto. The meanings of defined terms shall be equally applicable to the singular and

plural forms of the defined terms. Terms (including uncapitalized terms) not otherwise defined herein and that are defined in the UCC shall have the meanings therein described.

(b) The Agreement. The words "**hereof**", "**herein**", "**hereunder**" and words of similar import when used in this Agreement or any other Loan Document shall refer to this Agreement or such other Loan Document as a whole and not to any particular provision of this Agreement or such other Loan Document; and subsection, section, schedule and exhibit references are to this Agreement or such other Loan Documents unless otherwise specified.

(c) Certain Common Terms. The term "**documents**" includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced. The term "**including**" is not limiting and means "including without limitation."

(d) Performance; Time. Whenever any performance obligation hereunder or under any other Loan Document shall be stated to be due or required to be satisfied on a day other than a Business Day, such performance shall be made or satisfied on the next succeeding Business Day. For the avoidance of doubt, the initial payments of interest and fees relating to the Obligations (other than amounts due on the Closing Date) shall be due and paid on the first day of the first month or quarter, as applicable, following the entry of the Obligations onto the operations systems of Administrative Agent, but in no event later than the first day of the second month or quarter, as applicable, following the Closing Date. In the computation of periods of time from a specified date to a later specified date, the word "**from**" means "from and including"; the words "**to**" and "**until**" each mean "to but excluding", and the word "**through**" means "to and including." All references to the time of day shall be a reference to New York, New York time. If any provision of this Agreement or any other Loan Document refers to any action taken or to be taken by any Person, or which such Person is prohibited from taking, such provision shall be interpreted to encompass any and all means, direct or indirect, of taking, or not taking, such action.

(e) Contracts. Unless otherwise expressly provided herein or in any other Loan Document, references to agreements and other contractual instruments, including this Agreement and the other Loan Documents, shall be deemed to include all subsequent amendments, thereto, restatements and substitutions thereof and other modifications and supplements thereto which are in effect from time to time, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document.

(f) Laws. References to any statute or regulation may be made by using either the common or public name thereof or a specific cite reference and, except as otherwise provided with respect to FATCA, are to be construed as including all statutory and regulatory provisions related thereto or consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

(g) Divisions. For all purposes under the Loan Documents, in connection with any Division: (i) 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 (ii) 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 Stock at such time. Any reference in Section 5.2, Section 5.3 or Section 5.4 to a combination, merger, consolidation, Disposition, dissolution, liquidation or transfer shall be deemed to apply to a Division (or the unwinding of such a Division) as if it were a combination, merger, consolidation, Disposition, dissolution, transfer or similar term, as applicable, to or with a separate Person. Any Division of a Person shall constitute a separate Person hereunder (and each Division of any Person that is a Subsidiary, Credit Party, joint venture or any other like term shall also constitute such a Person or entity).

11.3 Accounting Terms and Principles. All accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made in accordance with GAAP. If any change in GAAP results in a change in the calculation of the financial covenants or interpretation of related provisions of this Agreement or any other Loan Document, then the Borrower Representative, the Agents and the Required Lenders agree to amend such provisions of this Agreement or any other Loan Document so as to equitably reflect such changes in GAAP with the desired result that the criteria for evaluating the Credit Parties' financial condition shall be the same after such change in GAAP as if such change had not been made; provided that no change in the accounting principles used in the preparation of any financial statement hereafter adopted by Holdings shall be given effect for purposes of measuring compliance with any provision of Article V or VI unless the Borrower Representative, Agents and the Required Lenders agree to modify such provisions to reflect such changes in GAAP and, unless such provisions are modified, all financial statements, Compliance Certificates and similar documents provided hereunder shall be provided together with a reconciliation between the calculations and amounts set forth therein before and after giving effect to such change in GAAP. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to in Article V and Article VI shall be made, without giving effect to any election under Accounting Standards Codification 825-10 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other Liabilities of any Credit Party or any Subsidiary of any Credit Party at "fair value." A breach of a financial covenant contained in Article VI shall be deemed to have occurred as of the last day of any specified measurement period, regardless of when the financial statements reflecting such breach are delivered to Administrative Agent. For purposes of determining pro forma compliance with any financial covenant as of any date prior to the first date on which such financial covenant is to be tested hereunder, the level of any such financial covenant shall be deemed to be the covenant level for such first test date and if the availability of Indebtedness under this Agreement, or other incurrence of Indebtedness in compliance with this Agreement, is subject to a maximum leverage ratio, then, solely for the purposes of determining such availability or compliance, the cash proceeds of such Indebtedness, shall not be included in the calculation, if applicable, of cash or cash equivalents included in the determination of such leverage ratio. Notwithstanding anything

to the contrary, in no event shall any Non-Financing Lease Obligation constitute Indebtedness or a Capital Lease under this Agreement or any other Loan Document, in each case, irrespective of any changes in GAAP after the Closing Date. In addition, and notwithstanding anything to the contrary in this Agreement, all terms of an accounting or financial nature used herein or therein shall be construed, and all computations of amounts and ratios referred to herein and therein shall be made, without giving effect to the Financial Accounting Standards Board Accounting Standards Codification 842 (or any other Accounting Standards Codification having a similar result or effect) (and related interpretations) to the extent any lease (or any similar arrangement conveying the right to use) would be required to be treated as a financing lease or capital lease thereunder where such lease (or similar arrangement) would have been treated as an operating lease under GAAP as in effect immediately prior to the effectiveness of the Financing Accounting Standards Board Accounting Standards Codification 842 (or such other Accounting Standards Codification having a similar result or effect).

11.4 Payments. Administrative Agent may set up standards and procedures to determine or redetermine the equivalent in Dollars of any amount expressed in any currency other than Dollars and otherwise may, but shall not be obligated to, rely on any determination made by any Credit Party. Any such determination or redetermination by Administrative Agent shall be conclusive and binding for all purposes, absent manifest error. No determination or redetermination by any Secured Party or any Credit Party and no other currency conversion shall change or release any obligation of any Credit Party or of any Secured Party (other than Administrative Agent and its Related Persons) under any Loan Document, each of which agrees to pay separately for any shortfall remaining after any conversion and payment of the amount as converted. Administrative Agent may round up or down, and may set up appropriate mechanisms to round up or down, any amount hereunder to nearest higher or lower amounts and may determine reasonable *de minimis* payment thresholds.

11.5 Pro Forma Calculations.

(a) Notwithstanding anything to the contrary in this Agreement, EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio (but excluding, for the avoidance of doubt, the calculation of Excess Cash Flow), shall be calculated in the manner prescribed by this Section 11.5; provided that, notwithstanding anything to the contrary in this Section 11.5, when calculating the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio for purposes of determining actual compliance (and not pro forma compliance, compliance on a pro forma basis or determining compliance giving pro forma effect to a transaction) with Section 6.1, the events described in this Section 11.5 that occurred subsequent to the end of the applicable Measurement Period shall not be given pro forma effect.

(b) For purposes of calculating EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio (but excluding, for the avoidance of doubt, the calculation of Excess Cash Flow), Pro Forma Transactions (and the incurrence or repayment of any Indebtedness in connection therewith, subject to Section 11.5(c) that have been made by any Credit Party and/or its

Subsidiaries (i) during the applicable Measurement Period or (ii) subject to the proviso set forth in Section 11.5(a), subsequent to such Measurement Period ad prior to or simultaneously with the event for which the calculation of any such ratio or test is made shall be calculated on a pro forma basis assuming that all such Pro Forma Transactions (and the change in EBITDA and other components of the financial covenants resulting from such Pro Forma Transaction) had occurred on the first day of the applicable Measurement Period. If since the beginning of any such Measurement Period any Person that subsequently became a Subsidiary or was merged, amalgamated or consolidated with or into any Credit Party or any Subsidiary of such Credit Party since the beginning of such Measurement Period shall have made any Pro Forma Transaction that would have required adjustment pursuant to this Section 11.5, then EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, shall be calculated giving pro forma effect thereto for such Measurement Period in accordance with this Section 11.5.

(c) In the event that any Credit Party or any Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable Measurement Period or (ii) subsequent to the end of the applicable Measurement Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, as applicable, shall be calculated giving pro forma effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred (A) in the case of the Fixed Charge Coverage Ratio (or any similar ratio or test), on the first day of the applicable Measurement Period and (B) in the case of the Total Net Leverage Ratio and the Senior Leverage Ratio, as applicable, on the last day of the applicable Measurement Period.

(d) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of the event for which the calculation of the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio is made had been the applicable rate for the entire period (taking into account any interest hedging arrangements applicable to such Indebtedness). Interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Borrower Representative to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP. Interest on any Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate or other rate shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen by the Borrower Representative.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

RCS AGENT, LLC

By: _____
Name: Béla R. Schwartz
Title: Vice President and Secretary

Address for Notices (if to the Administrative Agent):

RCS Agent, LLC
800 Boylston Street, Suite 1590
Boston, Massachusetts 02199
Attention: Dave Dobies
Email:

RCS SBIC FUND II, L.P.

By: RCS II SBIC GP, LLC, its general partner

By: _____
Name: Béla R. Schwartz
Its: Vice President and Secretary

TCW ASSET MANAGEMENT COMPANY LLC

By: _____
Name: Suzanne Grosso
Title: Managing Director

Address for Notices (if to the Collateral Agent):

TCW Asset Management Company LLC
200 Clarendon Street, 51st Floor
Boston, Massachusetts 02116
Attention: James Synborski
Telephone:
Facsimile:
Email:

TCW DIRECT LENDING VIII LLC

By: TCW Asset Management Company LLC,
its Investment Advisor

By: _____
Name: Suzanne Grosso
Title: Managing Director

TCW WV FINANCING LLC

By: TCW Asset Management Company LLC,
its Collateral Manager

By: _____
Title: Managing Director

TCW SKYLINE LENDING, L.P.

By: TCW Asset Management Company LLC,
its Investment Advisor

By: _____
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING STRUCTURED SOLUTIONS 2019 LLC

By: TCW Asset Management Company LLC,
its Investment Manager

By: ____
Name: Suzanne Grosso
Title: Managing Director

TMD-DL HOLDINGS LLC

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: ____
Name: Suzanne Grosso
Title: Managing Director

SAFETY NATIONAL CASUALTY CORPORATION

By: TCW Asset Management Company LLC,
Its Investment Manager and Attorney-in-Fact

By: _____
Name: Suzanne Grosso
Title: Managing Director

PHILADELPHIA INDEMNITY INSURANCE COMPANY

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: _____
Name: Suzanne Grosso
Title: Managing Director

RELIANCE STANDARD LIFE INSURANCE COMPANY

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: _____
Name: Suzanne Grosso
Title: Managing Director

BUILD PRIVATE CREDIT, L.P.

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: _____
Name: Suzanne Grosso
Title: Managing Director

BLACK ROCK COFFEE HOLDINGS, LLC,
a Delaware limited liability company

By:_____
Name: Rodd Booth
Title: Chief Financial Officer

Address for Notices (if to any Credit Party):

c/o Black Rock Coffee Holdings, LLC
9170 E Bahia Drive, Suite 101
Scottsdale, Arizona 85260
Attn: Rodd Booth
E-Mail:

BLACK ROCK COFFEE BAR, LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By:_____
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK STORE OPERATIONS LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By:_____
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK DEVELOPMENT, LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By:_____
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK ROASTING, LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By:_____
Name: Rodd Booth
Title: Chief Financial Officer

BRSO 67th, LLC,
an Arizona limited liability company

By: Black Rock Store Operations, LLC, an Oregon limited liability company, Member

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By:_____
Name: Rodd Booth
Title: Chief Financial Officer

BR CASTLE ROCK LLC,
a Colorado limited liability company

By: Black Rock Store Operations, LLC, an Oregon limited liability company, Member

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By:_____
Name: Rodd Booth
Title: Chief Financial Officer

BRSO PNW XX, LLC,
a Washington limited liability company

By: Black Rock Store Operations, LLC, an Oregon limited liability company, Member

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By:_____
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK COFFEE INVESTMENTS, LLC,
a Delaware limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, **Manager**

By: _____
Name: Rodd Booth
Title: Chief Financial Officer

FIFTH AMENDMENT TO CREDIT AGREEMENT

This **FIFTH AMENDMENT TO CREDIT AGREEMENT**, dated as of April 24, 2025 (this "Amendment"), is entered into among (a) **BLACK ROCK COFFEE HOLDINGS, LLC**, a Delaware limited liability company ("Holdings"), (b) **BLACK ROCK COFFEE BAR, LLC**, an Oregon limited liability company ("BRCB"), **BLACK ROCK STORE OPERATIONS LLC**, an Oregon limited liability company ("BRSO"), **BLACK ROCK DEVELOPMENT, LLC**, an Oregon limited liability company ("BRD"), **BLACK ROCK ROASTING, LLC**, an Oregon limited liability company ("BRR"), **BRSO 67TH, LLC**, an Arizona limited liability company ("BRSO 67th") and **BR CASTLE ROCK LLC**, a Colorado limited liability company ("BRCR" together with BRCB, BRSO, BRD, BRR and BRSO 67th, collectively and jointly and severally, the "Borrowers", and each individually, a "Borrower"), (c) **BRSO PNW XX, LLC**, a Washington limited liability company ("BRSO PNW") and **BLACK ROCK COFFEE INVESTMENTS, LLC**, a Delaware limited liability company ("**BRCI**"), as Guarantors (as defined in the Credit Agreement referred to below), (d) the other Credit Parties (as defined in the Credit Agreement referred to below), (e) the Lenders (as defined below) party hereto, and (f) **RCS AGENT, LLC** (in its individual capacity, "RCS"), as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "Administrative Agent") for the Lenders and **TCW ASSET MANAGEMENT COMPANY LLC** in its individual capacity ("TCW"), as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent" and, together with the Administrative Agent, each an "Agent" and collectively, the "Agents") for the Lenders.

PRELIMINARY STATEMENTS

A. Reference is made to that certain Credit Agreement, dated as of April 29, 2022, as amended by that certain First Amendment to Credit Agreement, dated as of November 11, 2022, as further amended by that certain Second Amendment to Credit Agreement, dated as of January 13, 2023, as further amended by that certain Third Amendment to Credit Agreement, dated as of May 8, 2023, as further amended by that certain Fourth Amendment and Limited Waiver to Credit Agreement, dated as of May 31, 2024, and as further amended, amended and restated, extended, supplemented or otherwise modified in writing from time to time and in effect immediately prior to the effectiveness of this Amendment, the "Existing Credit Agreement", and the Existing Credit Agreement, as amended by this Amendment, the "Amended Credit Agreement"), among (a) the Borrowers, (b) Holdings, (c) the Guarantor, (d) each other Person party hereto from time to time that is designated as a "Credit Party", (e) the several financial institutions and other lenders from time to time party thereto (collectively, the "Lenders" and each individually, a "Lender") (f) the Administrative Agent and (g) the Collateral Agent.

B. The Borrowers have requested that the Existing Credit Agreement be amended to, among other things, (a) increase the Delayed Draw Term Loan Commitment by the Fifth Amendment Delayed Draw Term Loan Increase Amount (as defined in the Amended Credit Agreement), (b) extend the Delayed Draw Availability Period from September 30, 2025 to March 31, 2026, and (c) amend the EBITDA definition.

C. The Administrative Agent, Collateral Agent and Lenders are willing to so amend the Existing Credit Agreement on the terms, and subject to the conditions, set forth herein and in the Amended Credit Agreement.

Accordingly, in consideration of the premises and other good and valuable consideration, the parties hereto hereby agree as follows:

1. Capitalized Terms. Capitalized terms used herein, including in preamble and the preliminary statements, and not otherwise defined herein shall have the meanings assigned to such terms in the Amended Credit Agreement.

2. Reserved.

3. Amendments to Existing Credit Agreement.

(a) The Existing Credit Agreement is, as of the Fifth Amendment Effective Date, hereby amended and restated to (i) delete the stricken text (indicated textually in the same manner as the following example: ~~**stricken text**~~), (ii) add the double-underlined text (indicated textually in the same manner as the following example: **double-underlined text**) and (iii) move from its location the stricken text in green (indicated textually in the same manner as the following example: ~~moved from text~~) into its new location the double-underlined text in green (indicated textually in the same manner as the following example: moved to text), as set forth in the Credit Agreement attached as Annex A hereto.

(b) Annex A to Compliance Certificate attached to the Existing Credit Agreement is, as of the Fifth Amendment Effective Date, hereby deleted in its entirety and replaced with Annex A to Compliance Certificate attached to the Amended Credit Agreement.

4. Conditions Precedent to Amendment. This Amendment shall become effective upon the satisfaction of each of the following conditions (the date upon which this Amendment shall so become effective being referred to as the "Fifth Amendment Effective Date"):

(a) *Amendment, Fifth Amendment Fee Letter and Related Documents.* The Administrative Agent and Collateral Agent shall have received (i) this Amendment, duly executed by the Credit Parties, the Lenders and the Founder Group Members (see Annex B), (ii) the Fifth Amendment Fee Letter, duly executed by the Borrower Representative (on behalf of the Borrowers) and the Agents and (iii) all other documents, certificates and instruments as reasonably requested by the Agents, in each case, in form and substance reasonably satisfactory to the Agents and the Lenders;

(b) *Representations and Warranties/No Default*. On the Fifth Amendment Effective Date, the representations and warranties set forth in Section 5 of this Amendment shall be true and correct.

(c) *Fees and Expenses.* The Administrative Agent and Collateral Agent shall have received reimbursement or payment of all out-of-pocket fees, costs and

expenses required to be reimbursed or paid by the Borrowers under the Amended Credit Agreement on or prior to the Fifth Amendment Effective Date, including but not limited to (i) all fees and expenses invoiced through the Fifth Amendment Effective Date incurred by the Administrative Agent and Collateral Agent and its counsel related to the documentation referenced hereto in Section 4(a) and (ii) those fees contained in this Amendment and the Fifth Amendment Fee Letter.

5. Representations and Warranties. The Credit Parties hereby represent and warrant to the Administrative Agent, Collateral Agent and the Lenders as of the Fifth Amendment Effective Date as follows:

(a) *Corporate Authorization; No Contravention*. The execution, delivery and performance by each of the Credit Parties of this Amendment, (i) have been duly authorized by all necessary corporate, limited liability company or limited partnership action, as applicable, and (ii) do not and will not:

(i) contravene the terms of any of that Person's Organization Documents;

(ii) conflict with or result in any material breach or contravention of, or result in the creation of any Lien (other than Liens in favor of the Collateral Agent created under the Loan Documents) under, any document evidencing any Contractual Obligation that is material to the Credit Parties to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject except in each case to the extent such would not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect; or

(iii) violate any Requirement of Law in any respect, except to the extent such violation could not, either individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(b) *Governmental Authorization*. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Amendment, the Amended Credit Agreement or any other Loan Document except (i) for recordings, filings and other perfection actions in connection with the Liens granted to Collateral Agent under the Collateral Documents, (ii) those obtained or made on or prior to the Fifth Amendment Effective Date, and (iii) filings required by applicable Requirements of Law in connection with the exercise of remedies by the Collateral Agent.

(c) *Binding Effect*. This Amendment has been duly executed and delivered by such Credit Party that is party hereto. This Amendment constitutes the legal, valid and binding obligations of each Credit Party that is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

(d) *Representations and Warranties; No Default*. The following statements shall be true on the Fifth Amendment Effective Date, both immediately before and immediately after giving effect to this Amendment and the consummation of the transactions contemplated by this Amendment taking place on or about the Fifth Amendment Effective Date:

(i) The representations and warranties of each Credit Party contained in Article III of the Amended Credit Agreement or any other Loan Document are true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) on and as of the Fifth Amendment Effective Date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true and correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date); and

(ii) no Default or Event of Default exists.

6. Survival of Representations and Warranties. All representations and warranties made by the Credit Parties in this Amendment or other document delivered pursuant to or in connection with this Amendment shall survive the execution and delivery hereof. Such representations and warranties have been relied upon by each Agent and each Lender, regardless of any investigation made by either Agent or any Lender or on their behalf and notwithstanding that either Agent or any Lender may have had notice or knowledge of any Default on the Fifth Amendment Effective Date, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

7. Reserved.

8 . Amendment as a Loan Document. This Amendment constitutes a "Loan Document" under the Amended Credit Agreement. Any breach of this Amendment shall be an Event of Default under the Amended Credit Agreement.

9. Effect on Loan Documents. After giving effect to this Amendment on the Fifth Amendment Effective Date, the Amended Credit Agreement and the other Loan Documents shall be and remain in full force and effect in accordance with their terms and are hereby ratified and confirmed by Holdings, the Borrowers and each other Credit Party in all respects. The execution, delivery, and performance of this Amendment shall not operate as a waiver of any right, power, or remedy of the Administrative Agent, Collateral Agent or the Lenders under the Existing Credit Agreement or the other Loan Documents. Each of Holdings, the Borrower and each other Credit Party hereby acknowledge and agree that, after giving effect to this Amendment, all of its and their obligations and liabilities under the Existing Credit Agreement and the other Loan Documents to which it is a party, as such obligations and liabilities have been amended or otherwise modified by this Amendment, are reaffirmed and remain in full force and effect. All references to the Existing Credit Agreement in any Loan Document or other document or instrument delivered in connection therewith shall be deemed to refer to the Amended Credit Agreement. Nothing contained herein shall be construed as a novation of the

Obligations outstanding under and as defined in the Existing Credit Agreement, which shall remain in full force and effect, as expressly modified hereby.

10. Reaffirmation of Grant of Security Interests. Each of the Credit Parties hereby reaffirms its grant to the Collateral Agent, for the benefit of the Secured Parties, of a continuing security interest in and Lien upon the Collateral of such Person, whether now owned or hereafter acquired or arising, and wherever located, all as provided in the Collateral Documents, and Holdings, the Borrowers, and each other Credit Party hereby reaffirms that the Secured Obligations are and shall continue to be secured by the continuing security interest and Lien granted by such Person to the Collateral Agent, for the benefit of the Secured Parties, pursuant to the Collateral Documents.

11. Reserved.

12. Limited Effect. This Amendment relates only to the specific matters expressly covered herein, shall not be considered to be an amendment or waiver of any rights or remedies that the Administrative Agent, Collateral Agent or any Lender may have under the Existing Credit Agreement or any other Loan Document (except as expressly set forth herein) or under applicable law, and shall not be considered to create a course of dealing or to otherwise obligate in any respect the Administrative Agent, Collateral Agent or any Lender to execute similar or other amendments or waivers or grant any amendments or waivers under the same or similar or other circumstances in the future.

13. Release of Claims. In consideration of the Administrative Agent's, Collateral Agent's and each Lender's agreements contained in this Fifth Amendment, each Credit Party hereby irrevocably releases and forever discharges the Administrative Agent, Collateral Agent and each Lender and their affiliates, subsidiaries, successors, assigns, directors, officers, employees, agents, consultants and attorneys (each, a "Released Person") of and from any and all claims, suits, actions, causes of action, investigations or proceedings, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law of any kind or character, known or unknown, which such Credit Party ever had or now has against the Administrative Agent, Collateral Agent, any Lender or any other Released Person which relates, directly or indirectly, to any acts or omissions of the Administrative Agent, Collateral Agent, any Lender or any other Released Person relating to the Existing Credit Agreement or any other Loan Document on or prior to the date hereof.

14. Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Amendment, including its validity, interpretation, construction, performance and enforcement (including any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest). The provisions of Section 9.18 of the Existing Credit Agreement are hereby incorporated by reference, mutatis mutandis, into this Amendment.

15. Counterparts. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed

counterpart of a signature page of this Amendment by facsimile or other electronic imaging means (*e.g.*, "pdf" or "tif") shall be effective as delivery of a manually executed counterpart of this Amendment.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed and delivered as of the date first above written.

BLACK ROCK COFFEE HOLDINGS, LLC

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK COFFEE BAR, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK STORE OPERATIONS, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK DEVELOPMENT, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK ROASTING, LLC

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BRSO PNW XX, LLC

By: Black Rock Store Operations, LLC
Its: Member

By: Black Rock Coffee Holdings, LLC
Its: Managing Member

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

BLACK ROCK COFFEE INVESTMENTS, LLC

By: Black Rock Coffee Holdings, LLC
Its: Manager

By: /s/ Rodd Booth
Name: Rodd Booth
Title: Chief Financial Officer

RCS AGENT, LLC,
as Administrative Agent

By: /s/ Mitchell Goldstein
Name: Mitchell Goldstein
Title: Authorized Signatory

RCS SBIC FUND II, L.P.,
as a Lender

By: RCS II SBIC GP, LLC
Its: General Partner

By: /s/ Mitchell Goldstein
Name: Mitchell Goldstein
Title: Authorized Signatory

TCW ASSET MANAGEMENT COMPANY LLC, as Collateral Agent

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DL VIII FINANCING LLC, as a Lender

By: TCW Asset Management Company LLC,
its Collateral Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW WV FINANCING LLC, as a Lender

By: TCW Asset Management Company LLC,
its Collateral Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW SKYLINE LENDING, L.P., as a Lender

By: TCW Asset Management Company LLC,
its Investment Advisor

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING STRUCTURED SOLUTIONS 2019 LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

TMD-DL HOLDINGS LLC, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

SAFETY NATIONAL CASUALTY CORPORATION, as a Lender

By: TCW Asset Management Company LLC,
Its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

PHILADELPHIA INDEMNITY INSURANCE COMPANY, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

RELIANCE STANDARD LIFE INSURANCE COMPANY, as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

BUILD PRIVATE CREDIT, L.P., as a Lender

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: /s/ Suzanne Grosso
Name: Suzanne Grosso
Title: Managing Director

IVY HILL MIDDLE MARKET CREDIT FUND IV, LTD., as a Lender

By: Ivy Hill Asset Management, L.P., as Portfolio Manager

By: /s/ Steven Alexander
Name: Steven Alexander
Title: Authorized Signatory

IVY HILL MIDDLE MARKET CREDIT FUND V, LTD., as a Lender

By: Ivy Hill Asset Management, L.P., as Portfolio Manager

By: /s/ Steven Alexander
Name: Steven Alexander
Title: Authorized Signatory

IVY HILL MIDDLE MARKET CREDIT FUND VII, LTD., as a Lender

By: Ivy Hill Asset Management, L.P., as Asset Manager

By: /s/ Steven Alexander
Name: Steven Alexander
Title: Authorized Signatory

IVY HILL MIDDLE MARKET CREDIT FUND VIII, LTD., as a Lender

By: Ivy Hill Asset Management, L.P., as Collateral Manager

By: /s/ Steven Alexander
Name: Steven Alexander
Title: Authorized Signatory

IVY HILL MIDDLE MARKET CREDIT FUND IX-R, LLC.

As Successor to IVY HILL MIDDLE MARKET CREDIT FUND IX, LTD., as a Lender

By: Ivy Hill Asset Management, L.P., as Asset Manager

By: /s/ Steven Alexander
Name: Steven Alexander
Title: Authorized Signatory

IVY HILL MIDDLE MARKET CREDIT FUND XII, LTD., as a Lender

By: Ivy Hill Asset Management, L.P., as Asset Manager

By: /s/ Steven Alexander
Name: Steven Alexander
Title: Authorized Signatory

IVY HILL MIDDLE MARKET CREDIT FUND XVIII, LTD., as a Lender

By: Ivy Hill Asset Management, L.P., its Asset Manager

By: /s/ Steven Alexander
Name: Steven Alexander
Title: Authorized Signatory

IVY HILL MIDDLE MARKET CREDIT FUND XX, LTD., as a Lender

By: Ivy Hill Asset Management, L.P., its Asset Manager

By: /s/ Steven Alexander
Name: Steven Alexander
Title: Authorized Signatory

IVY HILL MIDDLE MARKET CREDIT FUND XXI, LTD., as a Lender

By: Ivy Hill Asset Management, L.P., its Asset Manager

By: /s/ Steven Alexander
Name: Steven Alexander
Title: Authorized Signatory

IVY HILL MIDDLE MARKET CREDIT FUND XXII, LTD., as a Lender

By: Ivy Hill Asset Management, L.P., its Asset Manager

By: /s/ Steven Alexander
Name: Steven Alexander
Title: Authorized Signatory

ACKNOWLEDGED AND AGREED TO:

VIKING CAKE HOLDINGS II, LLC

By: /s/ Jake Spellmeyer
Name: Jake Spellmeyer
Title: Authorized Signatory

Annex A

Amended Credit Agreement

[See attached.]

UP TO $137,500,000 SENIOR CREDIT FACILITY

CREDIT AGREEMENT

dated as of April 29, 2022

by and among

BLACK ROCK COFFEE HOLDINGS, LLC,

as Holdings and Borrower Representative,

BLACK ROCK COFFEE BAR, LLC,
BLACK ROCK STORE OPERATIONS LLC
BLACK ROCK DEVELOPMENT, LLC
BLACK ROCK ROASTING, LLC,

BRSO 67TH, LLC and
BR CASTLE ROCK LLC,
as Borrowers

BRSO PNW XX, LLC and

BLACK ROCK COFFEE INVESTMENTS, LLC,
as Guarantors

THE OTHER CREDIT PARTIES PARTY HERETO FROM TIME TO TIME,
as Credit Parties

THE LENDERS PARTY HERETO FROM TIME TO TIME,

and

RCS AGENT, LLC,
as Administrative Agent

RCS SBIC FUND II, L.P.,
as Joint Lead Arranger and Co-Bookrunner

TCW ASSET MANAGEMENT COMPANY LLC,
as Collateral Agent, Joint Lead Arranger and Co-Bookrunner

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Exhibit 11.1(b) Form of Notice of Borrowing
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Exhibit 11.1(e) Corporate Structure Chart

CREDIT AGREEMENT

This **CREDIT AGREEMENT** (including all exhibits and schedules hereto, as the same may be amended, modified, extended, refinanced and/or restated from time to time, this "**Agreement**") is entered into as of April 29, 2022, by and among (a) **BLACK ROCK COFFEE HOLDINGS, LLC**, a Delaware limited liability company ("**Holdings**"), (b) **BLACK ROCK COFFEE BAR, LLC**, an Oregon limited liability company ("**BRCB**"), **BLACK ROCK STORE OPERATIONS LLC**, an Oregon limited liability company ("**BRSO**"); **BLACK ROCK DEVELOPMENT, LLC**, an Oregon limited liability company ("**BRD**"), **BLACK ROCK ROASTING, LLC**, an Oregon limited liability company ("**BRR**"), **BRSO 67th, LLC**, an Arizona limited liability company ("**BRSO 67th**") and **BR CASTLE ROCK LLC**, a Colorado limited liability company ("**BRCR"**, and together with BRCB, BRSO, BRD, BRR and BRSO 67th, and each other Person which joins this Agreement as a Borrower by execution of a Joinder in form and substance reasonably acceptable to the Agent (as hereinafter defined), collectively and jointly and severally, the "**Borrowers**", and each individually, a "**Borrower**"), (c) **BRSO PNW XX, LLC**, a Washington limited liability company ("**BRSO PNW**") and **BLACK ROCK COFFEE INVESTMENTS, LLC**, a Delaware limited liability company ("**BRCI**", together with BRSO PNW, as "Guarantors", and each individually, a "Guarantor"), (d) each other Person party hereto from time to time that is designated as a "Credit Party", (e) the several financial institutions and other lenders from time to time party hereto (collectively, the "**Lenders**" and each individually, a "**Lender**"), and (f) **RCS AGENT, LLC** (in its individual capacity, "**RCS**"), as administrative agent (in such capacity, together with its successors and assigns in such capacity, the "**Administrative Agent**") for the Lenders, and **TCW Asset Management Company LLC** in its individual capacity, ("**TCW**"), as collateral agent (in such capacity, together with its successors and assigns in such capacity, the "Collateral Agent") for the Lenders. The Administrative Agent and the Collateral Agent are sometimes referred to herein collectively as the "Agents", or each individually as an "Agent". The term "Agent", when used herein and not preceded by "Administrative" or "Collateral", means either Agent, and the term "Agents" means both Agents.

W I T N E S S E T H:

WHEREAS, Holdings and the Borrowers have requested, and the Lenders have agreed to make available to the Borrowers, a term loan facility and a delayed draw term loan facility, in each case, upon and subject to the terms and conditions set forth in this Agreement;

WHEREAS, the Borrowers desire to secure all of their Obligations under the Loan Documents by granting to Collateral Agent, for the benefit of the Secured Parties, a security interest in and lien upon substantially all of their Property (except as otherwise provided herein or in the other Loan Documents);

WHEREAS, Holdings directly owns all of the Stock and Stock Equivalents of the BRCB, BRSO, BRD, BRSO PNW, BRCI and BRR, and BRSO owns all of the Stock and Stock Equivalents of BRSO 67th and BRCR, and Holdings is willing to guaranty all of the Obligations and to pledge to Collateral Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents it owns in BRCB, BRSO, BRD, BRCI and BRR, and BRSO is willing to

pledge to the Collateral Agent, for the benefit of the Secured Parties, all of the Stock and Stock Equivalents it owns in BRSO PNW, BRSO 67th and BRCR, and substantially all of its other Property (except as otherwise provided herein or in the Loan Documents) to secure the Obligations; and

WHEREAS, subject to the terms hereof, each other Guarantor is willing to guaranty all of the Obligations of the Borrowers and to grant to Collateral Agent, for the benefit of the Secured Parties, a security interest in and lien upon substantially all of its Property (except as otherwise provided in the Loan Documents) to secure the Obligations, including, in the case of BRSO, a pledge to the Collateral Agent, for the benefit of the Secured Parties, of all of the Stock and Stock Equivalents it owns in BRSO PNW, BRSO 67th and BRCR.

NOW, THEREFORE, in consideration of the mutual agreements, provisions and covenants contained herein, the parties hereto agree as follows:

ARTICLE I

THE CREDITS

1.1 Amounts and Terms of Commitments.

(a) The Term Loan A Commitments. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Lender with a Term Loan Commitment, severally and not jointly, agrees to make term loans to the Borrowers (each such loan, a "**Term Loan A**") on the Closing Date in the amount of such Lender's Term Loan Commitment as in effect on the Closing Date. Amounts borrowed as a Term Loan A which are repaid or prepaid may not be reborrowed.

(b) The Fourth Amendment Term Loan Commitments. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Lender with a Fourth Amendment Term Loan Commitment, severally and not jointly, agrees to make term loans to the Borrowers (each such loan, a "**Fourth Amendment Term Loan**") on the Fourth Amendment Effective Date in the amount of such Lender's Fourth Amendment Term Loan Commitment as in effect on the Fourth Amendment Effective Date. Amounts borrowed as a Fourth Amendment Term Loan which are repaid or prepaid may not be reborrowed. Once funded, Fourth Amendment Term Loans shall automatically be added to the then outstanding principal amount of, and shall become part of, the Term Loan for all purposes of this Agreement including accrual of interest and determining the Term Loan Amortization Percentages on each Interest Payment Date following such funding.

(c) Delayed Draw Term Loans. Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Credit Parties contained herein, each Lender with a Delayed Draw Term Loan Commitment, severally and not jointly, agrees to make Delayed Draw Term Loans to the Borrowers (each such

loan, a "**Delayed Draw Term Loan**") during the Delayed Draw Availability Period, in an aggregate principal amount not to exceed its Delayed Draw Term Loan Commitment. On the Fifth Amendment Effective Date, the aggregate Delayed Draw Term Loan Commitment is hereby increased by the Fifth Amendment Delayed Draw Term Loan Commitment Increase Amount. Once funded, Delayed Draw Term Loans shall be added to the then outstanding principal amount of, and shall become part of, the Term Loan for all purposes of this Agreement including accrual of interest and determining the Term Loan Amortization Percentage on each Interest Payment Date following such funding. Amounts paid or prepaid in respect of the Delayed Draw Term Loans may not be reborrowed.

(d) Each Fourth Amendment Term Loan and Delayed Draw Term Loan shall for all purposes constitute "Term Loans", "Loans" and "Obligations" incurred under this Agreement.

1.2 Evidence of Loans; Notes. The Term Loans made by each Term Lender are evidenced by this Agreement and, if requested by such Lender, a Term Note payable to such Lender in an amount equal to the unpaid balance of the applicable Term Loans held by such Lender.

1.3 Interest.

(a) Subject to Sections 1.3(c) and 1.3(d), each Loan shall bear interest on the outstanding principal amount thereof from the date when made at a rate per annum equal to the Adjusted Term SOFR Rate or the Base Rate, as the case may be, plus, in each instance, the Applicable Margin. Each determination of an interest rate by Administrative Agent shall be conclusive and binding on the Borrowers and the Lenders in the absence of manifest error. All computations of fees and interest (other than interest accruing on Base Rate Loans (unless calculated in accordance with clause (c) of the definition of "Base Rate")) payable under this Agreement shall be made on the basis of a 360-day year and actual days elapsed. All computations of interest accruing on Base Rate Loans payable under this Agreement shall be made on the basis of a 365-day year (366 days in the case of a leap year) and actual days elapsed. Interest and fees shall accrue during each period during which interest or such fees are computed from the first day thereof to, but excluding, the last day thereof. For the avoidance of doubt, no date of payment shall be included in any computation.

(b) Interest on each Loan shall be paid in arrears on each Interest Payment Date, provided, that interest on each Loan shall be paid, in cash, in an amount equal to the Cash Interest Portion of such Loan plus the Applicable Margin, and paid-in-kind and capitalized in accordance with the definition of PIK Amount. Interest shall also be paid in the manner set forth in the preceding sentence on the date of any payment or prepayment of the Term Loans in full.

(c) At the election of Administrative Agent or the Collateral Agent or Required Lenders, while any Event of Default exists (or automatically while any Event of

Default under Section 7.1(a), 7.1(f) or 7.1(g) exists), the Borrowers shall pay interest (after as well as before entry of judgment thereon to the extent permitted by law) on the Loans and other Obligations, as applicable, at a rate per annum which is determined by adding two percent (2.0%) per annum to the Applicable Margin then in effect for such Loans or such other Obligations (plus the Term SOFR Rate or Base Rate, as the case may be). All such interest shall be payable on demand of either Agent or the Required Lenders.

(d) Anything herein to the contrary notwithstanding, the obligations of the Borrowers hereunder shall be subject to the limitation that payments of interest shall not be required, for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by the respective Lender would be contrary to the provisions of any law applicable to such Lender limiting the highest rate of interest which may be lawfully contracted for, charged or received by such Lender, and in such event the Borrowers shall pay such Lender interest at the highest rate permitted by applicable law ("**Maximum Lawful Rate**"); provided, however, that if at any time thereafter the rate of interest payable hereunder is less than the Maximum Lawful Rate, the Borrowers shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by Administrative Agent, on behalf of Lenders, is equal to the total interest that would have been received had the interest payable hereunder been (but for the operation of this paragraph) the interest rate payable since the Closing Date as otherwise provided in this Agreement.

1.4 Loan Accounts.

(a) Administrative Agent, on behalf of the Lenders, shall record on its books and records the amount of each Loan made, the interest rate applicable thereto, all payments of principal and interest thereon and the principal balance thereof from time to time outstanding. Such record shall, subject to Sections 1.4(b) through (d), absent manifest error, be conclusive evidence of the amount of the Loans made by the Lenders to the Borrowers and the interest and payments thereon. Any failure to so record or any error in doing so, or any failure to deliver such loan statement shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder (and under any Note) to pay any amount owing with respect to the Loans or provide the basis for any claim against Administrative Agent.

(b) Administrative Agent, acting as a non-fiduciary agent on behalf of the Borrowers and solely with respect to the actions described in this Section 1.4(b), shall establish and maintain at one of its offices (A) a record of ownership (the "**Register**") in which Administrative Agent agrees to register by book entry the interests (including any rights to receive payment hereunder) of Administrative Agent, each Lender in the Term Loans, each of their obligations under this Agreement to participate in each Term Loan, and any assignment of any such interest, obligation or right and (B) accounts in the Register in accordance with its usual practice in which it shall record (1) the names and addresses of the Lenders (and each change thereto pursuant to Sections 9.9 and 9.22),

(2) the Commitments of each Lender, (3) the amount (and stated interest) of each Loan and for Term SOFR Loans, the Interest Period applicable thereto, (4) the amount of any principal or interest due and payable or paid, and (5) any other payment received by any Agent from the Borrowers and its application to the Obligations.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Loans (including any Notes evidencing such Loans) are registered obligations, the right, title and interest of the Lenders and their assignees in and to such Loans, shall be transferable only upon notation of such transfer in the Register and no assignment thereof shall be effective until recorded therein. This Section 1.4 and Section 9.9 shall be construed so that the Loans are at all times maintained in "registered form" under Section 5f.103-1(e) of the United States Treasury Regulations and within the meaning of Sections 163(f), 871(h)(2) and 881(e)(2) of the Code.

(d) The Credit Parties, Agents and the Lenders shall treat each Person whose name is recorded in the Register as a Lender, for all purposes of this Agreement. Information contained in the Register with respect to any Lender shall be available for access by the Borrower Representative, Agents, and each Lender during normal business hours and from time to time upon reasonable prior written notice. No Lender shall, in such capacity, have access to or be otherwise permitted to review any information in the Register other than information with respect to such Lender unless otherwise agreed by the Agents.

1.5 Procedure for Borrowings.

(a) The Borrowing of the Term Loan on the Closing Date shall be made upon the Borrower Representative's irrevocable (subject to Section 10.5 hereof) written (which may be delivered by facsimile, electronic mail or E-Fax) notice delivered to the Administrative Agent substantially in the form of a Notice of Borrowing or in a writing in any other form acceptable to Administrative Agent, which notice must be received by Administrative Agent prior to 2:00 p.m., one (1) Business Day prior to the Closing Date. Such Notice of Borrowing shall specify:

(i) the amount of the Borrowing;

(ii) the requested Borrowing date, which shall be a Business Day;

(iii) whether the Borrowing is to be comprised of Term SOFR Loans or Base Rate Loans;

(iv) if the Borrowing is to be Term SOFR Loans, the Interest Period applicable to such Loans; and

(v) the Borrowers' wire instructions.

(b) The Borrowing of the Fourth Amendment Term Loan on the Fourth Amendment Effective Date shall be made upon the Borrower Representative's irrevocable written notice delivered by electronic mail to the Administrative Agent substantially in the form of a Notice of Borrowing or in a writing in any other form acceptable to Administrative Agent, which notice must be received by Administrative Agent prior to 2:00 p.m., three (3) Business Days prior to the Fourth Amendment Effective Date. Such Notice of Borrowing shall specify:

(i) the amount of the Fourth Amendment Term Loan;

(ii) the requested Borrowing date, which shall be a Business Day;

(iii) whether the Borrowing is to be comprised of Term SOFR Loans or Base Rate Loans;

(iv) if the Borrowing is to be Term SOFR Loans, the Interest Period applicable to such Loans; and

(v) the Borrowers' wire instructions.

(c) The Borrowing of each Delayed Draw Term Loan during the Delayed Draw Availability Period shall be made upon the Borrower Representative's irrevocable written notice delivered by electronic mail to the Administrative Agent substantially in the form of a Notice of Borrowing or in a writing in any other form acceptable to Administrative Agent, which notice must be received by Administrative Agent prior to 2:00 p.m., at least ten (10) Business Days' prior to the requested Borrowing date. Such Notice of Borrowing shall specify:

(i) the amount of the Delayed Draw Term Loan Borrowing (which shall be at least $2,000,000 or such lesser amount as may equal the then unfunded Delayed Draw Term Loan Commitment);

(ii) the requested Borrowing date, which shall be a Business Day (which shall be prior to the expiration of the Delayed Draw Availability Period);

(iii) whether the Borrowing is to be comprised of Term SOFR Loans or Base Rate Loans;

(iv) if the Borrowing is to be Term SOFR Loans, the Interest Period applicable to such Loans; and

(v) the Borrowers' wire instructions.

As used herein, "**DDTL Funding Conditions**" means receipt by the Administrative Agent of a certificate of a Responsible Officer of the Borrower Representative certifying that as of the date of such certificate, (i) the Borrowers have at least $3,000,000 of Qualified Cash, (ii) on a pro forma basis after giving effect to such Delayed Draw Term Loan Borrowing or Incremental

Delayed Draw Term Loan Borrowing, as applicable, (a) the Total Net Leverage Ratio shall not be greater than 4.25 to 1.0 and (b) the Credit Parties shall be in compliance with the Fixed Charge Coverage Ratio in Section 6.1(b) (such certificate setting forth in reasonable detail the calculations demonstrating such compliance), (iii) the proposed use of proceeds of the requested Delayed Draw Term Loan or Incremental Delayed Draw Term Loan (which shall be described therein), as applicable, complies with Section 4.10(b), and (iv) such certificate constitutes the Borrower Representative's irrevocable authorization to the Administrative Agent to deduct the Delayed Draw Term Loan Funding Fee or fees payable in connection with the funding of any Incremental Delayed Draw Term Loan, as applicable, for the ratable benefit of each Delayed Draw Term Lender or Incremental Delayed Draw Term Lender, as the case may be, from the related Delayed Draw Term Loan Borrowing or Incremental Delayed Draw Term Loan Borrowing, as the case may be.

Each Notice of Borrowing relating to a Delayed Draw Term Loan or Incremental Delayed Draw Term Loan shall demonstrate satisfaction of the DDTL Funding Conditions.

(d) Upon receipt of a Notice of Borrowing pursuant to clause (a), (b) or (c) above, Administrative Agent will promptly notify each applicable Lender of such Notice of Borrowing and of the amount of such Lender's Commitment Percentage of the Borrowing.

(e) Each Lender with a Commitment shall make its Loan available to the Administrative Agent not later than 12:00 p.m. on the applicable Borrowing date, by wire transfer of same day funds in Dollars, at the Administrative Agent's office or account. Upon satisfaction or waiver of the conditions precedent specified herein, including Section 2.1 and Section 2.2, and receipt of all requested Loan funds, the Administrative Agent shall make the proceeds of such Loans available to the Borrowers on the applicable Borrowing date by causing an amount of same day funds in Dollars equal to the proceeds of all such Loans received by the Administrative Agent from Lenders to be wired to the account of the Borrowers as may be designated in writing to the Administrative Agent by the Borrowers in the applicable Notice of Borrowing.

1.6 Conversion and Continuation Elections.

(a) The Borrower Representative shall have the option to (i) request that any Loan be made as a Term SOFR Loan, (ii) convert at any time all or any part of outstanding Loans from Base Rate Loans to Term SOFR Loans, (iii) convert any Term SOFR Loan to a Base Rate Loan, subject to Section 10.4 if such conversion is made prior to the expiration of the Interest Period applicable thereto, or (iv) continue all or any portion of any Loan as a Term SOFR Loan upon the expiration of the applicable Interest Period. Any Loan or group of Loans having the same proposed Interest Period to be made or continued as, or converted into, a Term SOFR Loan must be in a minimum amount of $100,000 (or, if less, the aggregate outstanding amount of such Loan or Loans). Any such election must be made by Borrower Representative by 2:00 p.m. (x) on the date that is three (3) Business Days prior to (1) the date of any proposed Loan which is to bear interest at Term SOFR, (2) the end of each Interest Period with respect to

any Term SOFR Loans to be continued as such, or (3) one (1) day prior to the date on which the Borrower Representative wishes to convert any Base Rate Loan to a Term SOFR Loan for an Interest Period designated by the Borrower Representative in such election, and (y) on the date that is one (1) Business Day prior to the date on which the Borrower Representative wishes to convert any Term SOFR Loan to a Base Rate Loan. If no Notice of Conversion/Continuation is received with respect to a Term SOFR Loan by 2:00 p.m. on the date that is three (3) Business Day prior to the end of the Interest Period with respect thereto, that Term SOFR Loan shall automatically be continued as a Term SOFR Loan with a one month Interest Period. If a Notice of Conversion/Continuation is received with respect to a Term SOFR Loan by a 2:00 p.m. on the date that is three (3) Business Days prior to the end of the Interest Period with respect thereto, but fails to specify an Interest Period with respect thereto, the Borrower Representative will be deemed to have selected a one month Interest Period. The Borrower Representative must make such election by notice to Administrative Agent in writing, including by hand delivery, overnight courier, mail, facsimile or Electronic Transmission, which notice may be given pursuant to irrevocable written notice (a "**Notice of Conversion/Continuation**") substantially in the form of Exhibit 1.6 or in a writing in any other form reasonably acceptable to Administrative Agent. No Loan shall be made, converted into or continued as a Term SOFR Loan, if an Event of Default has occurred and is continuing and Required Lenders have determined not to make, convert or continue any Loan as a Term SOFR Loan as a result thereof; provided that the Borrower Representative shall not be required to convert then existing Term SOFR Loans to Base Rate Loans prior to the expiration of the applicable Interest Period(s) thereto solely because of the occurrence and continuance of an Event of Default.

(b) Upon receipt of a Notice of Conversion/Continuation, Administrative Agent will promptly notify each Lender thereof. In addition, Administrative Agent will, with reasonable promptness, notify the Borrower Representative and the Lenders of each determination of Term SOFR; provided that any failure to do so shall not relieve the Borrowers of any liability hereunder or provide the basis for any claim against any Agent. All conversions and continuations shall be made pro rata according to the respective outstanding principal amounts of the Loans held by each Lender with respect to which the notice was given.

(c) Notwithstanding any other provision contained in this Agreement, after giving effect to any Borrowing, or to any continuation or conversion of any Loans, there shall not be more than five (5) different Interest Periods in effect; provided that, after the establishment of any Class of Loans pursuant to an Extension, such number of Interest Periods shall increase by two (2) Interest Periods for each applicable Class so established.

1.7 Optional Prepayments and Reductions in Delayed Draw Term Loan Commitments.

(a) Optional Prepayments Generally. The Borrowers may at any time upon at least two (2) Business Days' (or such shorter period as is acceptable to Administrative

Agent) prior written notice by the Borrower Representative to Administrative Agent by 2:00 p.m. on such day, prepay the Loans in whole or in part in an amount greater than or equal to $100,000 in each instance, together with any Applicable Prepayment Premium and amounts, if any, due under in Section 10.4. Optional partial prepayments shall be applied to Term Loans as specified by the Borrower Representative; provided that any optional partial prepayments of the Term Loans shall be applied to the outstanding installments thereof in direct order of maturity ratably across each Class of Term Loans then outstanding. Any prepayment in full of the Term Loan in connection with the payment in full of all Obligations (other than Contingent Indemnity Obligations) pursuant to a refinancing with a third-party lender during the period from the Closing Date through the second anniversary of the Closing Date (the "**Prepayment Period**") will be accompanied by the Applicable Prepayment Premium.

(b) Reductions in Delayed Draw Term Loan Commitments. The Borrowers may at any time, upon at least three (3) Business Days' (or such shorter period as is acceptable to Administrative Agent) prior written notice by the Borrower Representative to Administrative Agent by 2:00 p.m. on such day, terminate or permanently reduce the aggregate Delayed Draw Term Loan Commitment or Incremental Delayed Draw Term Loan Commitment, without premium or penalty; provided that such reductions shall be in an amount greater than or equal to $1,000,000 (or a lesser amount if the aggregate Delayed Draw Term Loan Commitments or aggregate Incremental Delayed Draw Term Loan Commitments, as the case may be, then outstanding is less than $1,000,000). All reductions of the aggregate Delayed Draw Term Loan Commitment or aggregate Incremental Delayed Draw Term Loan Commitment shall be allocated pro rata among all Lenders with a Delayed Draw Term Loan Commitment or Incremental Delayed Draw Term Loan Commitment, as applicable.

(c) Applicable Prepayment Premium. Any voluntary or mandatory prepayment of the Term Loan during the period from the Closing Date through the second anniversary of the Closing Date (the "**Prepayment Period**") shall be accompanied by the Applicable Prepayment Premium.

(d) Notices. Notice of prepayment or commitment reduction pursuant to clauses (a) or (b) above shall not thereafter be revocable by the Borrower Representative and Administrative Agent will promptly notify each Lender thereof and of such Lender's Commitment Percentage of such prepayment or reduction; provided, however, that a notice of prepayment or commitment reduction may state that such notice is conditioned upon the effectiveness of other credit facilities, the incurrence of other Indebtedness, the consummation of another transaction (such as a change of control) or the occurrence of another specified event, in which case such notice may be revoked by Borrower Representative (by written notice to Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. The payment amount specified in a notice of prepayment shall be due and payable on the date specified therein. Together with each prepayment under this Section 1.7, the Borrowers shall pay any amounts required to be paid pursuant to Section 10.4.

1.8 Mandatory Prepayments of Loans and Commitment Reductions.

(a) Scheduled Term Loan Payments. The principal amount of the Term Loans (including, for avoidance of doubt, funded Delayed Draw Term Loans and Incremental Delayed Draw Term Loans) shall be paid in installments on the last Business Day of each Fiscal Quarter (commencing with the second full Fiscal Quarter following the Closing Date and on the Term Loan Maturity Date in an amount equal to the then-applicable Term Loan Amortization Amount.

The Borrowers shall repay to the Administrative Agent for the ratable account of the appropriate Term Lenders an amount equal to the entire remaining outstanding principal balance of the Term Loan on the Term Loan Maturity Date. The Borrowers shall repay to the Administrative Agent for the ratable account of the appropriate Lenders of Extended Term Loans on each date set forth in the applicable Extension, such amount of such Extended Term Loan as agreed in such Extension.

(b) [Reserved].

(c) Asset Dispositions; Events of Loss. If a Credit Party or any Subsidiary of a Credit Party shall at any time or from time to time:

(i) make a Disposition (except for a Disposition permitted under Section 5.2(a), (c), (d), (e), (f), (h), (i), (j), (k), (l), (o), (p), (s) or (t)); or

(ii) suffer an Event of Loss;

(iii) receives any Extraordinary Receipt, other than in connection with the Las Vegas Franchisee Group Litigation;

and the aggregate amount of the Net Proceeds received by the Credit Parties and their Subsidiaries in connection with such Disposition, Event of Loss or Extraordinary Receipt and all other Dispositions and Events of Loss (for the avoidance of doubt, other than business interruption insurance or workers' compensation) occurring during the Fiscal Year exceeds $500,000, then promptly upon receipt by a Credit Party and/or such Subsidiary of the Net Proceeds of such Disposition, Event of Loss or Extraordinary Receipt, the Borrowers shall deliver, or cause to be delivered, an amount equal to such excess Net Proceeds to Administrative Agent for distribution to the Lenders as a prepayment of the Loans, which prepayment shall be applied in accordance with Section 1.8(f) hereof. Notwithstanding the foregoing and provided no Event of Default has occurred and is continuing at the time of such Disposition, Event of Loss or Extraordinary Receipt, such prepayment shall not be required to the extent a Credit Party or such Subsidiary reinvests the Net Proceeds of such Disposition, Event of Loss or Extraordinary Receipt in assets of a kind then used or usable in the business of the Credit Parties, within one (1) year after the date of such Disposition or Event of Loss, or enters into a binding commitment thereof within

said one (1) year period and subsequently makes such reinvestment within ninety (90) days thereafter; or

(iv) [Reserved].

(d) Incurrence of Debt; Equity Contributions. Upon receipt by any Credit Party or any Subsidiary of any Credit Party of the Net Issuance Proceeds of (i) the incurrence of Indebtedness (other than Net Issuance Proceeds from the incurrence of Indebtedness permitted hereunder) or (ii) if Pro Forma Compliance Conditions are not satisfied, any Equity Contribution (other than, provided that no Default or Event of Default has occurred and is continuing, Equity Contributions made pursuant to the Cynosure 2023 Preferred Equity Agreement), the Borrower Representative shall deliver to the Administrative Agent, for distribution to the Lenders, an amount equal to 100% of the Net Issuance Proceeds received by such Credit Party in connection therewith. The provisions of this subsection (d) shall not be deemed to be implied consent to any such issuance, incurrence or contribution otherwise prohibited by the terms and conditions of this Agreement.

(e) Excess Cash Flow. Within thirty (30) days after the annual financial statements and corresponding Compliance Certificate are required to be delivered pursuant to Section 4.1(a) and Section 4.2(b) hereof (each an "**ECF Payment Date**"), commencing with such annual financial statements for the Fiscal Year ending December 31, 2022, the Borrowers shall deliver to Administrative Agent, for distribution to the Lenders, an amount equal to 50% of Excess Cash Flow for the applicable Excess Cash Flow Reference Period, less the aggregate amount of voluntary prepayments of the Term Loans made during such Excess Cash Flow Reference Period, for application to the Loans in accordance with the provisions of Section 1.8(f) hereof; provided that the percentage referenced above shall be reduced to 25% of such Excess Cash Flow if the Total Net Leverage Ratio as of the last day of the applicable Fiscal Year is less than 2.50 to 1.00. Excess Cash Flow shall be calculated in the manner set forth in the Compliance Certificate.

(f) Application of Prepayments. Subject to Section 1.10(c) and except as may otherwise be set forth in any Extension, any prepayments pursuant to Section 1.8(c), 1.8(d), or 1.8(e) shall be applied to prepay all remaining installments (including the final installment thereof to be made at maturity) of the Term Loans (including, for the avoidance of doubt and without limitation, each funded Delayed Draw Term Loan and Incremental Delayed Draw Term Loan) pro rata against all such scheduled installments based upon the respective amounts thereof ratably across each Class of Term Loans then outstanding. Amounts prepaid shall be applied first to any Base Rate Loans then outstanding and then to outstanding SOFR Rate Loans with the shortest Interest Periods remaining. Together with each prepayment under this Section 1.8, the Borrowers shall pay any amounts required pursuant to Section 10.4 hereof. Notwithstanding the foregoing, prepayments required pursuant to Section 1.8(c) and (d) attributable to Foreign Subsidiaries shall be limited to the extent such prepayments with respect to the

repatriation of cash in connection therewith would (i) be prohibited or delayed by applicable law in the relevant foreign jurisdictions; provided that the Borrower Representative and its Subsidiaries shall take all commercially reasonable actions available under local law to permit such repatriation, (ii) conflict with the fiduciary duties of such Foreign Subsidiary's directors, or result in, or could reasonably be expected to result in, a material risk of personal or criminal liability for any officer, director, employee, manager, member or management of such Foreign Subsidiary or (iii) result in adverse tax consequences as determined by the Borrower Representative in good faith; and provided further that, once the repatriation of the relevant Net Proceeds or Net Issuance Proceeds, as applicable, would no longer be limited as described above, such amounts will promptly be applied in accordance with this Section 1.8. The non-application of any prepayment amounts as a direct consequence of the foregoing provisions will not, for the avoidance of doubt, constitute a Default or Event of Default and such amounts shall be available for working capital and general corporate purposes of the Borrowers and their Subsidiaries so long as not required to be prepaid in accordance with the foregoing.

(g) No Implied Consent. Provisions contained in this Section 1.8 for the application of proceeds of certain transactions shall not be deemed to constitute consent of the Lenders to transactions that are not otherwise permitted by the terms hereof or the other Loan Documents.

(h) Declining Lenders. Upon the occurrence of any mandatory prepayment event set forth in Section 1.8(c), (d) or (e), the Borrower Representative shall provide the Administrative Agent with three (3) Business Days' prior written notice (received by 2:00 p.m. on such day) of the prepayment required hereunder, including the date and amount of such prepayment. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's pro rata share of such mandatory prepayment Notwithstanding any other provisions in this Section 1.8, any Lender may choose not to accept, in whole or in part, its pro rata share of mandatory prepayments of the Loans under Section 1.8(c), (d)(i) or (e), by providing written notice (each, a "**Rejection Notice**") to the Administrative Agent no later than 2:00 p.m., one (1) Business Day prior to the date of such prepayment as set forth in the applicable notice of prepayment; provided that, if a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above, such failure will be deemed an acceptance by such Lender of its pro rata share of such mandatory prepayment. Any amount of a mandatory prepayment of the Loans under Section 1.8(c), (d)(i) or (e) not accepted by the Lenders shall (i) first, be offered to non-declining Lenders in accordance with their Commitment Percentages until all remaining Lenders are declining Lenders, and (ii) any remaining amounts shall be retained by the Borrowers and to be used as permitted hereunder.

(i) Bank Product Obligations Unaffected. Any repayment or prepayment made pursuant to this Section 1.8 shall not affect the Borrowers' obligation to continue to make payments under any Bank Product, which shall remain in full force and effect

notwithstanding such repayment or prepayment, subject to the terms of such Bank Product.

1.9 Fees.

(a) Fees. The Borrowers shall pay to Administrative Agent (for the ratable benefit of the Lenders) on the Closing Date those fees in the amounts at the times set forth in a letter agreement among the Borrower Representative (on behalf of the Borrowers) and Agents dated as of the Closing Date (as amended, amended and restated, modified and/or supplemented from time to time in accordance with its terms, the "**Fee Letter**").

(b) Delayed Draw Term Loan Commitment Fee. The Borrowers shall pay to the Administrative Agent a fee, on the last Business Day of each Fiscal Quarter (the "**Delayed Draw Term Loan Commitment Fee**"), for the account of each Lender having a Delayed Draw Commitment, in an amount equal to:

(i) The average daily balance of the Delayed Draw Term Loan Commitment of each Delayed Draw Term Lender during the preceding Fiscal Quarter,

(ii) multiplied by one percent (1.00%) per annum.

The Delayed Draw Term Loan Commitment Fee provided in this Section 1.9(b) shall accrue at all times during the period from and after the Fourth Amendment Effective Date through the last day of the Delayed Draw Availability Period, and shall be payable quarterly in arrears on the last Business Day of each Fiscal Quarter commencing on the last day of the Fiscal Quarter ending September 30, 2024 (for the period from the Fourth Amendment Effective Date to September 30, 2024). The Delayed Draw Term Loan Commitment Fee is in addition to, and not part of, the Delayed Draw Term Loan Funding Fee.

(c) [Reserved].

(d) All fees payable pursuant to this Section 1.9 shall be calculated on a 360-day year and actual days elapsed and applied in accordance with Section 1.10(a).

1.10 Payments by the Borrowers.

(a) All payments (including prepayments) to be made by each Credit Party on account of principal, interest, fees and other amounts required hereunder shall be made without set-off, recoupment, counterclaim or deduction of any kind, except as set forth in Article X, shall, except as otherwise expressly provided herein, be made to Administrative Agent (for the ratable account of the Persons entitled thereto) to the Administrative Agent's account specified by the Administrative Agent pursuant to a written notice delivered to the Borrower Representative (or such other account as

Administrative Agent may from time to time specify in accordance with Section 9.2), and shall be made in Dollars and by wire transfer in immediately available funds (which shall be the exclusive means of payment hereunder), no later than 2:00 p.m. on the date due. Any payment which is received by Administrative Agent later than 2:00 p.m. may in Administrative Agent's discretion be deemed to have been received on the immediately succeeding Business Day and any applicable interest or fee shall continue to accrue; provided that, for the avoidance of doubt, any payment which is received by the Administrative Agent later than 2:00 p.m. on the applicable due date shall not constitute a Default or an Event of Default hereunder so long as such payment is received by the Administrative Agent prior to 4:00 p.m. on such due date. Upon the occurrence and during the continuance of an Event of Default, the Borrowers and each other Credit Party hereby irrevocably waives the right to direct the application of any and all payments in respect of any Obligation and any proceeds of Collateral, provided that such payments and proceeds are applied in accordance with Section 1.10(c).

(b) Subject to the provisions set forth in the definition of "Interest Period" herein, if any payment hereunder shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be excluded in the computation, and if applicable, payment, of interest or fees, as the case may be, on such next succeeding Business Day; provided that such extension of time shall be included in the next succeeding computation and payment of interest and fees; provided further that if the scheduled payment date is the maturity date of any Loan such extension of time shall include such interest and fees, which shall be payable on such next succeeding Business Day.

(c) During the continuance of an Event of Default, Administrative Agent may, and shall upon the direction of the Collateral Agent or the Required Lenders, apply any and all payments received by Administrative Agent in respect of any Obligation in accordance with clauses *first* through *sixth* below (but excluding any provision for payment set forth therein in respect of any Secured Obligations under or in respect of any Secured Rate Contracts or Bank Products or with respect to Secured Swap Providers or Bank Product Providers). Notwithstanding any provision herein to the contrary, all payments made by Credit Parties to Administrative Agent after any or all of the Obligations have been accelerated (so long as such acceleration has not been rescinded), including proceeds of Collateral, shall be applied in accordance with clauses first through sixth below (including, for the avoidance of doubt, any provision for payment set forth therein in respect of any Secured Obligations under or in respect of any Secured Rate Contracts or Bank Products or with respect to Secured Swap Providers or Bank Product Providers):

first, to payment of costs and expenses of each Agent (including Collateral Agent Advances, if any) and Attorney Costs payable or reimbursable by the Credit Parties under the Loan Documents;

second, to payment of costs and expenses of the Lenders payable or reimbursable by the Credit Parties under the Loan Documents;

third, to payment of all accrued unpaid interest on the Secured Obligations and fees owed to either Agent (in their capacities as Administrative Agent or Collateral Agent, as the case may be), Lenders, Secured Swap Providers and Bank Product Providers;

fourth, to payment of principal of the Obligations then due and payable and any Secured Obligations under any Secured Rate Contract or Bank Product;

fifth, to payment of any other amounts owing constituting Secured Obligations; and

sixth, any remainder, after all of the Secured Obligations have been paid in full, to the Borrowers or as the Borrower Representative shall direct, or as otherwise required by Requirement of Law.

In carrying out the foregoing, (i) amounts received to each category shall be applied in the numerical order provided until exhausted prior to the application to the immediately succeeding category, (ii) each of the Lenders or other Persons entitled to payment shall receive an amount equal to its pro rata share of amounts available to be applied pursuant to clauses second, third and fourth above and (iii) no payments by a Guarantor and no proceeds of Collateral of a Guarantor shall be applied to Excluded Rate Contract Obligations of such Guarantor. Notwithstanding the foregoing terms of this Section 1.10, only Collateral proceeds and payments under the Guaranty and Security Agreement (as opposed to ordinary course principal, interest and fee payments hereunder) shall be applied to obligations under any Bank Product or Secured Rate Contract or with respect to Bank Product Providers or Secured Swap Providers. The Administrative Agent shall have no obligation to calculate the amount to be distributed with respect to any Bank Product Debt, but may rely upon written notice of the amount (setting forth a reasonably detailed calculation) from the applicable Bank Product Provider. In the absence of such notice, the Administrative Agent may assume the amount to be distributed is the Bank Product Amount last reported to the Administrative Agent.

1.11 Payments by the Lenders to Agent; Settlement.

(a) Administrative Agent may, on behalf of Lenders, disburse funds to the Borrowers for Loans requested prior to receipt of such funds from the Lenders. Each Lender shall reimburse Administrative Agent on demand for all funds disbursed on its behalf by Administrative Agent, or if Administrative Agent so requests, each Lender will remit to Administrative Agent its Commitment Percentage of any Loan before Administrative Agent disburses same to the Borrowers. If Administrative Agent elects to require that each Lender make funds available to Administrative Agent prior to disbursement by Administrative Agent to the Borrowers, Administrative Agent shall advise each Lender by telephone, Electronic Transmission or fax of the amount of such Lender's Commitment Percentage of the Loan requested by the Borrower Representative no later than the Business Day prior to the scheduled Borrowing date applicable thereto, and each such Lender shall pay Administrative Agent such Lender's Commitment

Percentage of such requested Loan, in same day funds, by wire transfer to Administrative Agent's account designated by the Administrative Agent in writing to the Lenders from time to time, no later than 3:00 p.m. on such scheduled Borrowing date. Nothing in this Section 1.11(a) or elsewhere in this Agreement or the other Loan Documents, including the remaining provisions of Section 1.11, shall be deemed to require Administrative Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its Commitments hereunder or to prejudice any rights that Administrative Agent any Lender or the Borrowers may have against any Lender as a result of any default by such Lender hereunder.

(b) [Reserved].

(c) [Reserved].

(d) Return of Payments.

(i) If Administrative Agent pays an amount to a Lender under this Agreement in the belief or expectation that a related payment has been or will be received by Administrative Agent from the Borrowers and such related payment is not received by Administrative Agent, then Administrative Agent will be entitled to recover such amount from such Lender on demand without setoff, counterclaim or deduction of any kind.

(ii) If Administrative Agent determines at any time that any amount received by Administrative Agent under this Agreement or any other Loan Document must be returned to any Credit Party or paid to any other Person pursuant to any insolvency law or otherwise, then, notwithstanding any other term or condition of this Agreement or any other Loan Document, Administrative Agent will not be required to distribute any portion thereof to any Lender. In addition, each Lender will repay to Administrative Agent on demand any portion of such amount that Administrative Agent has distributed to such Lender, together with interest at such rate, if any, as Administrative Agent is required to pay to the Borrowers or such other Person, without setoff, counterclaim or deduction of any kind, and Administrative Agent will be entitled to set-off against future distributions to such Lender any such amounts (with interest) that are not repaid on demand.

(e) Non-Funding Lenders.

(i) Responsibility. The failure of any Non-Funding Lender to make any Loan, or to fund any purchase of any participation to be made or funded by it, or to make any payment required by it under any Loan Document on the date specified therefor shall not relieve any other Lender of its obligations to make such loan, fund the purchase of any such participation, or make any other such required payment on such date, and neither Agent nor, other than as expressly set forth herein, any other Lender shall be responsible for the failure of any Non-

Funding Lender to make a loan, fund the purchase of a participation or make any other required payment under any Loan Document.

(ii) [Reserved].

(iii) Voting Rights. Notwithstanding anything set forth herein to the contrary, including Section 9.1, a Non-Funding Lender or Impacted Lender shall not have any voting or consent rights under or with respect to any Loan Document or constitute a "Lender" or a "Term Lender" (or be, or have its Loans and Commitments, included in the determination of "Required Lenders" or "Lenders directly affected" pursuant to Section 9.1) for any voting or consent rights under or with respect to any Loan Document, provided that (A) the Commitment of a Non-Funding Lender or Impacted Lender may not be increased, extended or reinstated, (B) the principal of a Non-Funding Lender's or Impacted Lender's Loans may not be reduced or forgiven, and (C) the interest rate applicable to Obligations owing to a Non-Funding Lender or Impacted Lender may not be reduced (other than resulting from a waiver of default interest otherwise applicable pursuant to Section 1.3(c) hereof, any waiver of a Default or an Event of Default having the effect of waiving such default interest), without the consent of such Non-Funding Lender or Impacted Lender. Moreover, for the purposes of determining Required Lenders, the Loans and Commitments held by Non-Funding Lenders or Impacted Lenders shall be excluded from the total Loans and Commitments outstanding.

(iv) Borrower Payments to a Non-Funding Lender or Impacted Lender. Administrative Agent shall be authorized to use all payments received by Administrative Agent for the benefit of any Non-Funding Lender or Impacted Lender pursuant to this Agreement to pay in full the Aggregate Excess Funding Amount to the appropriate Secured Parties entitled thereto. Administrative Agent shall be entitled to hold as cash collateral in a non-interest bearing account up to an amount equal to such Non-Funding Lender's or Impacted Lender's pro rata share, without giving effect to any reallocation pursuant to Section 1.11(e)(ii), of other funding obligations hereunder until the Facility Termination Date. Upon any such unfunded obligations owing by a Non-Funding Lender or Impacted Lender becoming due and payable, Administrative Agent shall be authorized to use such cash collateral to make such payment on behalf of such Non-Funding Lender or Impacted Lender. Any amounts owing by a Non-Funding Lender or Impacted Lender to Administrative Agent which are not paid when due shall accrue interest at the interest rate applicable during such period to Loans that are Base Rate Loans. In the event that Administrative Agent is holding cash collateral of a Non-Funding Lender or Impacted Lender that cures pursuant to clause (v) below, ceases to be a Non-Funding Lender pursuant to the definition of Non-Funding Lender or ceases to be an Impacted Lender pursuant to the definition of Impacted Lender, Administrative Agent shall return the unused portion of such cash collateral to such Lender. The " **Aggregate Excess Funding**

Amount" of a Non-Funding Lender shall be the aggregate amount of (A) all unpaid obligations owing by such Lender to Administrative Agent, and other Lenders under the Loan Documents.

(v) Cure. A Lender may cure its status as a Non-Funding Lender under clause (a) of the definition of Non-Funding Lender if such Lender fully pays to Administrative Agent, on behalf of the applicable Secured Parties, the Aggregate Excess Funding Amount, plus all interest due thereon. Any such cure shall not relieve any Lender from liability for breaching its contractual obligations hereunder.

(vi) Fees. A Lender that is a Non-Funding Lender or Impacted Lender shall not earn and shall not be entitled to receive, and the Borrowers shall not be required to pay, such Lender's portion of the Delayed Draw Term Loan Commitment Fee or Incremental Delayed Draw Term Loan commitment fees during the time such Lender is a Non-Funding Lender or Impacted Lender.

(f) Procedures. Administrative Agent is hereby authorized by each Credit Party and each other Secured Party to establish procedures (and to amend such procedures from time to time) to facilitate administration and servicing of the Loans and other matters incidental thereto. Without limiting the generality of the foregoing, Administrative Agent is hereby authorized to establish procedures to make available or deliver, or to accept, notices, documents and similar items on, by posting to or submitting and/or completion, on E-Systems.

(g) Cashless Settlement. Notwithstanding anything to the contrary contained in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans or Commitments in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Borrower Representative, Administrative Agent and such Lender.

1.12 Benchmark Replacement Settings.

(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 (1) 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 (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 any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders. 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 and the Collateral 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) Notices; 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 notify the Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to this Section 1,12 and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent, Collateral Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 1,12, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 1.12.

(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 Adjusted Term SOFR Rate or Term SOFR) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may modify the definition of “Interest Period” (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (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 Borrowers' receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower Representative may revoke any pending request for a SOFR Loan, or conversion to or continuation of SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower Representative 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.

1.13 Rates. The Administrative Agent and the Collateral Agent do 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 Base Rate, the Adjusted Term SOFR Rate, Term SOFR Screen Rate or Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Base Rate, the Adjusted Term SOFR Rate, Term SOFR Screen Rate, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and the Collateral Agent and their respective affiliates or other related entities may engage in transactions that affect the calculation of Base Rate, Term SOFR, the Adjusted Term SOFR Rate, Term SOFR Screen Rate, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to the Borrowers. The Administrative Agent and the Collateral Agent may select information sources or services in their reasonable discretion to ascertain Base Rate, Term SOFR, the Adjusted Term SOFR Rate, Term SOFR Screen Rate or any other Benchmark, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrowers, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

1.14 Incremental Facility

(a) Borrower Representative Request. The Borrower Representative may by written notice to the Administrative Agent delivered after the expiration of the Delayed Draw Availability Period, elect to request the establishment of one or more new Delayed Draw Term Loan Commitments which may be of the same Class as any outstanding Delayed Draw Term Loan or a new Class of Delayed Draw Term Loan (each, an "**Incremental Delayed Draw Term Loan Commitment**") in principal amounts not in excess of $20,000,000 in the aggregate and not less than $10,000,000 individually, the proceeds of which shall be used solely in accordance with Section 4.10(b). Each such notice shall specify (i) the date (each, an "**Increase Effective Date**") on which the Borrower Representative proposes that the Incremental Delayed Draw Term Loan Commitments shall be effective, which shall be a date not less than 20 Business Days (or such shorter period as is acceptable to the Administrative Agent) after the date on which such notice is delivered to the Administrative Agent and (ii) the identity of each Person to whom the Borrower Representative proposes any portion of such Incremental Delayed Draw Term Loan Commitments be allocated and the amounts of such allocations; provided that the Borrower Representative shall first seek Incremental Delayed Draw Term Loan Commitments on terms permissible under this Section 1.14 and acceptable to the Borrower Representative from the then-existing Lenders (pro rata to their then outstanding Loans and Commitments) before seeking commitments from any other Person; provided further that any existing Lender approached to provide a portion of the Incremental Delayed Draw Term Loan Commitments may elect or decline, in its sole discretion, to provide such Incremental Delayed Draw Term Loan Commitment; provided further that each Person who is not a then-existing Lender to which Incremental Delayed Draw Term Loan Commitments are to be allocated must be a lender or other entity (other than any Credit Party, equity holder of Holdings or any of their respective Affiliates) reasonably acceptable to the Administrative Agent (such new lenders being referred to herein as, the "**Incremental Delayed Draw Term Loan Lenders**").

(b) Conditions. The Incremental Delayed Draw Term Loan Commitments shall become effective as of such Increase Effective Date; *provided* that:

(i) each of the conditions set forth in Section 2.2 shall be satisfied both before and after giving effect to the Loan to be made with such Incremental Delayed Draw Term Loan Commitments on the Increase Effective Date (an "**Incremental Delayed Draw Term Loan**");

(ii) the Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower Representative certifying that the DDTL Funding Conditions are satisfied; and

(iii) the Borrower Representative shall deliver or cause to be delivered any legal opinions or other documents reasonably requested by the Administrative Agent in connection with any such transaction.

(c) Terms of Incremental Delayed Draw Term Loans. The terms and provisions of each Incremental Delayed Draw Term Loan shall be as follows:

(i) the weighted average life to maturity of any Incremental Delayed Draw Term Loans shall be no shorter than the weighted average life to maturity of the outstanding Delayed Draw Term Loan;

(ii) the maturity date of any Incremental Delayed Draw Term Loan (each an "**Incremental Delayed Draw Term Loan Maturity Date**") shall not be earlier than the Maturity Date;

(iii) the Incremental Delayed Draw Term Loans (A) shall rank pari passu with or subordinate in right of payment to the outstanding Loans and pari passu with or subordinate with respect to security to the outstanding Loans, shall not be guaranteed by any Person other than the Guarantors and shall not be secured by any assets other than the Collateral; and (B) may participate on a pro rata basis or less than pro rata basis (but not on a greater than pro rata basis) in any voluntary or mandatory prepayments of the outstanding Delayed Draw Term Loan (it being understood and agreed that if any Incremental Delayed Draw Term Loans are subordinate to the outstanding Loans with respect to payment or security, this Agreement shall be amended in a manner reasonably satisfactory to the Administrative Agent and the Required Lenders to reflect such subordination of such Incremental Delayed Draw Term Loans);

(iv) the interest margins and fees for each Incremental Delayed Draw Term Loan shall be determined by the Borrower Representative and the Incremental Delayed Draw Term Loan Lenders providing such Incremental Delayed Draw Term Loan; provided that in the event that the all-in yield for any Incremental Delayed Draw Term Loan is more than 0.50% per annum greater than the all-in yield for the outstanding Loans (calculated in the same manner), then the Applicable Margins for the outstanding Loans shall be increased by an amount equal to the difference between the all-in yield with respect to such Incremental Delayed Draw Term Loan and the all-in yield with respect to the outstanding Loans minus 0.50% per annum, giving effect to such increase (it being understood and agreed that in determining the all-in yield applicable to the outstanding Loans and the Incremental Delayed Draw Term Loans, original issue discount ("**OID**") or upfront fees (which shall be deemed to constitute like amounts of OID) payable directly or indirectly by any Credit Party to the Lenders in respect of the outstanding Loans or the Incremental Delayed Draw Term Loan shall be included (with OID being equated to interest by amortizing over the shorter of (x) the weighted average life to maturity of such Incremental Delayed Draw Term Loan and (y) the four years following the date of incurrence thereof), but customary arrangement, structuring and underwriting fees that are not paid to lenders generally shall be excluded); provided that any increase in yield to the then outstanding Loans required due to the application of an interest rate floor on the Incremental Delayed Draw Term Loans shall be effected solely through an increase in (or implementation of, as applicable), an interest rate floor applicable to the then outstanding Loans;

(v) subject to clause (iv) above, any fees payable in connection with the Incremental Delayed Draw Term Loans shall be determined by the Borrowers and the Lenders providing such Incremental Delayed Draw Term Loans;

(vi) the availability period for each Incremental Delayed Draw Term Loan Commitment shall be determined by the Borrower Representative and the Incremental Delayed Draw Term Loan Lenders providing such Incremental Delayed Draw Term Loan Commitment, but in any case, shall not extend beyond the Term Loan Maturity Date; and

(vii) except to the extent permitted by clauses (i) through (vi) above, the terms and provisions of the Incremental Delayed Draw Term Loans shall be consistent with those of the outstanding Loans, provided that any Incremental Delayed Draw Term Loan may have terms and provisions not consistent with those of the outstanding Loans solely to the extent the Lenders in respect of the outstanding Loans also receive the benefit of such terms and provisions.

(d) Joinder. Each Incremental Delayed Draw Term Loan Commitment shall be effected by a joinder agreement (the "**Increase Joinder**") executed by the Borrower Representative, Administrative Agent and each Lender providing such Incremental Delayed Draw Term Loan Commitment, in form and substance reasonably satisfactory to each of them. The Increase Joinder may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of Administrative Agent, to effect the provisions of this Section 1.14.

(e) Making of Incremental Delayed Draw Term Loans. On each Increase Effective Date on which any Incremental Delayed Draw Term Loan Commitment for an Incremental Delayed Draw Term Loan is effective, subject to the satisfaction of the foregoing terms and conditions, each Lender providing such Incremental Delayed Draw Term Loan Commitment shall make an Incremental Delayed Draw Term Loan to the Borrowers in an amount equal to its Incremental Delayed Draw Term Loan Commitment.

(f) Equal and Ratable Benefit. The Loans and Commitments established pursuant to this Section 1.14 shall constitute Loans and Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, except as otherwise provided in the relevant Increase Joinder, benefit equally and ratably from the security interests created by the Collateral Documents. The Credit Parties shall take any actions reasonably required by Administrative Agent to ensure and demonstrate that the Lien and security interests granted by the Collateral Documents continue to be perfected under the Uniform Commercial Code or otherwise after giving effect to the establishment of any such Class of Incremental Delayed Draw Term Loans or any such Incremental Delayed Draw Term Loan Commitments.

ARTICLE II

CONDITIONS PRECEDENT

2.1 Conditions of Initial Loans. The obligation of each Lender to make its initial Loans hereunder on the Closing Date is subject to satisfaction of the following:

(a) Loan Documents. The Agents shall have received, each in form and substance reasonably satisfactory to the Agents and the Lenders: (i) counterparts of this Agreement, executed by a duly authorized officer of each party hereto, (ii) for the account of each Lender requesting a promissory note, a duly executed Note, (iii) counterparts of the Guaranty and Security Agreement and any copyright, patent or trademark security agreement, as applicable, in each case conforming to the requirements of this Agreement and executed by duly authorized officers of the Credit Parties or other Person, as applicable, (iv) counterparts of Limited Guaranty and Pledge Agreements, duly executed by each Jeffrey Hernandez, Daniel Brand, Jake Spellmeyer and Bryan Pereboom, (v) counterparts of the Holdings Pledge Agreement duly executed by Viking Cake BR, (vi) counterparts of each of the other Loan Documents (other than the Holdings Pledge Agreements of the Holdings Pledgors other than Viking Cake BR, such additional Holdings Pledge Agreements to be delivered post-closing in accordance with Section 4.19); (vii) counterparts of the Fee Letter, (viii) incumbency and secretary's certificates, a disbursement letter and a perfection certificate, executed by the duly authorized officers and other applicable signatories of the parties thereto, and (viii) any other instruments, certificates, or documents reasonably requested by the Agents;

(b) Consents. Agents shall have received evidence that all boards of directors, governmental, shareholder and material third party consents and approvals required in connection with the entering into of this Agreement have been obtained, except, in each case, those consents and approvals that have been duly waived.

(c) Legal Opinions. Agents shall have received an opinion of counsel from Perkins Coie LLP, and such other legal counsel, if any, as may be reasonably required by the Agents, including, with respect to opinions on the Investment Company Act and non-contravention, in-house counsel to Holdings, each addressed to the Agents and each Lender, as to matters concerning the Credit Parties and the Loan Documents.

(d) Insurance. Agents shall have received (i) evidence of all policies of insurance required to be maintained hereunder and (ii) certificates naming Collateral Agent as additional insured or lenders loss payee as agent for the Lenders, or showing lender loss payable to Collateral Agent, as appropriate, in each case of clauses (i) and (ii), in form reasonably acceptable to Collateral Agent;

(e) Minimum EBITDA; Total Net Leverage Ratio; Liquidity. Agents shall have received a certificate executed by a Responsible Officer of the Borrower Representative attaching a report from an independent third-party acceptable to the Agents showing that Consolidated EBITDA of the Borrowers for the period of twelve

(12) consecutive months ended December 31, 2021 was at least $15,200,000 (the actual amount so reported being referred to as the "Closing Date EBITDA"), and demonstrating in reasonable detail that, after giving effect to the funding of the Term Loans and Existing Debt Refinancing Transactions, and payment of all costs, fees and expenses in connection therewith, (i) the Total Net Leverage Ratio (calculated using the Closing Date EBITDA) does not exceed 4.91:1.00, and (ii) the Borrowers have Liquidity of at least $7,500,000;

(f) SBA Documents. Agents shall have received that certain SBA Matters Agreement, SBA Form 1031 (U.S. Small Business Administration Portfolio Financing Report), SBA Form 480 (U.S. Small Business Administration Size Status Declaration), and SBA Form 652 (U.S. Small Business Administration Assurance of Compliance for Nondiscrimination), in each case duly completed and executed by the applicable Credit Party;

(g) Solvency Certificate. Agents shall have received a certificate executed by a Responsible Officer of Holdings, attesting to the Solvency of the Credit Parties and their Subsidiaries on a consolidated basis, taken as a whole, after giving pro forma effect to the Related Transactions and the other transactions contemplated on the Closing Date, such certificate to be in the form attached hereto as Exhibit 2.1(g);

(h) Patriot Act; Beneficial Ownership Certification. Agents and Lenders shall have received from each Credit Party, at least three (3) Business Days prior to the Closing Date (to the extent requested by Agents or Lenders in writing at least ten (10) days prior to the Closing Date), (i) a duly executed W-9 (or other applicable tax form), (ii) a duly executed Beneficial Ownership Certification, and (iii) all other documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act;

(i) Background Checks. Administrative Agent shall have completed customary individual background searches for each Credit Party's senior management and key principals required by Administrative Agent, the results of which shall be satisfactory to Agents;

(j) Fees and Expenses. All fees and expenses required to be paid on the Closing Date pursuant to this Agreement and the Fee Letter shall have been paid;

(k) UCC and Other Searches. Agents shall have received copies of UCC, tax, litigation, judgment and bankruptcy searches with respect to the Credit Parties, and other evidence reasonably satisfactory to the Agents that subject only to termination of Liens securing the Existing Debt Agreements, the Liens securing the Secured Obligations are the only Liens upon the assets of the Credit Parties, subject only to Permitted Liens;

(l) Material Adverse Effect. In the reasonable judgment of the Agents, there shall not have occurred any event or condition which could reasonably be expected to result in a Material Adverse Effect;

(m) Required Information; Diligence. (a) The Agents shall have received the Projections and a validation of pro forma, run-rate 2021 financials and the 2022 budget from a third party acceptable to the Agents in their sole discretion, each of which shall be satisfactory to the Agents in their sole discretion, and (b) the Agents shall have completed their business (including management meetings and third-party insurance diligence, legal, and collateral due diligence with respect to the Credit Parties, with results satisfactory to the Agents;

(n) Representations and Warranties; No Defaults. The following statements shall be true on the Closing Date, both immediately before and immediately after giving effect to any Loan (or other credit extensions) made on the Closing Date, and the application of the proceeds thereof:

(i) Each representation and warranty by any Credit Party contained herein or in any other Loan Document is true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true or correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date);

(ii) No Default or Event of Default has occurred and is continuing;

(o) Officer's Closing Certificate. The Agents shall have received a certificate executed by a Responsible Officer of Holdings and the Borrowers attesting that (i) the conditions set forth in Sections 2.1(l) and 2.1(n) above are satisfied, which certificate may be combined with the certificates referenced in Sections 2.1(e) and 2.1(g) above and (ii) attached thereto is are true, correct and complete copies of the form of the Franchise Agreement used by the Credit Parties as of the Closing Date;

(p) Existing Debt Refinancing Transactions.

(i) The Credit Parties shall have delivered (i) payoff letters confirming that existing Indebtedness (outstanding immediately prior to the Closing Date) under each of the Existing Debt Agreements has been, or shall be with the proceeds of the Loans, paid in full (and/or, in the case of the Subordinated Term Loan Obligations, converted to Preferred Equity) and all commitments and liens thereunder terminated, (ii) any Lien release documentation (and authorizations to file or record such release documentation or evidence that such release documentation has been filed or recorded, as applicable) necessary to terminate such Liens, and (iii) the A&R Holdings LLC Agreement, in form reasonably satisfactory to the Agents and Lenders; and

(ii) The Existing Debt Refinancing Transactions shall have been consummated, or shall be consummated substantially concurrently with the funding of the initial Loans on the Closing Date;

(q) Each Lender shall have received all necessary internal approvals; and

(r) Notice of Borrowing. The Administrative Agent shall have received a Notice of Borrowing with respect to the Term Loans to be advanced on the Closing Date.

For the purpose of determining satisfaction with the conditions specified in this Section 2.1, each Agent and each Lender that has signed and delivered this Agreement shall be deemed to have agreed that each condition under this Section 2.1 shall have been met and shall be deemed to be satisfied with the form thereof in each case, unless each Agent shall have received written notice from such Person specifying its objection thereto and provided the Borrower Representative a copy thereof, in each case, prior to the time such Person shall have released its signature pages hereto.

2.2 Conditions to Certain Borrowings. No Lender shall be obligated to fund any Loan following the Closing Date if as of the date thereof:

(a) the Agent shall have not received a Notice of Borrowing with respect to the Loans to be advanced in accordance with the provisions of this Agreement; and

(b) with respect to any Delayed Draw Term Loan or Incremental Delayed Draw Term Loan, the DDTL Funding Conditions shall not be satisfied or any Agent shall have determined, in its reasonable discretion, that a Material Adverse Effect shall have occurred and be continuing.

The request by the Borrower Representative and acceptance by the Borrowers of the proceeds of any Loan shall be deemed to constitute, as of the date thereof, (i) a representation and warranty by the Borrowers that the conditions in this Section 2.2 have been satisfied and (ii) a reaffirmation by each Credit Party of the granting and continuance of Collateral Agent's Liens, on behalf of itself and the Secured Parties, pursuant to the Collateral Documents.

2.3 Conditions of Fourth Amendment Term Loans. The obligation of each Fourth Amendment Term Lender to make its Fourth Amendment Term Loans hereunder on the Fourth Amendment Effective Date is subject to satisfaction of the following:

(a) Loan Documents. The Agents shall have received, each in form and substance reasonably satisfactory to the Agents and the Lenders: (i) counterparts of the Fourth Amendment, executed by a duly authorized officer of each party hereto, (ii) for the account of each Fourth Amendment Term Lender requesting a promissory note, a duly executed Note, (iii) counterparts of any supplement to any copyright, patent or trademark security agreement, as applicable, in each case conforming to the requirements of this Agreement and executed by duly authorized officers of the Credit Parties or other Person, as applicable, (iv) counterparts of the Fourth Amendment Fee Letter, (viii)

incumbency and secretary's certificates, a disbursement letter and a perfection certificate, executed by the duly authorized officers and other applicable signatories of the parties thereto, and (viii) any other instruments, certificates, or documents reasonably requested by the Agents;

(b) Consents. Agents shall have received evidence that all boards of directors, governmental, shareholder and material third party consents and approvals required in connection with the entering into of this Agreement have been obtained, except, in each case, those consents and approvals that have been duly waived.

(c) Legal Opinions. Agents shall have received an opinion of counsel from Perkins Coie LLP, and such other legal counsel, if any, as may be reasonably required by the Agents, including, opinions on such matters as may reasonably be required by the Agents (including the Investment Company Act) addressed to the Agents and each Lender, as to matters concerning the Credit Parties and the Loan Documents.

(d) Insurance. Agents shall have received (i) evidence of all policies of insurance required to be maintained hereunder and (ii) certificates naming Collateral Agent as additional insured or lenders loss payee as agent for the Lenders, or showing lender loss payable to Collateral Agent, as appropriate, in each case of clauses (i) and (ii), in form reasonably acceptable to Collateral Agent;

(e) Solvency Certificate. Agents shall have received a certificate executed by a Responsible Officer of Holdings, attesting to the Solvency of the Credit Parties and their Subsidiaries on a consolidated basis, taken as a whole, after giving pro forma effect to the Fourth Amendment Related Transactions and the other transactions contemplated on the Fourth Amendment Effective Date, such certificate to be in the form attached hereto as Exhibit 2.1(g);

(f) Fees and Expenses. All fees and expenses required to be paid on the Fourth Amendment Effective Date pursuant to this Agreement and the Fourth Amendment Fee Letter shall have been paid;

(g) UCC and Other Searches. Agents shall have received copies of UCC and tax searches with respect to the Credit Parties, and other evidence reasonably satisfactory to the Agents that the Liens securing the Secured Obligations are the only Liens upon the assets of the Credit Parties, subject only to Permitted Liens;

(h) Material Adverse Effect. In the reasonable judgment of the Agents, there shall not have occurred any event or condition which could reasonably be expected to result in a Material Adverse Effect;

(i) Representations and Warranties; No Defaults. The following statements shall be true on the Fourth Amendment Effective Date, both immediately before and immediately after giving effect to any Loan (or other credit extensions) made on the Fourth Amendment Effective Date, and the application of the proceeds thereof:

(i) Each representation and warranty by any Credit Party contained herein or in any other Loan Document is true and correct in all material respects (but in all respects if such representation or warranty is qualified by "material" or "Material Adverse Effect"; without duplication of any materiality qualifier contained therein) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date (in which event such representations and warranties were true or correct in all material respects (without duplication of any materiality qualifier contained therein) as of such earlier date);

(ii) No Default or Event of Default has occurred and is continuing;

(j) Officer's Closing Certificate. The Agents shall have received a certificate executed by a Responsible Officer of Holdings and the Borrowers attesting that (A) the conditions set forth in Sections 2.3(h) and 2.3(i) above are satisfied and (B) the Credit Parties shall have received Net Proceeds of at least $10,000,000 after giving effect to the payment of all fees and expenses incurred in connection with the Fourth Amendment Related Transactions (including, without limitation, those fees and expenses provided for hereunder and in the Fourth Amendment Fee Letter) and the funding of the Fourth Amendment Term Loans, which certificate may be combined with the certificate referenced in Section 2.1(e) above;

(k) Each Lender shall have received all necessary internal approvals;

(l) Notice of Borrowing. The Administrative Agent shall have received a Notice of Borrowing with respect to the Fourth Amendment Term Loans to be advanced on the Fourth Amendment Effective Date;

(m) Equity Documents. Agents shall have received (i) the Cynosure Fee Letter, (ii) the Series A Redemption Agreement and (iii) the A&R Holdings LLC Agreement, each duly executed by each party thereto, and each in form and substance reasonably satisfactory to the Agents and the Lenders;

(n) Subordination Agreement. Agents shall have received the Subordination Agreement, duly executed by the Agents and the holders of the Preferred Equity, and acknowledged by the Credit Parties, in form and substance reasonably satisfactory to the Agents and the Lenders.

(o) Pledge Amendments. Agents shall have received (i) amendments to the Guaranty and Security Agreement evidencing the pledge by BRSO of its owned-Stock and Stock Equivalents (as of the Fourth Amendment Effective Date) in BRSO 67th and BRCR, each in the form of Annex 1 to the Guaranty and Security Agreement, and in substance reasonably satisfactory to the Agents and the Lenders and (ii) to the extent applicable, original certificates of such Stock and Stock Equivalents referred to in clause (i), together with irrevocable proxies and stock powers and/or assignments, as applicable, duly executed in blank.

(p) Founder Guarantees. Agents shall have received those certain Second Amended and Restated Limited Guaranty and Pledge Agreements of Daniel Brand, Jeffrey Hernandez, Jake Spellmeyer and Bryan Pereboom, each in favor of the Collateral Agent, and each dated as of the Fourth Amendment Effective Date, each in form and substance reasonably satisfactory to the Agents and the Lenders.

(q) Joinder to Guaranty and Security Agreement. Agents shall have received (i) that certain Joinder to the Guaranty and Security Agreement, dated as of the Fourth Amendment Effective Date, by and between BRSO PNW and the Collateral Agent and (ii) such other Collateral Documents as may be designated by the Agents (and the Borrowers shall take such actions as may be designated by the Agents) to perfect first priority Liens in favor of the Collateral Agent on all assets of BRSO PNW, each in form and substance reasonably satisfactory to the Agents and the Lenders.

For the purpose of determining satisfaction of the conditions specified in this Section 2.3, each Agent and each Lender that has signed and delivered the Fourth Amendment shall be deemed to have agreed that each condition under this Section 2.3 shall have been met and shall be deemed to be satisfied with the form thereof in each case, unless each Agent shall have received written notice from such Person specifying its objection thereto and provided the Borrower Representative a copy thereof, in each case, prior to the time such Person shall have released its signature pages hereto.

ARTICLE III

REPRESENTATIONS AND WARRANTIES

The Credit Parties, jointly and severally, represent and warrant to each Agent and each Lender that the following are, and after giving effect to the consummation of this Agreement and the other Loan Documents, the funding of the Loans hereunder and the Related Transactions will be, true, correct and complete:

3.1 Corporate Existence and Power. Each Credit Party and each of their respective Subsidiaries:

(a) is a corporation, limited liability company or limited partnership, as applicable, duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation, organization or formation, as applicable;

(b) has the requisite power and authority and all necessary governmental licenses, authorizations, Permits, consents and approvals to (i) own its assets and carry on its business and (ii) execute, deliver, and perform its obligations under, the Loan Documents to which it is a party;

(c) is duly qualified as a foreign corporation, limited liability company or limited partnership, as applicable, and licensed and, if applicable, in good standing, under

the laws of each jurisdiction where its ownership, lease or operation of Property or the conduct of its business requires such qualification or license; and

(d) is in compliance with all applicable Requirements of Law;

except, in each case referred to in clause (b)(i), clause (c) or clause (d), to the extent that the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.2 Corporate Authorization; No Contravention. The execution, delivery and performance by each of the Credit Parties of this Agreement and any other Loan Document to which such Person is party, (i) have been duly authorized by all necessary corporate, limited liability company or limited partnership action, as applicable, and (ii) do not and will not:

(a) contravene the terms of any of that Person's Organization Documents;

(b) conflict with or result in any material breach or contravention of, or result in the creation of any Lien (other than Liens in favor of Collateral Agent created under the Loan Documents) under, any document evidencing any Contractual Obligation that is material to the Credit Parties to which such Person is a party or any order, injunction, writ or decree of any Governmental Authority to which such Person or its Property is subject except in each case to the extent such could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; or

(c) violate any Requirement of Law in any respect, except to the extent such violation could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.3 Governmental Authorization. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Credit Party or any Subsidiary of any Credit Party of this Agreement, or any other Loan Document except (a) for recordings, filings and other perfection actions in connection with the Liens granted to Collateral Agent under the Collateral Documents, (b) those obtained or made on or prior to the Closing Date, and (c) filings required by applicable Requirements of Law in connection with the exercise of remedies by Collateral Agent.

3.4 Binding Effect. This Agreement and each other Loan Document to which any Credit Party is a party have been duly executed and delivered by such Credit Party. This Agreement and each other Loan Document to which any Credit Party is a party constitute the legal, valid and binding obligations of each such Person which is a party thereto, enforceable against such Person in accordance with their respective terms, except as enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally or by equitable principles relating to enforceability.

3.5 Litigation. Except as set forth in Schedule 3.5, there are no actions, suits, proceedings, claims or disputes pending, or to the actual knowledge of each Credit Party, threatened in writing, at law, in equity, in arbitration or before any Governmental Authority, against any Credit Party, any Subsidiary of any Credit Party or any of their respective Properties:

(a) that purport to affect or pertain in any materially adverse manner to this Agreement, any other Loan Document, or any of the transactions contemplated hereby or thereby; or

(b) that would, or that seek an injunction or other equitable relief that would, reasonably be expected to have a Material Adverse Effect.

As of the Closing Date, no Credit Party or any Subsidiary of any Credit Party has been notified that it is the subject of an audit or, to each Credit Party's knowledge, any review or investigation by any Governmental Authority (excluding the IRS and other taxing authorities) concerning the violation or possible violation of any Requirement of Law.

3.6 No Default or Event of Default. No Default or Event of Default exists or would result immediately from the incurring of any Obligations by any Credit Party or the grant or perfection of Collateral Agent's Liens on the Collateral or the consummation of the Related Transactions. No Credit Party and no Subsidiary of any Credit Party is in default under or with respect to any Contractual Obligation in any respect which, individually or together with all such defaults, could reasonably be expected to have a Material Adverse Effect.

3.7 Compliance with Laws; ERISA Compliance.

(a) Each Credit Party is in compliance with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Schedule 3.7 sets forth, as of the Closing Date, a complete and correct list of, and that separately identifies, (a) all Title IV Plans and (b) all Multiemployer Plans. Each Title IV Plan intended to qualify for tax exempt status under Section 401 of the Code has received a favorable determination letter as to its qualified status or is comprised of a master or prototype plan that has received a favorable opinion letter from the IRS. Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (x) each Title IV Plan is in compliance with applicable provisions of ERISA, the Code and other Requirements of Law, (y) there are no existing or pending (or to the knowledge of any Credit Party, threatened in writing) claims (other than routine claims for benefits in the normal course), sanctions, actions or lawsuits involving any Title IV Plan or, to the knowledge of any Credit Party, any Multiemployer Plan with respect to which any Credit Party or any Subsidiary of a Credit Party has incurred or otherwise has or would be reasonably expected to have an obligation or any Liabilities, and (z) no ERISA Event has occurred or is reasonably expected to occur.

3.8 Use of Proceeds; Margin Regulations. The proceeds of the Loans are intended to be and shall be used solely for the purposes set forth in and permitted by Section 4.10, and are intended to be and shall be used in compliance with Section 5.8. No Credit Party and no Subsidiary of any Credit Party is primarily engaged in the business of purchasing or selling Margin Stock or extending credit for the purpose of purchasing or carrying Margin Stock. Proceeds of the Loans shall not be used for the purpose of purchasing or carrying Margin Stock. As of the Closing Date, except as set forth on Schedule 3.8, no Credit Party and no Subsidiary of any Credit Party owns any Margin Stock.

3.9 Ownership of Property; Liens; Principal Place of Business. (a) As of the Closing Date, the Real Estate listed in Schedule 3.9 constitutes all of the Real Estate of each Credit Party and each of their respective Subsidiaries. Each of the Credit Parties and each of their respective Subsidiaries has, subject to Permitted Liens, good record and marketable title in fee simple to, or valid leasehold interests in, all material Real Estate, and good and valid title to all material owned personal property and valid leasehold interests in all leased personal property, in each instance, necessary or material to the ordinary conduct of its respective businesses. As of the Closing Date, Schedule 3.9 also describes any purchase options, rights of first refusal or other similar contractual rights pertaining to any Real Estate. All Permits required to have been issued to enable the Real Estate to be lawfully occupied and used for all of the purposes for which it is currently occupied and used have been lawfully issued and are in full force and effect, except to the extent failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) Holdings and each Borrower's principal place of business is located at 9170 E. Bahia Drive, Suite 101, Scottsdale, Arizona 85260 (the **"Principal Place of Business"**). All books and records relating to the operations of Holdings and the Borrowers are located solely at the Principal Place of Business.

3.10 Taxes. All federal income Tax returns, reports and statements and all other material Tax returns, reports and statements (collectively, the "**Tax Returns**") required to be filed by any Tax Affiliate within the past six years have been filed, and all material Taxes reflected therein or otherwise due and payable have been paid, except for those contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves are maintained on the books of the appropriate Tax Affiliate in accordance with GAAP. To the knowledge of any Credit Party, as of the Closing Date, no material Tax Return of any Credit Party is under audit or examination by any Governmental Authority and no notice of any audit or examination or any assertion in writing of any claim for material Taxes has been received by any Credit Party from any Governmental Authority.

3.11 Financial Condition.

(a) The Pro Forma Financial Statements were prepared in good faith by or on behalf of Holdings.

(b) Since December 31, 2022 there has been no Material Adverse Effect or any event or circumstance that could reasonably be expected to result in a Material Adverse Effect.

(c) The Projections represent Holdings and the Borrowers' good faith estimate of future financial performance and are based on assumptions believed by Holdings and the Borrowers to be fair and reasonable in light of then current market conditions, in each case, at the time prepared, it being acknowledged and agreed by Agents and Lenders that uncertainty is inherent in any forecasts or projections, projections as to future events or conditions are not to be viewed as facts and that the actual results during the period or periods covered by the Projections may differ materially from the projected results.

3.12 Environmental Matters. Except where any failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (a) the operations of each Credit Party and each Subsidiary of each Credit Party are and have been for the past three (3) years in compliance with all applicable Environmental Laws, including obtaining, maintaining and complying with all Permits required of any Credit Party or any Subsidiary thereof by any applicable Environmental Law, (b) no Credit Party and no Subsidiary of any Credit Party is party to, and no Real Estate currently (x) owned or (y) to the knowledge of any Credit Party, leased, subleased or operated by or for any such Person is subject to or the subject of, any Contractual Obligation or any pending (or threatened in writing) written order, investigation, suit, proceeding, audit, written claim or demand, or written notice of violation of, or potential liability under, any applicable Environmental Law, (c) no Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities has attached to any Property of any Credit Party or any Subsidiary of any Credit Party and, to the knowledge of any Credit Party, no facts, circumstances or conditions exist that would reasonably be expected to result in any such Lien attaching to any such Property, (d) no Credit Party and no Subsidiary of any Credit Party has caused a Release of Hazardous Materials at, to or from any Real Estate except in compliance with Environmental Laws, (e) to the knowledge of any Credit Party, no Release of Hazardous Materials has occurred at, to or from any Real Estate currently owned, leased, subleased or otherwise operated by any Credit Party or any of their Subsidiaries except in compliance with Environmental Laws, and (f) no Credit Party and no Subsidiary of any Credit Party (i) is engaged in, or has knowingly permitted any current tenant to engage in, operations in violation of any Environmental Law or (ii) knows of any facts, circumstances or conditions reasonably constituting notice of a violation of any Environmental Law by such Credit Party or Subsidiary, including receipt of any information request or notice of potential responsibility under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) or similar Environmental Laws.

3.13 Regulated Entities. None of any Credit Party, any Person controlling any Credit Party, or any Subsidiary of any Credit Party, is (a) an "investment company" within the meaning of the Investment Company Act of 1940 or (b) subject to regulation under the Federal Power Act, the Interstate Commerce Act, any state public utilities code, or any other federal or state statute, rule or regulation limiting its ability to incur Indebtedness, pledge its assets or perform its obligations under the Loan Documents.

3.14 Solvency. Immediately after giving effect to (a) the Loans made and Letters of Credit Issued on or prior to the date this representation and warranty is made or remade, (b) the disbursement of the proceeds of such Loans to or as directed by the Borrower Representative, (c) the consummation of the Related Transactions, and (d) the payment and accrual of all transaction costs in connection with the foregoing, the Credit Parties on a consolidated basis are Solvent.

3.15 Labor Relations. There are no strikes, work stoppages, slowdowns or lockouts existing, pending (or, to the knowledge of any Credit Party, threatened in writing) against or involving any Credit Party or any Subsidiary of any Credit Party, except for those that could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Except as set forth on Schedule 3.15, as of the Closing Date, (a) there is no collective bargaining or similar agreement with any union, labor organization, works council or similar representative covering any employee of any Credit Party or any Subsidiary of any Credit Party, (b) no petition for certification or election of any such representative is existing or pending with respect to any employee of any Credit Party or any Subsidiary of any Credit Party and (c) to the knowledge of any Credit Party, no such representative has sought certification or recognition with respect to any employee of any Credit Party or any Subsidiary of any Credit Party.

3.16 Intellectual Property. Each Credit Party and each Subsidiary of each Credit Party owns, is licensed to use or otherwise has the right to use, all Intellectual Property necessary to conduct its business as currently conducted except for such Intellectual Property the failure of which to own or license could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; provided, however, that the foregoing representation and warranty in this Section 3.16 shall not constitute or be deemed or construed as any representation or warranty with respect to infringement, misappropriation, dilution or violation of any Intellectual Property (which is addressed in the following sentence). To the knowledge of each Credit Party, (a) the conduct and operations of the businesses of each Credit Party and each Subsidiary of each Credit Party does not infringe, misappropriate, dilute or violate any Intellectual Property owned by any other Person and (b) as of the Closing Date, no other Person is contesting in writing any right, title or interest of any Credit Party or any Subsidiary of any Credit Party in any Intellectual Property, other than, in each case, as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.17 Brokers' Fees; Transaction Fees. Except as disclosed on Schedule 3.17 and except for fees payable to Agents and Lenders, none of the Credit Parties or any of their respective Subsidiaries has any obligation to any Person in respect of any finder's, broker's or investment banker's fee in connection with the transactions contemplated by this Agreement to occur on or around the Closing Date.

3.18 Insurance. Each of the Credit Parties and each of their respective Subsidiaries and their respective Properties are insured with financially sound and reputable insurance companies which are not Affiliates of the Credit Parties, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses of the similar size and character as the business of the Credit Parties and, to the extent relevant, owning

similar Properties in localities where such Person operates. A true and complete listing of such insurance, including issuers, coverages and deductibles, as of the Closing Date, is listed on Schedule 3.18.

3.19 Ventures, Subsidiaries and Affiliates; Outstanding Stock. Except as set forth in Schedule 3.19, as of the Closing Date, no Credit Party and no Subsidiary of any Credit Party (a) has any Subsidiaries, or (b) is engaged in any joint venture or partnership with any other Person. All issued and outstanding Stock and Stock Equivalents of each of the Credit Parties and each of their respective Subsidiaries, that, in each case, constitute Collateral, are duly authorized and validly issued, fully paid, non-assessable (if applicable), and, with respect to the Stock and Stock Equivalents of Holdings, the Borrowers and other Subsidiaries of the Borrowers that, in each case, constitute Collateral, free and clear of all Liens other than those in favor of Collateral Agent, for the benefit of the Secured Parties, and Permitted Liens arising by operation of law. All such securities were issued in compliance with all applicable state and federal laws concerning the issuance of securities. All of the issued and outstanding Stock of each Credit Party (other than Holdings) and each Subsidiary of each Credit Party, in each case, as of the Closing Date and after giving effect to the Related Transactions, is owned by each of the Persons and in the amounts set forth in Schedule 3.19. Except as set forth in Schedule 3.19, as of the Closing Date, there are no pre-emptive or other outstanding rights to purchase, options, warrants or similar rights or agreements pursuant to which any Credit Party may be required to issue, sell, repurchase or redeem any of its Stock or Stock Equivalents or any Stock or Stock Equivalents of its Subsidiaries. Set forth in Schedule 3.19 is a true and complete organizational chart of Holdings and all of its Subsidiaries as of the Closing Date after giving effect to the Related Transactions.

3.20 Jurisdiction of Organization; Chief Executive Office. Schedule 3.20 lists each Credit Party's jurisdiction of organization, legal name and organizational identification number, if any, and the location of such Credit Party's chief executive office or sole place of business, in each case as of the Closing Date.

3.21 Deposit Accounts and Other Accounts. Schedule 3.21 lists all banks and other financial institutions, securities intermediary or commodity intermediary at which any Credit Party maintains deposit, securities, commodities or other similar accounts as of the Closing Date, and such Schedule correctly identifies the name, address and telephone number with respect to each depository or intermediary, the name in which the account is held, a description of the purpose of the account, and the complete account number therefor.

3.22 Bonding. Except as set forth in Schedule 3.22, as of the Closing Date, no Credit Party is a party to or bound by any surety bond agreement, indemnification agreement therefor or bonding requirement with respect to products or services sold by it.

3.23 Status as Senior Indebtedness. All Obligations, shall constitute "Senior Indebtedness" pursuant to (i) the Subordination Agreement, and (ii) any intercreditor or subordination agreements related to Subordinated Indebtedness (other than the Subordinated Term Loan Obligations).

3.24 Full Disclosure. None of the written statements about any Credit Party or any of its Subsidiaries, in each case, contained in any report, written statement or certificate (other than any statement which constitutes projections, forward looking statements, budgets, estimates or general market data) furnished by or on behalf of any Credit Party or any of their Subsidiaries to the Agents or any Lender in connection with the Loan Documents (excluding representations of information of a general or industry-specific nature and excluding financial projections, forecasts, budgets or other forward-looking statements), taken as a whole, contains any untrue statement of a material fact or omits any material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances under which they are made, not materially misleading as of the time when made or delivered (other than any general industry information, budgets and projections delivered to Agents and/or the Lenders in accordance with the terms hereof).

3.25 Foreign Assets Control Regulations; Anti-Money Laundering; Anti-Corruption Practices.

(a) Each Credit Party and each Subsidiary of each Credit Party is in compliance in all material respects with all U.S. economic sanctions laws, Executive Orders and implementing regulations ("**Sanctions**") as administered by the U.S. Treasury Department's Office of Foreign Assets Control ("**OFAC**") and the U.S. State Department. No Credit Party and no Subsidiary of a Credit Party (i) is a Person on the list of the Specially Designated Nationals and Blocked Persons (the "**SDN List**"), (ii) is a person who is otherwise the target of U.S. economic sanctions laws such that a U.S. person cannot deal or otherwise engage in business transactions with such person, (iii) is a Person organized or resident in a country or territory subject to comprehensive Sanctions (a "**Sanctioned Country**"), or (iv) is owned or controlled by (including by virtue of such Person being a director or owning voting shares or interests), or acts, directly or indirectly, for or on behalf of, any Person on the SDN List or a government of a Sanctioned Country such that the entry into, or performance under, this Agreement or any other Loan Document would be prohibited by U.S. law.

(b) Each Credit Party and each Subsidiary of each Credit Party is in compliance with all applicable laws related to terrorism or money laundering including: (i) all applicable requirements of the Currency and Foreign Transactions Reporting Act of 1970 (31 U.S.C. 5311 et. seq., (the Bank Secrecy Act)), as amended by Title III of the USA Patriot Act, (ii) the Trading with the Enemy Act, (iii) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 (66 Fed. Reg. 49079), any other enabling legislation, executive order or regulations issued pursuant or relating thereto and (iv) other applicable federal or state laws relating to "know your customer" or anti-money laundering rules and regulations. No action, suit or proceeding by or before any court or Governmental Authority with respect to compliance with such anti-money laundering laws is pending or threatened in writing to the knowledge of each Credit Party and each Subsidiary of each Credit Party.

(c) Each Credit Party and each Subsidiary of each Credit Party is in compliance in all material respects with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act of 1977 ("**FCPA**") and the U.K. Bribery Act 2010 ("**Anti-Corruption Laws**"). None of the Credit Parties or any Subsidiary, nor to the knowledge of any Credit Party, any director, officer, agent, employee, or other person acting on behalf of such Credit Party or any Subsidiary, has taken any action, directly or indirectly, that would result in a violation by such Credit Party or any Subsidiary of applicable Anti-Corruption Laws. The Credit Parties and each Subsidiary will, to the extent necessary or applicable to their business, maintain policies and procedures designed to promote compliance with applicable Anti-Corruption Laws.

3.26 Leases. There is a Lease in force for each Unit Location which is ground leased or space leased by any Credit Party. No default by any party exists under any such Lease that could reasonably be expected to result in termination of such Lease, nor has any event occurred which, with the passage of time or the giving of notice, or both, would constitute such a default, except in each case, to the extent any such default could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Schedule 3.26 is a complete and correct listing of all Leases as of the Closing Date.

3.27 Store Locations; Franchised Store Locations. Part (a) of Schedule 3.27 sets forth a complete and accurate list of all Store locations owned or operation by any Credit Party or any Subsidiary of a Credit Party as of the Closing Date. Part (b) of Schedule 3.27 sets forth a complete and accurate list of all Franchised Store Locations franchised by any Franchisor to any Franchisee as of the Closing Date.

3.28 Franchise Agreements.

(a) Schedule 3.28 sets forth a complete and accurate list of all Franchise Agreements as of the Closing Date.

(b) Each Franchise Agreement is in full force and effect, except to the extent the failure of any such Franchise Agreement to remain in full force and effect, either individually or in the aggregate with all other such failures with respect to Franchise Agreements, could not reasonably be expected to have a Material Adverse Effect, without any amendment or modification from the form delivered to the Agents on the Closing Date, except for amendments permitted hereunder and which do not materially and adversely affect the rights of the Lenders.

3.29 SBA Matters. Holdings and each other Credit Party acknowledges that certain of the Lenders are or may from time to time be or become a Small Business Investment Company (as defined in the SBIA), subject to the rules and regulations contained in and promulgated under the SBIA. As of the Closing Date, each Credit Party, together with its "affiliates" (for purposes of this paragraph only, as that term is defined in Title 13, Code of Federal Regulations, § 121.103), is a Small Business Concern (as defined in the SBIA). Neither Holdings nor any of its Subsidiaries presently engages in, and shall not hereafter engage in any activities for which a Small Business Concern is prohibited from engaging in under the SBIA, no shall any such

Person use directly or indirectly the proceeds of the Loans for any purpose for which a Small Business Investment Company is prohibited from providing funds by the SBIA.

ARTICLE IV

AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date (it being understood and agreed that, without in any way limiting the covenants and other agreements in the Founder Group Members Pledge Agreements, for purposes of this Article IV, the term "Credit Party" will not include any Founder Group Members):

4.1 Financial Statements. Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, a system of accounting established and administered in accordance with sound business practices to permit the preparation of financial statements in conformity with GAAP (provided that unaudited interim financial statements shall not be required to have footnote disclosures and are subject to normal year-end adjustments). The Borrower Representative shall deliver to Administrative Agent (for delivery to each Lender) by Electronic Transmission and, solely with respect to Section 4.1(b), in customary form or otherwise in detail reasonably satisfactory to each Agent:

(a) as soon as available, but in any event not later than one hundred twenty (120) days after the end of each Fiscal Year, a copy of the audited consolidated balance sheets of Holdings and its Subsidiaries as at the end of such Fiscal Year and the related consolidated statements of income or operations, shareholders' equity and cash flows for such Fiscal Year, setting forth commencing with the audited financial statements for the 2022 Fiscal Year, in each case, in comparative form the figures for the previous Fiscal Year, and accompanied by the report of any "Big Four" independent certified public accounting firm (or any other independent certified public accounting firm reasonably acceptable to Agent) which report shall (i) state that such consolidated financial statements (solely with respect to the financial statements and not comparisons) present fairly in all material respects the financial position for the periods indicated in conformity with GAAP applied on a basis consistent with prior years ending after the Closing Date (except for such year to year inconsistencies as may arise due to a change in GAAP permitted hereunder) and (ii) be unqualified as to scope and going concern;

(b) as soon as available, but in any event not later than forty-five (45) days after the end of each Fiscal Quarter of each Fiscal Year, a copy of the unaudited consolidated balance sheet of Holdings and its Subsidiaries, and the related consolidated statements of income and cash flows as of the end of such Fiscal Quarter and for the portion of the Fiscal Year then ended, all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrowers as being complete and correct in all material respects and fairly presenting, in all material respects and in accordance with GAAP, the financial position and the results of operations of Holdings and its Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures;

(c) as soon as available, but in any event not later than thirty (30) days after the end of each of the first two Fiscal Months of each Fiscal Quarter (other than with respect to the Fiscal Months of May, 2022 and July, 2022, in which case, not later than forty-five (45) days after the end of each such Fiscal Month), (i) Qualified Cash Summary in the form set forth on Exhibit 4.2(b), and (ii) a copy of the unaudited consolidated balance sheets of Holdings and its Subsidiaries, and the related consolidated statements of income and cash flows as of the end of such Fiscal Month and for the portion of the Fiscal Year then ended, setting forth in each case in comparative form the figures for the corresponding Fiscal Month of the previous Fiscal Year and the corresponding Fiscal Month set forth in the applicable annual budget delivered to the Agents pursuant to the terms hereof and the corresponding portion of the previous Fiscal Year and the corresponding portion of the Fiscal Year as set forth in the applicable annual budget delivered pursuant to Section 4.2(d), all in reasonable detail, and all certified on behalf of the Borrowers by an appropriate Responsible Officer of the Borrowers as being complete and correct in all material respects and fairly presenting, in all material respects, in accordance with GAAP, the financial position and the results of operations of Holdings and its Subsidiaries, subject to normal year-end adjustments and absence of footnote disclosures; provided that, if as of the last day of the applicable Fiscal Month, there is no principal outstanding with respect to the Loans, the Credit Parties shall not be required to deliver any financial statements pursuant to this Section 4.1(e) with respect to such Fiscal Month; and

(d) Together with each quarterly report submitted pursuant to Section 4.1(b) and each monthly report submitted by Section 4.1(c), a month-end Qualified Cash Summary for the immediately preceding month, such report to break out each account having a Qualified Cash balance of $250,000 or more at any time during such preceding month, all with such backup as any Agent may from time to time reasonably request.

4.2 Certificates; Other Information. The Borrower Representative shall furnish to Administrative Agent (copies of which shall be delivered or otherwise made available by Administrative Agent to each Lender) by Electronic Transmission:

(a) (i) concurrently with the delivery of the financial statements referred to in Sections 4.1(a) and 4.1(b), a management discussion and analysis report, in reasonable detail, signed by the chief financial officer (or, if there is no chief financial officer, other financial officer that is a Responsible Officer of the Borrowers) of the Borrowers, describing the operations and financial condition of the Credit Parties and their Subsidiaries for the Fiscal Quarter and the portion of the Fiscal Year then ended, (ii) concurrently with the delivery of the financial statements referred to in Section 4.1(b) and 4.1(c), a report setting forth in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year and, if applicable, the corresponding figures from the most recent projections for the current Fiscal Year delivered pursuant to Section 4.2(d) and discussing the reasons for any significant variations, (iii) in the case of the financial statements referred to in Section 4.1(c), same store sales in comparative

form and (iv) in the case of the financial statements referred to in Section 4.1(b), an updated Development Overview Report;

(b) concurrently with the delivery of the financial statements referred to in Sections 4.1(a) and 4.1(b), a fully and properly completed certificate in the form of Exhibit 4.2(b) (a "**Compliance Certificate**"), certified on behalf of the Borrowers by a Responsible Officer of the Borrowers, which shall include a list of, if any, (1) changes to any Credit Party's or any of its Subsidiaries' legal name, jurisdiction of incorporation, organization or formation or organizational form, (2) formation of a Subsidiary or acquisitions by a Credit Party or any of its Subsidiaries of all or substantially all of the assets of, or mergers or consolidations of a Credit Party or any of its Subsidiaries with or into, a Person, (3) the occurrence of any event described in Section 1.8(c) or (d), (4) changes to any Credit Party's principal place of business or chief executive office or acquisitions by a Credit Party of fee simple title to any real property with a fair market value in excess of $1,000,000 and (5) changes, with respect to any Material Intellectual Property (as defined in the Guaranty and Security Agreement), in the information of the type required to be set forth on Schedule 5 of the Guaranty and Security Agreement on the Closing Date for such Grantor, except for changes that have been disclosed in prior Compliance Certificates delivered to Administrative Agent;

(c) promptly after the same are filed, copies of all financial statements and regular, periodic or special reports which any Credit Party or any Subsidiary of a Credit Party may make to, or file with, the Securities and Exchange Commission or any successor or similar Governmental Authority;

(d) as soon as available and in any event no later than thirty (30) days after the last day of each Fiscal Year of the Borrowers, an annual budget and projections of the Credit Parties (and their Subsidiaries) consolidated financial performance for such Fiscal Year on a month-by-month basis, including assumptions made in the build-up of the budget, along with the related consolidated statements of income, shareholders' equity and cash flows for such Fiscal Year and a calculation of the financial covenants set forth in Section 6.1 for each Fiscal Quarter contained therein (it being acknowledged and agreed by Agents and Lenders that uncertainty is inherent in any forecasts or projections, projections as to future events or conditions are not to be viewed as facts and that the actual results and financial covenants during the period or periods covered by the projections may differ materially from the projected results);

(e) promptly upon receipt thereof, copies of all final management reports submitted by the Borrowers' certified public accountants in connection with each annual audit to the extent permitted by such accountants and subject to a customary non-reliance letter;

(f) from time to time, if Collateral Agent reasonably determines that obtaining appraisals is necessary in order for Agents or any Lender to comply with applicable laws or regulations (including any appraisals required to comply with FIRREA), Collateral Agent may, or may require the Borrowers to, in either case at the Borrowers' reasonable

expense (but in no event more than one time in any Fiscal Year: provided, however, that the foregoing limitation shall not apply if an Event of Default has occurred and is continuing), obtain appraisals in form and substance (it being understood that "substance" shall not include the value of the collateral being appraised, which value shall not be subject to satisfaction of Agents or any Lender) and from appraisers reasonably satisfactory to Collateral Agent stating the then current fair market value of all or any portion of the personal property of any Credit Party or any Subsidiary of any Credit Party and the fair market value or such other value as determined by Collateral Agent (for example, replacement cost for purposes of Flood Insurance) of any Real Estate of any Credit Party or any Subsidiary of any Credit Party; provided that if the Collateral Agent obtains any appraisal pursuant to this Section 4.2(f), the Collateral Agent shall, upon the request of the Borrowers, provide or otherwise make available a copy of such appraisal to the Borrowers; and

(g) [Reserved];

(h) promptly following either Agent's written request therefor, such additional business or financial information and updated perfection certificate as such Agent may from time to time reasonably request; provided that the Agents shall not request an updated perfection certificate more than one time per Fiscal Year; provided, however, that the foregoing limitation shall not apply if an Event of Default has occurred and is continuing.

4.3 Notices. The Borrowers shall promptly notify each Agent of each of the following (and, except as otherwise specifically set forth in clauses (e)(ii) and (e)(iii) and in clause (i) below, in no event later than five (5) Business Days) after a Responsible Officer becoming aware thereof:

(a) the occurrence or existence of any Default or Event of Default;

(b) any dispute, litigation, investigation, proceeding or suspension which may exist at any time between any Credit Party or any Subsidiary of any Credit Party and any Governmental Authority which could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(c) the commencement of, or any material development in, any litigation or proceeding affecting any Credit Party or any Subsidiary of any Credit Party or its respective property (i) in which the amount of monetary damages claimed is $500,000 or more, (ii) which, if adversely determined, could reasonably be expected to have a Material Adverse Effect, or (iii) in which the relief sought is an injunction or other stay of the performance of this Agreement, or any other Loan Document;

(d) (i) the receipt by any Credit Party of any written notice of material violation of or potential liability or similar written notice under Environmental Law which could reasonably be expected to result in (A) a Material Adverse Effect or (B) monetary liability in excess of $500,000, (ii)(A) unpermitted Releases by any Credit

Party on or from the Real Estate in violation of Environmental Law, (B) the existence of any condition that would reasonably be expected to result in violations by any Credit Party or any Subsidiary of a Credit Party of Environmental Law or Environmental Liabilities or (C) the commencement of, or any material change to, any action, investigation, suit, proceeding, audit, claim, demand or dispute alleging a violation by any Credit Party or any Subsidiary of a Credit Party of Environmental Law or Environmental Liability which in the case of clauses (A), (B) and (C) above, could reasonably be expected to result in (1) monetary liability in excess of $500,000 or (2) a Material Adverse Effect and (iii) the receipt by any Credit Party of written notification that any Property of any Credit Party is subject to any Lien in favor of any Governmental Authority securing, in whole or in part, Environmental Liabilities that could reasonably be expected to result in (A) monetary liability in excess of $500,000 or (B) a Material Adverse Effect;

(e) (i) upon any filing by any Credit Party or any Subsidiary of a Credit Party, or promptly upon a Credit Party obtaining knowledge of the filing by an ERISA Affiliate, of any notice of (A) any reportable event under Section 4043 of ERISA (other than reportable events with respect to which the 30-day notice requirement has been duly waived under the applicable regulations) with respect to any Title IV Plan or (B) intent to terminate any Title IV Plan, which in the case of either clause (A) or (B) above, could reasonably be expected to result in (1) monetary liability in excess of $500,000 or (2) a Material Adverse Effect, a copy of such notice, (ii) promptly, and in any event within ten (10) days, after any officer of any Credit Party or any Subsidiary of a Credit Party knows or has reason to know that a request for a minimum funding waiver under Section 412 of the Code has been filed with respect to any Title IV Plan, a notice describing such waiver request and any action that any Credit Party proposes to take with respect thereto, together with a copy of any notice filed with the PBGC or the IRS pertaining thereto; and (iii) promptly, and in any event within ten (10) days, after any officer of any Credit Party or any Subsidiary of a Credit Party knows or has reason to know that an ERISA Event has occurred that could, either individually or in the aggregate, result in (A) monetary liability in excess of $1,500,000 or (B) a Material Adverse Effect, a notice describing such ERISA Event, together with a copy of any notices received from or filed with the PBGC, IRS or Multiemployer Plan pertaining thereto;

(f) any Material Adverse Effect subsequent to the date of the most recent audited financial statements of Holdings and its Subsidiaries delivered to Administrative Agent pursuant to this Agreement;

(g) any material change in accounting policies or financial reporting practices by any Credit Party or any Subsidiary of any Credit Party; and

(h) any labor controversy resulting in, or which would reasonably be expected to result in, any strike, work stoppage, boycott, shutdown or other labor disruption against or involving any Credit Party or any Subsidiary of any Credit Party if the same

could, either individually or in the aggregate, reasonably be expected to result in (i) monetary liability in excess of $500,000 or (ii) a Material Adverse Effect.

Each notice pursuant to this Section 4.3 shall be in electronic form accompanied by a statement by a Responsible Officer of the Borrowers, setting forth reasonable details of the occurrence referred to therein, and, if applicable, stating what action the Borrowers or other Person proposes to take with respect thereto and at what time. Each notice under Section 4.3(a) shall describe with particularity any provisions of this Agreement or other Loan Document that have been breached or violated to the extent such breach or violation constitutes a Default or an Event of Default.

4.4 Preservation of Corporate Existence, Etc. Each Credit Party shall, and shall cause each of its Subsidiaries to:

(a) preserve and maintain in full force and effect its organizational existence and good standing under the laws of its jurisdiction of incorporation, organization or formation, as applicable, except as permitted by Section 5.3;

(b) preserve and maintain in full force and effect all rights, privileges, qualifications, permits, licenses and franchises necessary in the normal conduct of its business except as permitted by Sections 5.2 and 5.3 and except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect;

(c) preserve or renew all of its registered Trademarks, Patents and Copyrights the non-preservation of which could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect; and

(d) conduct its business and affairs without knowingly infringing or violating any Intellectual Property of any other Person in any material respect and comply in all material respects with the terms of its IP Licenses except in each case as could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.5 Maintenance of Property. Each Credit Party shall maintain, and shall cause each of its Subsidiaries to maintain, and preserve all its Property (other than abandoned Property left on leased premises following the termination of a Lease) which is necessary for the operation of the business of the Borrowers and their Subsidiaries in good working order and condition, ordinary wear and tear, casualty and condemnation excepted and shall make all reasonably necessary repairs thereto and renewals and replacements thereof except where the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.6 Insurance.

(a) Each Credit Party shall, and shall cause each of its Subsidiaries to, (i) maintain or cause to be maintained in full force and effect all policies of insurance of any kind with respect to the Property and businesses of the Credit Parties and such Subsidiaries with financially sound and reputable insurance companies or associations (in each case that are not Affiliates of the Borrowers) of a nature and providing such coverage as is customarily carried by businesses of the size and character of the business of the Credit Parties and (ii) cause all such insurance (other than workers' compensation insurance, directors and officers insurance and employee health and welfare insurance) relating to any Property or business of any Credit Party to name Collateral Agent as additional insured or lenders loss payee as agent for the Lenders, as appropriate. All policies of insurance on real and personal Property of the Credit Parties will contain an endorsement, in form and substance reasonably acceptable to Collateral Agent, naming Collateral Agent as lenders loss payee as agent for the Lenders (with such endorsement, or an independent instrument furnished to Collateral Agent, providing that the insurance companies will give Collateral Agent at least thirty (30) days' (or ten (10) days' in the case of non-payment) prior written notice before any such policy or policies of insurance shall be altered or canceled and that no act or default of the Credit Parties or any other Person shall affect the right of Collateral Agent to recover under such policy or policies of insurance in case of loss or damage). If any insurance proceeds are paid by check, draft or other instrument payable to any Credit Party and Collateral Agent jointly, during the occurrence and continuance of an Event of Default Agent may endorse such Credit Party's name thereon and do such other things as Collateral Agent may deem advisable to reduce the same to cash. In addition to the obligations set forth in Sections 4.6(a) and 4.13, within thirty (30) days after written notice from Collateral Agent to the Credit Parties that any improved Real Estate is located in a Special Flood Hazard Area in the United States, the Credit Parties shall satisfy the Federal Flood Insurance requirements of Section 4.6(a).

(b) Unless the Credit Parties provide Collateral Agent with evidence of the insurance coverage required by this Agreement annually prior to the expiration of each such policy and in any event within ten (10) Business Days of Collateral Agent's request after such expiration, Collateral Agent may in its reasonable business judgment and upon written notice to the Borrower Representative purchase insurance at the Credit Parties' expense necessary (as reasonably determined by Collateral Agent) to protect Collateral Agent's and Lenders' interests, including interests in the Credit Parties' and their Subsidiaries' properties. This insurance may, but need not, protect the Credit Parties' and their Subsidiaries' interests. The coverage that Collateral Agent purchases may not pay any claim that any Credit Party or any Subsidiary of any Credit Party makes or any claim that is made against such Credit Party or any Subsidiary in connection with said Property. The Borrower Representative may later cancel any insurance purchased by Collateral Agent, but only after providing Collateral Agent with evidence that there has been obtained insurance as required by this Agreement. If Collateral Agent purchases insurance, the Credit Parties will be responsible for the reasonable and documented costs

of that insurance, including interest and any other charges Collateral Agent may impose in connection with the placement of insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance shall be added to the Obligations. The costs of the insurance may be more than the cost of insurance the Borrowers may be able to obtain on its own.

4.7 Payment of Taxes. Each Credit Party shall, and shall cause each of its Subsidiaries to, pay, discharge or otherwise satisfy as the same shall become due and payable (after giving effect to any cure periods, if applicable), all material Tax liabilities, assessments and governmental charges or levies upon it or its Property, unless the same are being contested in good faith by appropriate proceedings diligently prosecuted which stay the enforcement of any Lien and for which adequate reserves in accordance with GAAP are being maintained by such Person.

4.8 Compliance with Laws. Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with all Requirements of Law of any Governmental Authority having jurisdiction over it or its business, except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.9 Inspection of Property and Books and Records. Each Credit Party shall maintain and shall cause each of its Subsidiaries to maintain proper books of record and account, in which full, true and correct entries in all material respects and in conformity with GAAP consistently applied (except as disclosed therein) shall be made of all material financial transactions and material matters involving the assets and business of such Person. Each Credit Party shall, and shall cause each of its Subsidiaries to, with respect to each owned, leased, or controlled property, during normal business hours and upon reasonable advance notice (unless an Event of Default shall have occurred and be continuing, in which event no notice shall be required and Agents shall have access at any and all times during the continuance thereof): (a) provide access to such property to Agents and any of their respective Related Persons, as frequently as either Agent reasonably determines to be appropriate but, unless an Event of Default shall have occurred and be continuing, Agents or any of its related Persons shall only be permitted to make one such visit per year hereunder, without material disruption to the business or causing material undue burden on such Credit Party; and (b) permit Agents and any of their respective Related Persons to conduct field examinations, audit, inspect, and make extracts and copies from all of such Credit Party's books and records, and evaluate and make physical verifications and appraisals of the Inventory and other Collateral in any manner and through any medium that either Agent reasonably considers advisable, in each instance, at the Credit Parties' reasonable expense; provided that, so long as no Default or Event of Default has occurred and is continuing, (i) the Credit Parties shall only be obligated to reimburse Agents for the expenses of one (1) such field examination, audit and inspection per calendar year in accordance with Section 9.5 and (ii) during such field examination, no contact shall be made by either Agent, any Lender or any of their Related Persons with the Account Debtors of any of the Credit Parties or their Subsidiaries in their capacities as Account Debtors of Credit Parties or their Subsidiaries. Any Lender may accompany Agents or their respective Related Persons in connection with any inspection at such Lender's expense.

4.10 Use of Proceeds.

(a) The Borrowers shall use the proceeds of the Term Loan A (i) on the Closing Date (1) to finance the Existing Debt Refinancing Transactions, or (2) to pay fees and expenses associated with the funding of the Loans and the Related Transactions and required to be paid pursuant to Section 2.1, or (ii) after the Closing Date, to provide for working capital and other general corporate purposes;

(b) The Borrowers shall use proceeds of the Delayed Draw Term Loans and Incremental Delayed Draw Term Loans solely for new Store capital expenditures and, subject to Section 5.8(l) below, the Second Tranche Preferred Unit Redemption;

(c) [Reserved];

(d) [Reserved].

(e) Each Credit Party shall ensure that no Credit Party shall suffer or permit any of its Subsidiaries to, use any portion of the Loan proceeds, directly or indirectly, to purchase or carry Margin Stock or repay or otherwise refinance Indebtedness of any Credit Party incurred to purchase or carry Margin Stock, or otherwise in any manner which is in material contravention of any material Requirement of Law.

4.11 Cash Management Systems. Within sixty (60) days after the Closing Date (as such date may be extended by the Agents in their sole discretion), each Credit Party shall enter into, and cause each depository bank, securities intermediary or other financial institution to enter into, Control Agreements with respect to each of the deposit or securities accounts of such Credit Party (other than (a) any payroll account, payroll tax account, benefit account, other employee wage and benefit account or zero balance account, (b) petty cash and other bank and securities accounts, amounts on deposit in which do not exceed $500,000 in the aggregate at any one time, and (c) withholding tax and fiduciary accounts, escrow accounts, accounts containing customer funds and other accounts in which any Credit Party solely holds funds on behalf of any third party (such excluded accounts, "**Excluded Accounts**"), and other than as may be agreed by the Collateral Agent in writing in its sole discretion). It is agreed and understood that the Credit Parties shall have until the date that is sixty (60) days following the closing date of any Acquisition or other Investment permitted hereby (or such later date as may be agreed to by Agents in their sole discretion) with regard to accounts (other than Excluded Accounts) acquired by the Credit Parties in connection with such Acquisition or other Investment to comply with the provisions of this Section 4.11 with respect to each deposit, securities or commodity account of such Credit Party and maintained by such Person (other than any Excluded Account). The Credit Parties shall give the Collateral Agent prompt notice of the establishment of any new deposit and/or securities account(s) (other than Excluded Accounts) established by any Credit Party, and shall enter into and shall cause the depositary institution maintaining such account(s) to enter into a Control Agreement in form and substance reasonably satisfactory to the Collateral Agent over such account(s), within sixty (60) days following the establishment of such account(s) (except, for the avoidance of doubt, with respect to those accounts listed in Section 7 of that certain Third Amendment to Credit Agreement, by and among, among others, the Credit Parties

and the Collateral Agent (the "Third Amendment"), the Borrowers shall use commercially reasonable efforts to obtain such Control Agreements following the Third Amendment Effective Date (as defined in the Third Amendment)).

4.12 Further Assurances.

(a) Promptly, but in any event subject to the express limitations set forth in the Loan Documents, upon reasonable request by Agent, the Credit Parties shall (and, subject to the limitations set forth herein and in the Collateral Documents, shall cause each of their Subsidiaries to) take such additional actions and execute such documents as either Agent may reasonably require from time to time in order (i) to carry out more effectively the purposes of this Agreement or any other Loan Document, (ii) to subject to the Liens created by any of the Collateral Documents any of the Properties, rights or interests covered by any of the Collateral Documents, (iii) with respect to perfection of Liens on assets acquired in an Acquisition or other Investment permitted hereunder, perfect and maintain the validity, effectiveness and priority of any of the Collateral Documents and the Liens intended to be created thereby, and (iv) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to the Agents the rights granted or now or hereafter intended to be granted to the Secured Parties under any Loan Document. Without limiting the generality of the foregoing and except as otherwise approved in writing by Required Lenders, the Credit Parties shall cause each of their Subsidiaries (other than Excluded Subsidiaries), within thirty (30) days (or such later date as may be agreed by Agents in their sole discretion) after formation or acquisition thereof (or, in the event of any Excluded Subsidiary ceasing to constitute an Excluded Subsidiary, the date of such event), to guaranty the Obligations and to cause each such Subsidiary to grant to Collateral Agent, for the benefit of the Secured Parties, a security interest in, subject to the limitations set forth herein and in the Collateral Documents, all or substantially all of such Subsidiary's Property to secure such guaranty. Furthermore and except as otherwise approved in writing by Required Lenders, each Credit Party shall pledge all of the outstanding Stock and Stock Equivalents (other than Excluded Equity (as defined in the Guaranty and Security Agreement)) of its Subsidiaries, in each instance, to Agent, for the benefit of the Secured Parties, to secure the Obligations, within the time period required by the Guaranty and Security Agreement. The Credit Parties shall deliver, or cause to be delivered, to Agents, appropriate resolutions, secretary certificates, certified Organization Documents and, if requested by Agents, customary legal opinions relating to the matters described in this Section 4.12 (which opinions shall be in form and substance reasonably acceptable to Agents) in each instance with respect to each Credit Party formed or acquired after the Closing Date. In connection with each pledge of Stock and Stock Equivalents, the Credit Parties shall deliver, or cause to be delivered, to Collateral Agent, irrevocable proxies and stock powers and/or assignments, as applicable, duly executed in blank, within the time period required by the Guaranty and Security Agreement. In the event any Credit Party acquires fee title to any Real Estate with a fair market value in excess of $1,000,000, within sixty (60) days after (or such later date as may be agreed by Agent in its sole discretion) such acquisition, such Person shall execute and/or deliver, or cause to be executed and/or delivered to Collateral

Agent, (x) an appraisal complying with FIRREA (to the extent such appraisal is required by FIRREA or other Requirement of Law), (y) a fully executed Mortgage, in form and substance reasonably satisfactory to Collateral Agent and (z) to the extent reasonably requested by the Collateral Agent, (I) an A.L.T.A. lender's title insurance policy issued by a title insurer reasonably satisfactory to Collateral Agent, in form and substance and in an amount reasonably satisfactory to Collateral Agent insuring that the Mortgage is a valid and enforceable first priority Lien on the respective property, free and clear of all defects, encumbrances and Liens other than Permitted Liens, (II) then current A.L.T.A. surveys, certified to Collateral Agent by a licensed surveyor sufficient to allow the issuer of the lender's title insurance policy to issue such policy without a survey exception and (III) to the extent reasonably requested in writing by the Collateral Agent, an environmental site assessment prepared by a qualified firm reasonably acceptable to Collateral Agent, in form reasonably satisfactory to Collateral Agent. In addition to the obligations set forth in Section 4.6(a), within sixty (60) days (or such later date as may be agreed by Agent in its sole discretion) after written notice from Collateral Agent to the Credit Parties that any improved Real Estate is located in a Special Flood Hazard Area, the Credit Parties shall promptly take such action as is necessary to satisfy the Flood Insurance requirements of Section 4.6(a).

(b) Notwithstanding the foregoing, Holdings and its Subsidiaries shall not be required to grant or perfect the Collateral Agent's security interest under any foreign law unless required by the Agent in its reasonable discretion.

4.13 Environmental Matters. Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with, and maintain its Real Estate to the extent required of any Credit Party or Subsidiary thereof under applicable Environmental Law or Contractual Obligation, whether owned, leased, subleased or operated, in compliance with, all applicable Environmental Laws (including by implementing any Remedial Action required of such Credit Party or such Subsidiary necessary to achieve such compliance), except where the failure to comply could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. Without limiting the foregoing, if an Event of Default is continuing and Agent has a reasonable basis to believe that there exist material violations of Environmental Laws by any Credit Party or any Subsidiary of any Credit Party or that there exists any Material Adverse Effect resulting therefrom, then each Credit Party shall, promptly upon receipt of request from Agent, cause the performance of, and allow Agent and its Related Persons access to such Real Estate for the purpose of conducting, such environmental audits and assessments, including subsurface sampling of soil and groundwater to the extent not prohibited under any Contractual Obligation with regard to any leased or subleased Real Estate, and cause the preparation of such reports, in each case as Agent may from time to time reasonably request. Such audits, assessments and reports, to the extent not conducted by Agent or any of its Related Persons, shall be conducted and prepared by reputable environmental consulting firms reasonably acceptable to Agents and shall be in form and substance reasonably acceptable to Agents.

4.14 Landlord Agreements. Within sixty (60) days after the Collateral Agent's request therefor, with respect to any lease, warehouse agreement or other arrangement (a) at any location

where Collateral having a fair market value in excess of $100,000 (as determined in good faith by the Borrower Representative) is or may be stored or located, (b) material books and records are or will be stored or located, (c) where primary roasting facilities are located, or (d) where the business headquarters of a Credit Party is located, each Credit Party shall, at the written request of the Collateral Agent, use commercially reasonable efforts to obtain a Collateral Access Agreement from the lessor of each leased property or bailee in possession of any Collateral for which Collateral Agent has requested a Collateral Access Agreement.

4.15 Compliance with Terms of Franchise Agreements. Each Credit Party shall, and shall cause each of its Subsidiaries to, (a) make all payments and otherwise perform all obligations in respect of Franchise Agreements to which any Credit Party or Subsidiary is a party, (b) keep such Franchise Agreements in full force and effect, (c) not allow such Franchise Agreements to lapse or be terminated or any rights to renew such Franchise Agreements to be forfeited or cancelled and (d) notify the Agents of any default by any party with respect to such Franchise Agreements and promptly cure any such default, other than, in each case of clauses (a) through (d) where the failure to do so could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.16 Compliance with Terms of Leases. Each Credit Party shall, and shall cause each of its Subsidiaries to, (a) make all payments and otherwise perform all obligations in respect of all Leases to which any Credit Party or Subsidiary is a party, (b) keep all such Leases in full force and effect, (c) not allow such Leases to lapse or be terminated or any rights to renew such Leases to be forfeited or cancelled, and (d) notify the Collateral Agent of any default by any party with respect to such Leases and promptly cure any such default, except, in any case, where the failure to do so, either individually or in the aggregate, could not be reasonably likely to have a Material Adverse Effect.

4.17 Board Observation Rights. Agents shall have the right to, from time to time, designate (e-mail designation to the Borrower Representative being sufficient for the following purposes) one (1) representative for both Agents to: (a) receive prior written notice of all meetings (both regular and special) of the board of directors (or equivalent governing body) of each Credit Party and each committee thereof (such notice to be given in the same manner and at the same time as notice is given to the members of such body and/or committee); (b) be entitled to attend (or, at the option of such representative, monitor by telephone) all such meetings; and (c) receive all notices, information and reports which are furnished or made available to the members of such body and/or committee at the same time and in the same manner as the same is furnished or made available to such members, except that these observers may be excluded from access to any meeting or portion thereof (as well as the distribution of materials and minutes related thereto) if the applicable Credit Party determines in good faith upon advice of counsel that such exclusion is reasonably necessary to preserve the attorney-client privilege or if matters of conflict of interest to the Agents or any Lender are being discussed. If any action is proposed to be taken by such board of directors (or equivalent governing body) and/or committee by written consent in lieu of a meeting, the Borrower Representative will provide the Administrative Agent (and the Administrative Agent agrees to provide to the Collateral Agent) with prior written notice thereof (such notice to be given in the same manner and at the same time as notice

is given to the members of such body and/or committee) and, upon either Agent's request, furnish or cause to be furnished to such representative a copy of each such written consent promptly after it has become effective, unless the applicable Credit Party determines in good faith that such provision is reasonably likely to affect the attorney-client privilege upon advice of counsel or that such matter involves a conflict of interest with any Agent or Lender. Such representative shall not constitute a member of such body and/or committee and shall not be entitled to vote on any matters presented at meetings of such body and/or committee or to consent to any matter as to which the consent of any such body and/or committee shall have been requested. The Credit Parties will pay (or reimburse) upon request by any such representative for all reasonable out-of-pocket expenses incurred by such representative in connection with attending such meetings.

4.18 SBA Matters.

(a) Upon the request of any Lender that is a Small Business Investment Company (as defined in the SBIA), repay such Lender's Loan in full (including the applicable prepayment fee), in immediately available funds, in the event that any Borrower or any other Credit Party changes the nature of its business within one year after the Closing Date (or, if applicable, any later borrowing date hereunder in a manner that would cause such Lender to have provided funds to such Borrower or any other Credit Party pursuant to this Agreement or any other Loan Documents in violation of 13 C.F.B. §§ 107.700-107.760 (as amended from time to time).

(b) Upon the request of any Lender that is a Small Business Investment Company (as defined in the SBIA) or the SBA, (i) submit to such Lender and/or the SBA timely and accurate compliance reports at such times and in such form and containing such information as the SBA may determine to be necessary to enable the SBA to ascertain whether Holdings and each other Credit Party have complied or are complying with 13 C.F.R. Part 112 ("Part 112"), (ii) submit to such Lender such information as may be necessary to enable such Lender to meet its reporting requirements under Part 112, and (iii) permit the SBA to have access with advance written notice and during normal business hours to such of its books, records, accounts and other sources of information, and its facilities as may be pertinent to ascertain compliance with Part 112. Where any information required of Holdings or any other Credit Party is in the exclusive possession of any other agency, institution or Person and such agency, institution or Person shall fail or refuse to furnish this information, Holdings and each other Credit Party shall so certify in its report and shall set forth what efforts it has made to obtain this information.

4.19 Post-Closing Obligations. Each Credit Party agrees to deliver or to cause to be delivered to Agents, in form and substance reasonably satisfactory to Agent, the items described below and on Schedule 4.19 on or before the dates specified with respect to such items, or such later dates as may be agreed to by Agents, in their sole discretion. On or before May 30, 2022, the Credit Parties shall deliver or cause to be delivered to the Collateral Agent:

(i) the duly executed Holdings Pledge Agreements of each of the Holdings Pledgors (other than Viking Cake BR which shall deliver its Holdings

Pledge Agreement on the Closing Date), each substantially in the form delivered by Viking Cake BR on the Closing Date;

(ii) an opinion of counsel to the Holdings Pledgors acceptable to the Agents in their sole discretion, as to the due authorization, execution and delivery of each of the Holdings Pledge Agreements, the enforceability thereof, no conflicts with the underlying trust agreements, perfection of the Lien of the Collateral Agent on the Pledged Collateral described therein, and such other matters as may reasonably be required by the Collateral Agent; and

(iii) payment of all fees and expenses incurred by the Collateral Agent (including reasonable legal fees and expenses) in connection with items covered by this Section 4.19 (including Schedule 4.19).

4.20 [Reserved].

ARTICLE V

NEGATIVE COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date (it being understood and agreed that, without in any way limiting the covenants and other agreements in the Founder Group Members Pledge Agreements, for purposes of this Article V, the term "Credit Party" will not include any Founder Group Members):

5.1 Limitation on Liens. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, directly or indirectly, make, create, incur, assume or suffer to exist any Lien upon or with respect to any part of its Property, whether now owned or hereafter acquired, other than the following ("**Permitted Liens**"):

(a) any Lien existing on the Property of a Credit Party or a Subsidiary of a Credit Party on the Closing Date and set forth in Schedule 5.1, including extensions and renewals thereof and replacement Liens on the Property currently subject to such Liens;

(b) any Lien created under any Loan Document, Secured Rate Contract or Bank Product;

(c) Liens for Taxes, fees, assessments or other governmental charges (i) which are not past due or remain payable without penalty, or (ii) the non-payment of which is permitted by Section 4.7;

(d) carriers', warehousemen's, mechanics', landlords', contractors', materialmen's, repairmen's or other similar Liens and arising in the Ordinary Course of Business which are not delinquent for more than ninety (90) days or remain payable without penalty or remedy or which are being contested in good faith and by appropriate proceedings diligently prosecuted, which proceedings have the effect of preventing the

forfeiture or sale of the Property subject thereto and for which adequate reserves in accordance with GAAP are being maintained;

(e) Liens (other than any Lien imposed by ERISA) consisting of pledges or deposits required in the Ordinary Course of Business in connection with (i) workers' compensation, unemployment insurance and other social security legislation or to secure the performance of tenders, statutory obligations, performance, surety, stay, customs and appeals bonds, bids, leases, governmental contract, trade contracts, performance and return of money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money) or to secure liability to insurance carriers and (ii) obligations in respect of letters of credit or bank guarantees that have been posted by the Borrowers or any of their Subsidiaries to support payment of items set forth in clause (i) above;

(f) Liens consisting of judgment or judicial attachment liens (other than for payment of Taxes); provided that (i) the enforcement of such Liens is (1) effectively stayed or (2) is fully covered by a valid and binding policy of insurance between the defendant and the insurer covering full payment thereof and such insurer has been notified, and has not disputed the claim made for payment or the amount of such judgment and (ii) the existence of such judgment does not give rise to an Event of Default;

(g) easements, servitudes, rights-of-way, zoning and other restrictions, minor defects or other irregularities in title, and other similar encumbrances which, either individually or in the aggregate, are not substantial in amount, and which do not in any case materially detract from the value of the Property subject thereto or interfere in any material respect with the ordinary conduct of the business of any Credit Party or any Subsidiary thereof;

(h) Liens on any Property acquired or held by any Credit Party or any Subsidiary of any Credit Party securing Indebtedness incurred or assumed for the purpose of financing (or refinancing) all or any part of the cost of acquiring such Property and permitted under Section 5.5(d); provided that (i) any such Lien attaches to such Property concurrently with or within sixty (60) days after the acquisition thereof, (ii) such Lien attaches solely to the Property so acquired in such transaction and the proceeds thereof, and (iii) the principal amount of the debt secured thereby does not exceed 100% of the cost of such Property as determined at the time such Lien initially attaches to such Property plus fees and expenses incurred in connection with the acquisition thereof;

(i) Liens securing, and interests and title of lessors in respect of, Capital Lease Obligations permitted under Section 5.5(d);

(j) any interest or title of a lessor, sublessor, licensor, sublicensor, franchisor or similar person granted under any lease, sublease, license, sublicense, grant, franchise or permit in the Ordinary Course of Business not prohibited by this Agreement;

(k) Liens arising from precautionary uniform commercial code (or personal property security law) financing statements filed under any lease not prohibited by this Agreement;

(l) non-exclusive licenses and sublicenses granted by a Credit Party or any Subsidiary of a Credit Party (including any non-exclusive license or sublicense of Intellectual Property) and leases and subleases (by a Credit Party or any Subsidiary of a Credit Party as lessor or sublessor) to third parties in the Ordinary Course of Business not interfering in a material respect with the business of any Credit Party or any Subsidiary thereof;

(m) Liens (i) in favor of collecting banks arising by operation of law under Section 4-210 of the UCC or, with respect to collecting banks located in the State of New York, under Section 4-208 of the UCC, or (ii) relating to pooled deposit or sweep accounts to permit satisfaction of overdraft or similar obligations incurred in the Ordinary Course of Business;

(n) Liens (including the right of set-off) in favor of a bank or other depository institution arising as a matter of law encumbering deposits and Liens that are granted by contract (including contractual rights of set-off) relating to the establishment of depository and cash management relations with banks not given in connection with the issuance of Indebtedness and which are customary to the banking industry;

(o) Liens (i) in favor of customs and revenue authorities arising as a matter of law which secure payment of customs duties in connection with the importation of goods in the Ordinary Course of Business or (ii) on specific items of inventory or other goods and proceeds of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods in the Ordinary Course of Business;

(p) Liens deemed to exist in connection with Investments in repurchase agreements permitted under Section 5.4;

(q) Liens pursuant to Secured Rate Contracts to secure obligations thereunder to the extent such Secured Rate Contracts are permitted hereunder;

(r) Liens arising out of consignment or similar arrangements for the sale of goods permitted by this Agreement and entered into by the Borrowers or any Subsidiary of the Borrowers in the Ordinary Course of Business;

(s) bankers' Liens, rights of setoff and other similar Liens existing solely with respect to cash and Cash Equivalents on deposit in one or more accounts maintained by any Credit Party, in each case granted in the Ordinary Course of Business and are customary in the banking industry in favor of the bank or banks with which such

accounts are maintained, securing amounts owing to such bank or banks with respect to cash management and operating account arrangements;

(t) Liens arising on any Real Estate as a result of any eminent domain, condemnation or similar proceeding being commenced with respect to such Real Estate;

(u) receipt of progress payments and advances from customers in the Ordinary Course of Business to the extent the same creates a Lien;

(v) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto to the extent permitted under Section 5.5(i);

(w) Liens attaching solely to cash earnest money deposits in connection with Investments permitted under Section 5.4 (including any letter of intent related thereto);

(x) Liens on Property, and only such Property, which is the subject of a proposed asset disposition permitted hereunder, which Liens secure the obligation of a Credit Party or any Subsidiary of a Credit Party under the relevant asset purchase agreement;

(y) Liens on Property acquired pursuant to a Permitted Acquisition or on property or assets of a Subsidiary of the Borrowers in existence at the time such Subsidiary is acquired pursuant to an Acquisition; provided that (x) any Indebtedness secured by such Liens is permitted to exist under Section 5.5(o) and (y) such Liens are not incurred in connection with, or in contemplation or anticipation of, such Acquisition and do not attach to any other Property of Holdings or any of its Subsidiaries other than the proceeds or products thereof; and

(z) Liens on cash posted as cash collateral in favor of any issuer of letters of credit issued for the account of the Credit Parties or their Subsidiaries securing reimbursement obligations permitted under Section 5.5(s); provided that the amount of cash collateral subject to such Liens shall not exceed the amount of reimbursement obligations permitted to be incurred under Section 5.5(s).

5.2 Disposition of Assets. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, directly or indirectly, sell, assign, lease, convey, transfer or otherwise dispose of (whether in one or a series of transactions) any Property (including the Stock of any Subsidiary of any Credit Party, whether in a public or private offering or otherwise, and accounts and notes receivable, with or without recourse), except:

(a) dispositions of Inventory and non-exclusive licenses and sublicenses of Intellectual Property and dispositions or abandonment of obsolete, worn-out or surplus equipment no longer used or useful in the business of the Borrowers and their Subsidiaries, taken as a whole, all in the Ordinary Course of Business;

(b) dispositions not otherwise permitted hereunder which are made for fair market value; provided that the Credit Parties will not sell or otherwise dispose of Intellectual Property (except in transactions entered into in the Ordinary Course of Business and permitted by Section 5.1(j) or 5.1(l)), without the consent of the Agents, and (i) at the time of any disposition, no Default or Event of Default shall exist or shall immediately result from such disposition, (ii) not less than 75% of the aggregate sales price from such disposition shall be paid in cash, (iii) the aggregate fair market value of all assets sold by the Credit Parties and their Subsidiaries pursuant to this clause (b), together, shall not exceed $500,000 in any Fiscal Year, and (iv) on a pro forma basis after giving effect to any such disposition, the Credit Parties are in compliance with the financial covenants set forth in Section 6.1, in each case as recomputed for the most recently ended Measurement Period;

(c) (i) conversions of Cash Equivalents into cash or other Cash Equivalents and cash into Cash Equivalents and (ii) the use of cash in the Ordinary Course of Business or transactions permitted hereunder;

(d) transactions permitted under Section 5.1(j) or 5.1(l);

(e) cancellation, termination or surrender by any Credit Party or any Subsidiary of any Credit Party of any lease in the Ordinary Course of Business;

(f) voluntary termination of Rate Contracts permitted under this Agreement;

(g) dispositions resulting from any casualty, other insured damage, or any taking under power of eminent domain or by condemnation or similar proceeding;

(h) the lapse or abandonment of any registrations or applications for registration of any Intellectual Property owned by or filed in the name of any Credit Party and deemed by any Credit Party, in its reasonable business judgment, to no longer be material to the conduct of the business of the Borrowers and their Subsidiaries, taken as a whole, or to the extent no longer economically desirable in the conduct of their business;

(i) the sale, assignment, lease, conveyance, transfer or other disposition of Property by (i) Holdings or any of its Subsidiaries to any Credit Party (other than Holdings), and (ii) any Subsidiary of Holdings that is not a Credit Party to any Subsidiary of Holdings (other than Holdings);

(j) (i) any disposition or issuance by Holdings of its own Stock or Stock Equivalents (other than to the extent resulting in an Event of Default pursuant to Section 7.1(k)) and (ii) dispositions or issuances by any Subsidiary of its own Stock and Stock Equivalent to qualify directors if and to the extent required by applicable law;

(k) to the extent constituting dispositions, Liens expressly permitted by Section 5.1, Investments expressly permitted under Section 5.4, Restricted Payments expressly permitted under Section 5.8 or a transaction expressly permitted under

Section 5.3, in each case, to the extent not otherwise permitted by this Section 5.2 or with general reference hereto;

(l) the termination or unwinding of any permitted Rate Contract in accordance with its terms;

(m) dispositions of delinquent Accounts in the Ordinary Course of Business in connection with the compromise, settlement or collection thereof (and not as part of any financing transaction), including the sales, forgiveness or discounting of past due accounts or the settlement of delinquent accounts;

(n) the liquidation, wind up or dissolution of any Subsidiary so long as all the assets of such liquidating, winding up or dissolving Subsidiary are transferred to a Credit Party that is not liquidating, winding up or dissolving;

(o) dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) all or substantially all of the proceeds of such disposition are reasonably promptly applied to the purchase price of such replacement property;

(p) disposition of leased Real Estate in the Ordinary Course of Business;

(q) any settlement, surrender or waiver of contractual rights or litigation claims in the Ordinary Course of Business;

(r) dispositions of equity interests in joint ventures pursuant to the documentation governing such joint ventures;

(s) non-exclusive licenses, sublicenses, leases or subleases granted to third parties in the Ordinary Course of Business; and

(t) other dispositions of assets not material or necessary to the business of a Credit Party or a Subsidiary with a fair market value not in excess of $500,000 in the aggregate in any Fiscal Year.

5.3 Consolidations and Mergers. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, (x) merge, consolidate with or into, or (y) convey, transfer, lease or otherwise dispose of (whether in one transaction or in a series of transactions) all or substantially all of the assets (whether now owned or hereafter acquired) of the Credit Parties and their Subsidiaries, taken as a whole, to or in favor of any Person, except that (a) any Subsidiary of a Borrower may merge with, or dissolve or liquidate into, such Borrower or any Subsidiary of such Borrower; provided that, to the extent a Borrower or another Credit Party is a party to such transaction, the Borrower or such other Credit Party, as applicable, shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent, shall have been completed, (b) any Excluded Subsidiary may merge or

dissolve or liquidate into another Excluded Subsidiary or any Domestic Subsidiary of a Borrower to the extent if a Domestic Subsidiary (other than an Excluded Subsidiary), is a party to such transaction, such Domestic Subsidiary shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent shall have been completed, and (c) any Subsidiary may merge with and into any other Person in order to effectuate an acquisition or Disposition permitted by Section 5.2 and/or Section 5.4; provided that, in connection with any acquisition, if such Subsidiary is a Credit Party, such Subsidiary shall be the continuing or surviving entity and all actions reasonably determined by Collateral Agent as necessary to maintain perfected Liens on the Stock of the surviving entity and other Collateral in favor of Collateral Agent, shall have been completed.

5.4 Loans and Investments. No Credit Party shall and no Credit Party shall suffer or permit any of its Subsidiaries to (i) purchase or acquire any Stock or Stock Equivalents, or any obligations or other securities of, or any interest in, any Person, or (ii) make any Acquisitions, including by way of merger, consolidation or other combination or (iii) make, purchase or acquire, or commit to make, purchase or acquire, any advance, loan, extension of credit or capital contribution to or any other investment in, any Person including the Borrowers, any Affiliate of the Borrowers or any Subsidiary of a Borrower (the items described in clauses (i), (ii) and (iii) are referred to as "**Investments**"), except for:

(a) Investments in cash and Cash Equivalents;

(b) Investments consisting of (i) capital contributions or other Investments by Holdings in the Borrowers, (ii) extensions of credit, capital contributions or other Investments by any Credit Party to or in any other then existing Credit Party (other than Holdings); provided that, until such time as BRSO PNW shall have granted a Lien on all of its assets to the Collateral Agent and otherwise complied with the provisions of Section 4.20, Investments described in this clause (ii) to or in BRSO PNW shall not exceed $200,000 at any one time outstanding, (iii) extensions of credit or capital contributions by the Borrowers or any other Credit Party to or in any Subsidiary of a Borrower that is not a Credit Party not to exceed $500,000 in the aggregate at any time outstanding for all such extensions of credit and capital contributions; provided that, if the Investments described in foregoing clauses (i), (ii) and (iii) are evidenced by notes, to the extent required under the Guaranty and Security Agreement, such notes shall be pledged to Collateral Agent, for the benefit of the Secured Parties, (iv) extensions of credit or capital contributions by a Foreign Subsidiary of a Borrower to or in other Foreign Subsidiaries of such Borrower and (v) extensions of credit by any Subsidiary to any Credit Party (other than Holdings); provided that any such extension of credit by a Subsidiary that is not a Credit Party to a Credit Party shall be subordinated to the Obligations on terms reasonably acceptable to the Collateral Agent;

(c) loans and advances to employees, officers and directors in the Ordinary Course of Business not to exceed $100,000 in the aggregate at any time outstanding;

(d) Investments received as the non-cash portion of consideration received in connection with transactions permitted pursuant to Section 5.2(b);

(e) Investments acquired in connection with the settlement of delinquent Accounts in the Ordinary Course of Business or in connection with the bankruptcy or reorganization of suppliers or customers;

(f) Investments consisting of non-cash loans made by a Credit Party to officers, directors and employees of a Credit Party which are used by such Persons to purchase contemporaneously Stock or Stock Equivalents of Holdings;

(g) Investments existing on the Closing Date and set forth on Schedule 5.4 and any modifications, renewals or extensions thereof (in each case other than any increase in the amount thereof);

(h) Investments comprised of Contingent Obligations permitted by Section 5.5(b);

(i) [Reserved];

(j) advances of payroll payments to employees in the Ordinary Course of Business;

(k) Investments by Holdings and its Subsidiaries in their respective Subsidiaries existing as of the Closing Date;

(l) guaranty obligations in respect of leases (other than Capital Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the Ordinary Course of Business;

(m) Investments in deposit accounts and securities accounts opened in the Ordinary Course of Business and in compliance with Section 4.11;

(n) (i) endorsements for collection or deposit in the Ordinary Course of Business consistent with past practice, (ii) extensions of trade credit (other than to Affiliates of the Borrowers) arising or acquired in the Ordinary Course of Business, and (iii) Investments received in settlement in the Ordinary Course of Business of such extensions of trade credit;

(o) to the extent constituting Investments, pledges and deposits in the Ordinary Course of Business to the extent expressly permitted by Section 5.1;

(p) Investments in Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation;

(q) Investments consisting of loans or advances to Holdings in lieu of any Restricted Payments permitted under Section 5.8 at the time of any such loan or advance;

provided that such loans or advances shall count against any caps or limitations set forth in the applicable clause of Section 5.8;

(r) [Reserved];

(s) Investments consisting of trade payables incurred in the Ordinary Course of Business;

(t) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable (including, without limitation, bank notes issued to and in favor of a Borrower and their Subsidiaries by local banking institutions as additional credit support for such receivables in connection with foreign operations) arising from the grant of trade credit in the Ordinary Course of Business;

(u) Holdings may use proceeds of the issuance of Preferred Equity pursuant to the Cynosure 2023 Preferred Equity Agreement to make a loan to Viking Cake BR in an amount not to exceed $5,000,000 for the purpose specified in the A&R Holdings LLC Agreement; and

(v) other Investments in an aggregate amount not to exceed $500,000 in the aggregate at any time outstanding; provided that no Default or Event of Default has occurred and is continuing or would arise as a result of such Investment.

In determining the amount of Investments permitted under this Section 5.4, the amount of any Investment outstanding at such time shall be the aggregate cash Investment by the applicable Person at the time such Investment is made, less all cash dividends or other cash distributions on equity or returns on capital (but, in each case, only to the extent actually received in cash) received by such Person with respect to that particular Investment.

5.5 Limitation on Indebtedness. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, create, incur, assume, permit to exist, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness, except:

(a) the Secured Obligations;

(b) Contingent Obligations of any Credit Party with respect to Indebtedness of any Credit Party (other than Holdings) otherwise permitted under this Section 5.5;

(c) Indebtedness existing on the Closing Date and set forth in Schedule 5.5 and Permitted Refinancings thereof;

(d) Indebtedness of the Credit Parties and their Subsidiaries consisting of Capital Leases or Indebtedness incurred to provide all or a portion of the purchase price of an asset and any Permitted Refinancings thereof; provided that (i) such Indebtedness when incurred shall not exceed the purchase price of such asset and (ii) the total amount of all such Indebtedness shall not exceed $1,000,000 at any time outstanding;

(e) unsecured intercompany Indebtedness permitted pursuant to Section 5.4;

(f) Except as set forth in Schedule 5.5(f), Indebtedness consisting of Contingent Acquisition Consideration, which, together with clause (q) hereof, shall not exceed $2,500,000 at any one time outstanding;

(g) unsecured Indebtedness of Holdings or any of its Subsidiaries to former, future or current officers, directors, consultants or employees of Holdings or any of its Subsidiaries or their respective estates to finance the purchase or redemption of Stock of Holdings and any Permitted Refinancings thereof; provided that the applicable Restricted Payment is permitted by Section 5.8;

(h) Indebtedness in respect of bank overdrafts or returned items, netting services, automatic clearinghouse arrangements, employee credit card programs, drafts payable for payroll and other cash management and similar arrangements incurred in the Ordinary Course of Business;

(i) Indebtedness consisting of unpaid insurance premiums owing to insurance companies and insurance brokers incurred in connection with the financing of insurance premiums in the Ordinary Course of Business;

(j) to the extent constituting Indebtedness, unsecured deferred compensation to employees of Holdings and its Subsidiaries incurred in the Ordinary Course of Business;

(k) to the extent constituting Indebtedness, obligations under Rate Contracts entered into in the Ordinary Course of Business for bona fide hedging purposes and not for speculation;

(l) customary reimbursement or indemnity obligations incurred in the Ordinary Course of Business with respect to (x) appeal bonds, performance bonds, bids, trade contracts, governmental contracts and leases (other than for the repayment of Indebtedness) in an aggregate amount not to exceed $100,000 at any one time outstanding, for obligations described in this clause (x), and (y) statutory obligations, workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance;

(m) non-cash accruals of interest, accretion or amortization of original issue discount and/or pay-in-kind interest with respect to Indebtedness permitted under this Section 5.5;

(n) Indebtedness outstanding under corporate credit cards or corporate charge cards for expenditures made in the Ordinary Course of Business;

(o) Indebtedness of a Target existing at the time the Target is acquired (by acquisition, merger, consolidation or otherwise) pursuant to an Acquisition permitted

hereby, or Indebtedness assumed by a Borrower or its Subsidiaries in respect of assets acquired by such Person pursuant to such Acquisition, but only to the extent such Indebtedness (i) existed at the time such Acquisition was consummated and was not incurred in connection with, as a result of, or in contemplation of, such Acquisition, (ii) to the extent secured, is only secured by Property acquired in connection with such Acquisition (and is not secured by a blanket lien on all or substantially all such Property) and (iii) does not exceed an amount equal to $1,000,000 in the aggregate at any time outstanding for all such Indebtedness and any Permitted Refinancings thereof;

(p) Indebtedness arising from the endorsement of negotiable instruments for collection in the ordinary course of business;

(q) to the extent constituting Indebtedness, the obligations to make purchase price adjustments, indemnities, earn-outs, non-competition, deferred compensation, working capital adjustments or similar adjustments incurred in connection with any Acquisition, any other Investment or any disposition, in each case, permitted hereunder, which, together with clause (f) hereof, shall not exceed $2,500,000 at any one time outstanding;

(r) so long as no Default or Event of Default exists at the time any such Indebtedness is incurred, other unsecured Indebtedness not exceeding $1,000,000 in the aggregate at any time outstanding;

(s) Indebtedness in respect of reimbursement obligations in favor of any issuer of letters of credit issued for the account of the Credit Parties or their Subsidiaries in an amount not exceeding $100,000 in the aggregate at any time outstanding;

(t) Indebtedness arising under indemnity agreements to title insurers to cause such title insurers to issue to Collateral Agent title insurance policies;

(u) [Reserved];

(v) [Reserved]; and

(w) to the extent constituting Indebtedness, the Preferred Equity Obligations.

Notwithstanding the foregoing, no Subsidiary that is a not Credit Party will guarantee any Indebtedness for borrowed money of a Credit Party unless such Subsidiary becomes a Guarantor.

5.6 Transactions with Affiliates. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, enter into any transaction with any Affiliate of the Borrowers or of any such Subsidiary, except:

(a) transactions (i) solely among and between Credit Parties not prohibited by this Agreement and (ii) transactions solely among Subsidiaries that are not Credit Parties;

(b) transactions pursuant to the reasonable requirements of the business of such Credit Party or such Subsidiary upon fair and reasonable terms no less favorable to such Credit Party or such Subsidiary than would be obtained in a comparable arm's length transaction with a Person not an Affiliate of the Borrowers or such Subsidiary;

(c) employment, indemnity and severance arrangements (stock option and other compensation plans and benefit programs) between any Credit Party or their Subsidiaries and their members of management, officers and employees in the Ordinary Course of Business;

(d) solely to the extent not otherwise permitted by this Section 5.6, transactions with Affiliates expressly referred to and permitted by Section 5.8;

(e) [Reserved];

(f) the loan transaction between Holdings and Viking Cake BR described in Section 5.4(u);

(g) subject to compliance with the requirements of the Guaranty and Security Agreement, issuances of Stock or Stock Equivalents (other than Disqualified Stock) that do not cause an Event of Default; and

(h) the Related Transactions.

5.7 Inventory Locations. The Borrowers will not permit Inventory or any other Collateral having a fair market value in excess of $20,000 to be stored or located at any location including premises owned or leased by any Credit Party or with a bailee, consignee or other Person, except the roasting facilities located at 3004 NE 112th Avenue, Suite A, Vancouver, Washington 98682 and 1102 West Geneva Drive, Tempe, Arizona 85282.

5.8 Restricted Payments. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to (i) make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any Stock or Stock Equivalent, (ii) purchase, redeem or otherwise acquire for value any Stock or Stock Equivalent now or hereafter outstanding, (iii) make any payment or prepayment of principal of, premium, if any, interest, fees, redemption, exchange, purchase, retirement, defeasance, sinking fund or similar payment with respect to Subordinated Indebtedness (including the Preferred Equity Obligations), (iv) make any payment on account of any return of capital to its stockholders, partners or members (or the equivalent Persons thereof), (v) make any payment or prepayment of Contingent Acquisition Consideration, (vi) directly or indirectly make any payment or distribution of any kind or nature to or for the benefit of Viking Cake or (vii) make any RCC Award Payment (the items described in clauses (i), (ii), (iii), (iv), (v), (vi) and (vii) above are referred to as "**Restricted Payments**"), except that:

(a) Holdings may declare and make dividend payments or other distributions payable solely in its Stock or Stock Equivalents;

(b) the Borrowers make distributions, directly or indirectly, to Holdings, which are promptly used by Holdings to redeem from current or former officers, directors and employees (or their current or former spouses, heirs, estates, estate planning vehicles and family members) (or to pay amounts owing under promissory notes issued in connection with the prior redemption from any such person), but excluding, in all cases, Founder Group Members, Stock and Stock Equivalents (including to repurchase fractional shares) provided all of the following conditions are satisfied:

(i) the aggregate Restricted Payments permitted (x) in any Fiscal Year of the Borrowers shall not exceed $250,000 per Fiscal Year (with unused amounts in any Fiscal Year carried forward and available in succeeding Fiscal Years) and (y) during the term of this Agreement shall not exceed $1,000,000 unless such Restricted Payments are funded solely with the Net Issuance Proceeds of any substantially concurrent issuance of Stock or Stock Equivalents (other than issuances of Disqualified Stock) or with the proceeds of any substantially concurrent contribution of cash to one or more Borrowers made by Holdings; and

(ii) the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions at the time of making such Restricted Payment;

(c) in the event the Borrowers file a consolidated, combined, unitary or similar type income Tax return with Holdings, the Borrowers may make distributions to Holdings (and Holdings may make distributions to its equity owners) in an amount equal to the amount that would have been payable by the Borrowers and their Subsidiaries had the Borrowers not filed a consolidated, combined, unitary or similar type return with Holdings;

(d) the Credit Parties may make payments, as and when due and payable, on (i) Contingent Acquisition Consideration described in Schedule 5.8 and (ii) other Contingent Acquisition Consideration if, with respect to clause (ii), after giving effect to such payment or distribution on a pro forma basis, the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions;

(e) so long as no Default or Event of Default has occurred and is continuing, or would result from any such distribution, any Subsidiaries of Holdings may make distributions to Holdings from proceeds of the Las Vegas Franchisee Group Litigation (which proceeds may include, without limitation, proceeds from judgments, settlements, insurance payments, indemnity payments, sale of claims, or similar forms of recovery);

(f) so long as no Default or Event of Default has occurred and is continuing, and subject to satisfaction of the Pro Forma Compliance Conditions before and after giving effect to any such redemption, Holdings may use proceeds of the Las Vegas Franchisee Group Litigation to redeem Common Units to the extent permitted by the A&R Holdings LLC Agreement;

(g) Holdings may (and, to the extent necessary, the Borrowers may make distributions, to Holdings in amounts sufficient to enable Holdings to pay) Restricted Payments to one or more of the Founder Group Members and holders of the Series A-2 Preferred Units in accordance with the A&R Holdings LLC Agreement, provided all of the following conditions are satisfied: (i) the amount of such Restricted Payments do not exceed an aggregate of $600,000 per Fiscal Year and (ii) the Credit Parties shall have satisfied each of the Pro Forma Compliance Conditions at the time of making each such Restricted Payment and after giving effect thereto;

(h) (i) any Credit Party may make dividends and distributions to any other Credit Party (other than Holdings), and (ii) any Subsidiary of a Credit Party may make dividends and distributions to a Credit Party (other than Holdings);

(i) so long as no Default or Event of Default has occurred and is continuing, or would result from any such payment, the Borrowers may make distributions to Holdings to enable Holdings to (x) make Tax Advances (as defined in, and in accordance with, Section 7.04 of the A&R Holdings LLC Agreement) and (y) pay or reimburse certain costs of members of Holdings in accordance with the terms of the A&R Holdings LLC Agreement as in effect on the date hereof;

(j) [Reserved];

(k) so long as the RCC Award Payment Conditions are satisfied, and no Default or Event of Default shall have occurred and be continuing, any Credit Party may make the RCC Award Payment at the time and in the amount set forth in the Davis Services Agreement;

(l) so long as no Default or Event of Default has occurred and is continuing Holdings may make Restricted Payments in the form of the Second Tranche Preferred Unit Redemption; and

(m) to the extent constituting Restricted Payments, Holdings may complete the Fourth Amendment Related Transactions.

5.9 Change in Business; Status as Holding Company. (a) No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in any line of business substantially different from those lines of business carried on by the Credit Parties and their Subsidiaries on the Closing Date and activities reasonably related or complementary thereto, and (b) Holdings shall not (i) engage in any business activities or own any Property other than (A) ownership of the Stock and Stock Equivalents of the Borrowers, (B) activities and contractual rights incidental to maintenance of its organizational existence, (C) the execution and delivery of, and performance of its obligations under, and the Loan Documents to which it is a party, (D) activities expressly permitted under Sections 5.3, 5.4(b)(iii), 5.6 and 5.8, (E) participating in tax, accounting and other administrative activities as the parent of the consolidated group of companies, including the Credit Parties (including providing indemnification to directors, officers, employees, and consultants), (F) guarantees of

Indebtedness and other obligations permitted under Loan Documents, (G) granting of non-consensual Liens arising by operation of law that are permitted by Section 5.1, (H) activities necessary or advisable to consummate the Related Transactions and comply with the documentation related thereto and (I) activities incidental or related to the business or activities described in clause (A) through (I) above, and (ii) not permit the Credit Parties and their Subsidiaries to expand their business by opening new Stores to be owned or operated by any Excluded Subsidiaries; it being understood and agreed that, from and after the Closing Date, all expansion of the business of the Credit Parties and their Subsidiaries, such as the opening of new Stores shall be undertaken by Credit Parties.

5.10 Changes in Organization Documents; Name and Jurisdiction of Organization. Except as expressly permitted under Section 5.3, no Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to amend any of its Organization Documents in any respect that is materially adverse to Agents or Lenders. No Credit Party shall (i) change its name as it appears in official filings in its jurisdiction of organization or (ii) change its jurisdiction of organization or the location of its chief executive office or sole place of business, in each case without providing prior written notice to Collateral Agent within twenty (20) days before such change (or such shorter period as Agents may agree in their sole discretion). The Credit Parties agree not to effect or permit any change referred to in the preceding sentence unless all filings have been made (or arrangements have been approved by Agent for such filings to be made) under the UCC or otherwise that are required in order for Agent to continue at all times following such change to have a valid, legal and perfected Liens in all the Collateral and, thereafter, taking all actions reasonably determined by Collateral Agent as necessary to continue the perfection of its Liens.

5.11 Changes in Accounting. No Credit Party shall, and no Credit Party shall suffer or permit any of its Subsidiaries to, (a) without the consent of the Agent, make any significant change in accounting treatment or reporting practices, except as required by GAAP or (b) change the Fiscal Year or method for determining Fiscal Quarters of any Credit Party or of any consolidated Subsidiary of any Credit Party; provided that the fiscal year of a Target under an Acquisition may be changed to conform to the same Fiscal Year of the Credit Parties.

5.12 Amendments to Certain Indebtedness. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries, directly or indirectly, to change or amend the terms of any Subordinated Indebtedness, except to the extent permitted by the applicable subordination agreement (including, with respect to the Preferred Equity Obligations, the Subordination Agreement).

5.13 No Negative Pledges. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual restriction or encumbrance of any kind on the ability of any Credit Party or Subsidiary to pay dividends to a Credit Party or make any other distribution to a Credit Party on any of such Credit Party's or Subsidiary's Stock or Stock Equivalents or to pay fees, including management fees, or make other payments and distributions to the Borrowers or any other Credit Party except, in each case, pursuant to the Loan Documents. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, directly or indirectly, enter into,

assume or become subject to any Contractual Obligation prohibiting or otherwise restricting the existence of any Lien upon any of its assets in favor of Collateral Agent, whether now owned or hereafter acquired, except in connection with (i) any document or instrument governing Liens permitted pursuant to Section 5.1; provided that any such restriction contained therein relates only to the asset or assets financed by the underlying secured obligations, (ii) customary provisions restricting subletting or assignment of any lease governing a leasehold interest, (iii) with respect to third party contracts, customary limitations on the ability of a party thereto to assign its interest in the underlying contract without the consent of the other party thereto, (iv) restrictions and conditions contained in agreements relating to the sale of assets permitted hereunder (or to be consummated in connection with the payment in full of the Obligations and termination of the Commitments or anticipated modification of the Loan Documents to permit such action); provided that such restrictions are limited to the assets being sold, (v) licenses and contracts entered into in the Ordinary Course of Business which by their terms prohibit the assignment of such agreements (to the extent such prohibition is enforceable by law) or the granting of Liens on the rights contained therein; provided that such licenses and contracts (other than shrink-wrap software licenses) are not, in the aggregate, material to the business of such Credit Party and are not related to any material Property, and (vi) customary provisions in joint venture agreements and similar agreements that restrict the transfer of Stock of, or assets in, joint ventures.

5.14 OFAC; USA Patriot Act; Anti-Corruption Laws.

(a) No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to fail to comply with the laws, regulations and executive orders referred to in Section 3.25.

(b) No Credit Party or Subsidiary, nor to the knowledge of the Credit Party, any director, officer, agent, employee, or other person acting on behalf of the Credit Party or any Subsidiary, will use the proceeds of any Loan, directly or, indirectly, for any payments to any Person, including any government official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, or otherwise take any action, directly or indirectly, that would result in a violation of any Anti-Corruption Laws.

(c) Furthermore, the Credit Parties will not, and will not permit any of their Subsidiaries to, directly or indirectly, use the proceeds of the Loans to lend, contribute or otherwise make available such proceeds to any Subsidiary, Affiliate, joint venture partner or other Person, to fund any activities of or business with any Person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions, or in any other manner, in each case, that will result in a violation by any Credit Party or its Subsidiaries of any Sanctions.

5.15 Sale-Leasebacks. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, engage in a sale leaseback, synthetic lease or similar transaction involving any of its assets.

5.16 Hazardous Materials. No Credit Party shall, and no Credit Party shall permit any of its Subsidiaries to, cause or suffer to exist any Release of any Hazardous Material at, to or from any Real Estate that would violate any Environmental Law or form the basis for any Environmental Liabilities (whether or not owned by any Credit Party or any Subsidiary of any Credit Party), other than such violations and Environmental Liabilities that could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

5.17 Compliance with ERISA. No Credit Party shall cause or suffer to exist (a) any event that would reasonably be expected to result in the imposition of a Lien on any asset of a Credit Party or a Subsidiary of a Credit Party with respect to any Title IV Plan or Multiemployer Plan securing obligations in excess of $500,000 or (b) any other ERISA Event, that could, in the aggregate with such other ERISA Events, have a Material Adverse Effect.

5.18 [Reserved].

5.19 [Reserved].

5.20 Growth Capital Expenditure Available Amount. The Borrowers will not use amounts designated as the "Growth Capital Expenditure Available Amount" on any Compliance Certificate and deposited in a segregated account in accordance with the definition thereof in Annex B of Exhibit 4.2(b) for any purpose other than financing Growth Capital Expenditures (as defined in such Annex B).

ARTICLE VI

FINANCIAL COVENANTS

Each Credit Party covenants and agrees that until the Facility Termination Date:

6.1 Financial Covenants.

(a) Total Net Leverage Ratio. The Credit Parties shall not permit the Total Net Leverage Ratio for the Measurement Period ending on the last day of any Fiscal Quarter (commencing with the Fiscal Quarter ending June 30, 2024) to be greater than 4.75 to 1.00 (which level shall apply to any pro forma calculation of the Total Net Leverage Ratio prior to such date):

(b) Fixed Charge Coverage Ratio. The Credit Parties shall not permit the Fixed Charge Coverage Ratio for the Measurement Period ending on the last day of any Fiscal Quarter (commencing with the Fiscal Quarter ending June 30, 2024) to be less than 1.10 to 1.00.

ARTICLE VII

EVENTS OF DEFAULT

7.1 Event of Default. Any of the following shall constitute an "**Event of Default**":

(a) Non-Payment. Any Credit Party fails (i) to pay when and as required to be paid herein, any amount of principal of any Loan, or (ii) to pay within three (3) Business Days after the same shall become due, interest on any Loan, any fee payable hereunder or pursuant to any other Loan Document or (iii) to pay or reimburse Agent or Lenders for any other Obligations not described in the preceding clause (i) or (ii), within ten (10) Business Days following the due date therefor (or, if there is no due date therefor, within ten (10) Business Days following Agent's demand for any such payment or reimbursement); or

(b) Representation or Warranty. Any representation, warranty or certification by or on behalf of any Credit Party or any of its Subsidiaries made or deemed made herein, in any other Loan Document, or which is contained in any certificate or financial statement (other than projections, estimates, other forward looking information or general economic or industry information) by any such Person, or their respective Responsible Officers, furnished at any time under this Agreement, or in or under any other Loan Document, shall prove to have been incorrect in any material respect (without duplication of other materiality qualifiers contained therein) on or as of the date made or deemed made; or

(c) Specific Defaults. Any Credit Party fails to perform or observe any term, covenant or agreement contained in (i) any of Sections 4.3(a), 4.4(a) (with respect to Borrowers), 4.9, 4.10, 4.11, 4.19 or Article V or Article VI or (ii) any of Sections 4.1, 4.2(a), 4.2(b), 4.3 (other than as set forth in clause (i) above) or 4.6 and, with respect to this clause (ii), such failure shall not have been cured within five (5) Business Days; or

(d) Other Defaults. Any Credit Party or Subsidiary of any Credit Party makes any payment in respect of Subordinated Indebtedness other than payments permitted under any subordination agreement, including the Subordination Agreement, or otherwise fails to perform or observe any other term, covenant or agreement contained in this Agreement or any other Loan Document (other than any provision covered by any other clause of this Section 7.1), and such default shall continue unremedied for a period of thirty (30) days after the earlier to occur of (i) the date upon which a Responsible Officer of any Credit Party has actual knowledge of such default and (ii) the date upon which written notice thereof is given to the Borrower Representative by an Agent or Required Lenders; or

(e) Cross-Default. Any Credit Party or any Subsidiary of any Credit Party (i) fails to make any payment in respect of any Indebtedness (other than the Obligations or any obligation owed by any Credit Party to another Credit Party) or Contingent Obligation (other than the Obligations or any obligation owed by any Credit Party to

another Credit Party) having an aggregate principal amount (including undrawn committed or available amounts and including amounts owing to all creditors under any combined or syndicated credit arrangement) of more than $500,000 when due (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) and such failure continues after the applicable grace or notice period, if any, specified in the document relating thereto on the date of such failure; or (ii) fails to perform or observe any other condition or covenant (after applicable grace periods), or any other event shall occur or condition exist (after applicable grace periods), under any agreement or instrument relating to any such Indebtedness or Contingent Obligation (other than Contingent Obligations owing by one Credit Party with respect to the obligations of another Credit Party permitted hereunder), including any agreement, instrument or certificate relating to the Preferred Equity, if the effect of such failure, event or condition is to cause, or to permit the holder or holders of such Indebtedness or beneficiary or beneficiaries of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause such Indebtedness to be declared to be due and payable (or otherwise required to be prepaid, redeemed, purchased or defeased) prior to its stated maturity (without regard to any subordination terms with respect thereto), or such Contingent Obligation to become payable or cash collateral in respect thereof to be demanded; provided that this clause (e)(ii)) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer or other disposition of the property or assets securing such Indebtedness, if such sale, transfer or disposition is permitted hereunder and under the documents providing for such Indebtedness and such Indebtedness is repaid when required under the documents providing for such Indebtedness, to the extent such prepayment is permitted hereunder; or

(f) Insolvency; Voluntary Proceedings. Any Credit Party or any Subsidiary of any Credit Party: (i) generally fails to pay, or admits in writing its inability to pay, its debts as they become due, subject to applicable grace periods, if any, whether at stated maturity or otherwise; (ii) except as expressly permitted under Section 5.3, voluntarily ceases to conduct its business in the ordinary course; (iii) commences any Insolvency Proceeding with respect to itself; or (iv) takes any action to effectuate or authorize any of the foregoing; or

(g) Involuntary Proceedings. (i) Any involuntary Insolvency Proceeding is commenced or filed against any Credit Party or any Subsidiary of any Credit Party, or any writ, judgment, warrant of attachment, execution or similar process, is issued or levied against a substantial part of any such Person's Properties, and any such proceeding or petition shall not be dismissed, or such writ, judgment, warrant of attachment, execution or similar process shall not be released, vacated or fully bonded within forty-five (45) days after commencement, filing or levy; (ii) any Credit Party or any Subsidiary of any Credit Party admits the material allegations of a petition against it in any Insolvency Proceeding, or an order for relief (or similar order under non-U.S. law) is ordered in any Insolvency Proceeding; or (iii) any Credit Party or any Subsidiary of any Credit Party acquiesces in the appointment of a receiver, trustee, custodian, conservator,

liquidator, mortgagee in possession (or agent therefor), or other similar Person for itself or a substantial portion of its Property or business; or

(h) Monetary Judgments. One or more judgments, non-interlocutory orders, decrees or arbitration awards shall be entered against any one or more of the Credit Parties or any of their respective Subsidiaries involving in the aggregate a liability of $50,000 or more (excluding amounts covered by insurance to the extent the relevant independent third-party insurer has not denied coverage therefor), and the same shall remain unsatisfied, unvacated and unstayed pending appeal for a period of thirty (30) days after the entry thereof; or

(i) Non-Monetary Judgments. One or more non-monetary judgments, orders or decrees shall be rendered against any one or more of the Credit Parties or any of their respective Subsidiaries which has could reasonably be expected to have a Material Adverse Effect, and there shall be any period of thirty (30) consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(j) Collateral. Any material provision of any Loan Document shall for any reason (other than pursuant to the express terms hereof or thereof) cease to be valid and binding on or enforceable against any Credit Party or any Subsidiary of any Credit Party that is party thereto or any Credit Party or any Subsidiary of any Credit Party that is party thereto shall so state in writing or bring an action to limit its obligations or liabilities thereunder; or any Collateral Document shall for any reason (other than pursuant to the terms thereof and other than in respect of any Collateral sold or otherwise disposed of in accordance with the terms of this Agreement) cease to create a valid security interest in Collateral purported to be covered thereby with a fair market value in excess of $500,000 or such security interest shall for any reason (other than failure of the Collateral Agent to take any action within its control) cease to be a perfected (to the extent required by the Loan Documents) and first priority security interest subject only to Permitted Liens, except to the extent that any such loss of perfection or priority results from the failure of the Collateral Agent to maintain possession of certificates or other possessory collateral actually delivered to it representing securities or other collateral pledged under the Collateral Documents or to file UCC financing statements, continuation statements or equivalent filings and except, as to Collateral consisting of Real Estate, to the extent that such losses are sufficiently covered by a solvent insurer under title insurance policy with respect thereto, if any; or

(k) Ownership. At any time (i) Holdings Pledgors at any time cease to own, collectively, (x) at least fifty-one percent (51%) of the issued and outstanding Common Units (as defined in the A&R Holdings LLC Agreement) of Holdings (as the same may be adjusted for any combination, recapitalization or reclassification into a greater or smaller number of shares, interests or other unit of equity security) and (y) Units sufficient to elect the majority of the Board (as defined in the A&R Holdings LLC Agreement as in effect on the Third Amendment Effective Date), in each case other than

on account of the occurrence of a "Control Period" pursuant to the A&R Holdings LLC Agreement (the occurrence of which shall not constitute a Default or Event of Default under this Agreement or the other Loan Documents), or (ii) Holdings ceases to own, directly or indirectly, (a) one hundred percent (100%) of the issued and outstanding Stock and Stock Equivalents of the Borrowers (other than BRSO 67th or BRCR) or (b) less than fifty-one percent (51%) of the issued and outstanding Stock and Stock Equivalents of BRSO 67th or BRCR; or

(l) Invalidity of Subordination Provisions. The subordination provisions of the Subordination Agreement or any other agreement or instrument governing any Subordinated Indebtedness shall for any reason be revoked or invalidated by the lenders under the applicable Subordinated Indebtedness, or otherwise cease to be in full force and effect, or any Credit Party or any of its Subsidiaries or any holder of any Subordinated Indebtedness shall contest in writing the validity or enforceability thereof or deny that it has any further liability or obligation thereunder; or

(m) ERISA Event. One or more ERISA Events shall have occurred, that, either individually or in the aggregate with other such ERISA Events, could reasonably be expected to result in (i) monetary liability in excess of $500,000 or (ii) a Material Adverse Effect; or

(n) Subordination Agreement. (i) The Subordination Agreement shall for any reason be revoked or invalidated, or otherwise cease to be in full force and effect (other than in accordance with its terms), or any Credit Party, any Founder Group Member or any holder of Preferred Equity shall contest in any manner the validity or enforceability thereof or deny that such Person has any further liability or obligation thereunder, or (ii) any party (other than the Agents or any Lender) to the Subordination Agreement fails to perform or observe any material term, covenant or agreement contained in the Subordination Agreement; or

(o) A&R Holdings LLC Agreement. A Material Breach Event or Sale Event shall occur under and as defined in the A&R Holdings LLC Agreement.

7.2 Remedies. Upon the occurrence and during the continuance of any Event of Default, either Agent may, and shall at the request of the Required Lenders:

(a) declare all or any portion of any one or more of the Commitments of each Lender to make Loans to be suspended or terminated, whereupon all or such portion of such Commitments shall forthwith be suspended or terminated;

(b) declare all or any portion of the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable; without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by each Credit Party; and/or

(c) may, or at the request of the Required Lenders shall, exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable law;

provided, however, that upon the occurrence of any Event of Default specified in Sections 7.1(f) or 7.1(g) above (in the case of clause (i) of Section 7.1(g) upon expiration of the thirty (30) day period mentioned therein), the obligation of each Lender to make Loans shall automatically terminate and the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable without further act of either Agent or any Lender.

7.3 Rights Not Exclusive. The rights provided for in this Agreement and the other Loan Documents are cumulative and are not exclusive of any other rights, powers, privileges or remedies provided by law or in equity, or under any other instrument, document or agreement now existing or hereafter arising.

ARTICLE VIII

AGENTS

8.1 Appointment and Duties.

(a) Appointment of Agents. (i) Each Lender hereby appoints RCS (together with any successor Agent pursuant to Section 8.9) as Administrative Agent hereunder and authorizes Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Credit Party, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Administrative Agent (or to either Agent) under this Agreement and the other Loan Documents and (iii) exercise such powers as are reasonably incidental thereto. Administrative Agent represents that it is a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1.

(ii) Each Lender hereby appoints TCW (together with any successor Agent pursuant to Section 8.9) as Collateral Agent hereunder and authorizes Collateral Agent to (i) execute and deliver the Loan Documents and accept delivery thereof on its behalf from any Credit Party, (ii) take such action on its behalf and to exercise all rights, powers and remedies and perform the duties as are expressly delegated to Collateral Agent (or to either Agent) under this Agreement and the other Loan Documents and (iii) exercise such powers as are reasonably incidental thereto. Collateral Agent represents that it is a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1.

(b) Duties as Administrative and Collateral Agents. (i) Administrative Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (x) act as the disbursing and collecting agent for the Lenders with

respect to all payments and collections arising in connection with the Loan Documents (including in any proceeding described in Sections 7.1(f) or 7.1(g) or any other bankruptcy, insolvency or similar proceeding), and each Person making any payment in connection with any Loan Document to any Secured Party is hereby authorized to make such payment to Administrative Agent, (y) file and prove claims and file other documents necessary or desirable to allow the claims of the Secured Parties with respect to any Secured Obligation in any proceeding described in Section 7.1(f) or (g) or any other bankruptcy, insolvency or similar proceeding (but not to vote, consent or otherwise act on behalf of such Person), and (ii) Collateral Agent shall have the sole and exclusive right and authority (to the exclusion of the Lenders), and is hereby authorized, to (w) act as collateral agent for each Secured Party for purposes of the perfection of all Liens created by such agreements and all other purposes stated therein, (x) manage, supervise and otherwise deal with the Collateral, (y) take such other action as is necessary or desirable to maintain the perfection and priority of the Liens created or purported to be created by the Loan Documents, (z) except as may be otherwise specified in any Loan Document, exercise all remedies given to Agent and the other Secured Parties with respect to the Credit Parties and/or the Collateral, whether under the Loan Documents, applicable Requirements of Law or otherwise and (iii) each Agent may execute any amendment, consent or waiver under the Loan Documents on behalf of any Lender that has consented in writing to such amendment, consent or waiver; provided, however, that Collateral Agent hereby appoints, authorizes and directs each Lender to act as collateral sub-agent for Agent and the Lenders for purposes of the perfection of all Liens with respect to the Collateral, including any deposit account maintained by a Credit Party with, and cash and Cash Equivalents held by, such Lender, and may further authorize and direct the Lenders to take further actions as collateral sub-agents for purposes of enforcing such Liens or otherwise to transfer the Collateral subject thereto to Agent and each Lender hereby agrees to take such further actions to the extent, and only to the extent, so authorized and directed.

(c) Limited Duties. Under the Loan Documents, each Agent (i) is acting solely on behalf of the Secured Parties (except to the limited extent provided in Section 1.4(b) with respect to the Register), with duties that are entirely administrative in nature, notwithstanding the use of the defined term "Agent", the terms "agent", "Administrative Agent" and "Collateral Agent" and similar terms in any Loan Document to refer to Agent in any such capacity, which terms are used for title purposes only, (ii) is not assuming any obligation under any Loan Document other than as expressly set forth therein or any role as agent, fiduciary or trustee of or for any Lender or any other Person and (iii) shall have no implied functions, responsibilities, duties, obligations or other liabilities under any Loan Document, and each Secured Party, by accepting the benefits of the Loan Documents, hereby waives and agrees not to assert any claim against Agent based on the roles, duties and legal relationships expressly disclaimed in clauses (i) through (iii) above.

8.2 Binding Effect. Each Secured Party, by accepting the benefits of the Loan Documents, agrees that (i) any action taken (or omitted to be taken) by any Agent or the

Required Lenders (or, if expressly required hereby, a greater proportion of the Lenders) in accordance with the provisions of the Loan Documents, (ii) any action taken (or omitted to be taken) by any Agent in reliance upon the instructions of Required Lenders (or, where so required, such greater proportion) and (iii) the exercise by any Agent or the Required Lenders (or, where so required, such greater proportion) of the powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be authorized and binding upon all of the Secured Parties.

8.3 Use of Discretion.

(a) No Action without Instructions. Agents shall not be required to exercise any discretion or take, or to omit to take, any action, including with respect to enforcement or collection, except any action it is required to take or omit to take (i) under any Loan Document or (ii) pursuant to instructions from the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders).

(b) Right Not to Follow Certain Instructions. Notwithstanding clause (a) above, Agents shall not be required to take, or to omit to take, any action (i) unless, upon demand, such Agent receives an indemnification satisfactory to it from the Lenders (or, to the extent applicable and acceptable to such Agent, any other Person) against all Liabilities that, by reason of such action or omission, may be imposed on, incurred by or asserted against such Agent or any Related Person thereof or (ii) that is, in the opinion of such Agent or its counsel, contrary to any Loan Document or applicable Requirement of Law.

(c) Exclusive Right to Enforce Rights and Remedies. Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Credit Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, Agents in accordance with the terms set forth herein and in the other Loan Documents for the benefit of all the Lenders; provided that the foregoing shall not prohibit (i) each Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents, (ii) any Lender from exercising setoff rights in accordance with Section 9.11 or (iii) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Credit Party under any bankruptcy or other debtor relief law, but in the case of this clause (iii) if, and solely if, an Agent has not filed such proof of claim or other instrument of similar character in respect of the Secured Obligations within five (5) days before the expiration of the time to file the same; and provided further that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (A) the Required Lenders shall have the rights otherwise ascribed to Agent pursuant to Section 7.2 and (B) in addition to the matters set forth in clauses (ii), (iii) and (iv) of the preceding proviso and subject to Section 9.11, any Lender may, with the consent of the Required

Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

8.4 Delegation of Rights and Duties. Each Agent may, upon any term or condition it specifies, delegate or exercise any of its rights, powers and remedies under, and delegate or perform any of its duties or any other action with respect to, any Loan Document by or through any trustee, co-agent, employee, attorney-in-fact and any other Person (including any Secured Party). Any such Person shall benefit from this Article VIII to the extent provided by an Agent.

8.5 Reliance and Liability.

(a) Administrative Agent may, without incurring any liability hereunder, (i) treat the payee of any Note as its holder until such Note has been assigned in accordance with Section 9.9, (ii) rely on the Register to the extent set forth in Section 1.4, (iii) consult with any of its Related Persons and, whether or not selected by it, any other advisors, accountants and other experts (including advisors to, and accountants and experts engaged by, any Credit Party) and (iv) rely and act upon any document and information (including those transmitted by Electronic Transmission) and any telephone message or conversation, in each case believed by it to be genuine and transmitted, signed or otherwise authenticated by the appropriate parties.

(b) Neither any Agent nor its Related Persons shall be liable for any action taken or omitted to be taken by any of them under or in connection with any Loan Document, and each Secured Party, Holdings, the Borrowers and each other Credit Party hereby waive and shall not assert (and each of Holdings and the Borrowers shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action based thereon, except to the extent of liabilities resulting from the gross negligence, bad faith or willful misconduct of Agent or, as the case may be, such Related Person (each as determined in a final, non-appealable judgment by a court of competent jurisdiction) in connection with the duties expressly set forth herein. Without limiting the foregoing, each Agent and its Related Persons:

(i) shall not be responsible or otherwise incur liability for any action or omission taken in reliance upon the instructions of the Required Lenders or for the actions or omissions of any of its Related Persons selected with reasonable care (other than employees, officers and directors of Agent, when acting on behalf of Agent);

(ii) shall not be responsible to any Lender or other Person for the due execution, legality, validity, enforceability, effectiveness, genuineness, sufficiency or value of, or the attachment, perfection or priority of any Lien created or purported to be created under or in connection with, any Loan Document;

(iii) makes no warranty or representation, and shall not be responsible, to any Lender or other Person for any statement, document, information,

representation or warranty made or furnished by or on behalf of any Credit Party or any Related Person of any Credit Party in connection with any Loan Document or any transaction contemplated therein or any other document or information with respect to any Credit Party, whether or not transmitted or (except for documents expressly required under any Loan Document to be transmitted to the Lenders) omitted to be transmitted by Agent, including as to completeness, accuracy, scope or adequacy thereof, or for the scope, nature or results of any due diligence performed by Agent in connection with the Loan Documents;

(iv) shall not have any duty to ascertain or to inquire as to the performance or observance of any provision of any Loan Document, whether any condition set forth in any Loan Document is satisfied or waived, as to the financial condition of any Credit Party or as to the existence or continuation or possible occurrence or continuation of any Default or Event of Default and shall not be deemed to have notice or knowledge of such occurrence or continuation unless it has received a notice from the Borrower Representative or any Lender describing such Default or Event of Default clearly labeled "notice of default" (in which case Agent shall promptly give notice of such receipt to all Lenders); and

(v) shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Excluded Persons. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is an Excluded Person or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Excluded Person,

and, for each of the items set forth in clauses (i) through (iv) above, each Lender, Holdings and the Borrowers hereby waive and agree not to assert (and each of Holdings and the Borrowers shall cause each other Credit Party to waive and agree not to assert) any right, claim or cause of action it might have against Agent based thereon.

8.6 Agents Individually. Agents and their Affiliates may make loans and other extensions of credit to engage in any kind of business with, any Credit Party or Affiliate thereof as though it were not acting as Agent and may receive separate fees and other payments therefor. To the extent Agents or any of their Affiliates makes any Loan or otherwise becomes a Lender hereunder, it shall have and may exercise the same rights and powers hereunder and shall be subject to the same obligations and liabilities as any other Lender and the terms "**Lender**", "**Required Lender**", "and any similar terms shall, except where otherwise expressly provided in any Loan Document, include, without limitation, Agents or such Affiliates, as the case may be, in its individual capacity as Lender, or as one of the Required Lenders, respectively.

8.7 Lender Credit Decision.

(a) Each Lender acknowledges that it shall, independently and without reliance upon Agent, any Lender or any of their Related Persons or upon any document (including any offering and disclosure materials in connection with the syndication of the Loans) solely or in part because such document was transmitted by Agent or any of its Related Persons, conduct its own independent investigation of the financial condition and affairs of each Credit Party and make and continue to make its own credit decisions in connection with entering into, and taking or not taking any action under, any Loan Document or with respect to any transaction contemplated in any Loan Document, in each case based on such documents and information as it shall deem appropriate. Except for documents expressly required by any Loan Document to be transmitted by Agent to the Lenders, Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, Property, financial and other condition or creditworthiness of any Credit Party or any Affiliate of any Credit Party that may come in to the possession of Agent or any of its Related Persons.

(b) If any Lender has elected to abstain from receiving MNPI concerning the Credit Parties or their Affiliates, such Lender acknowledges that, notwithstanding such election, Agent and/or the Credit Parties will, from time to time, make available syndicate-information (which may contain MNPI) as required by the terms of, or in the course of administering the Loans to the credit contact(s) identified for receipt of such information on the Lender's administrative questionnaire who are able to receive and use all syndicate-level information (which may contain MNPI) in accordance with such Lender's compliance policies and contractual obligations and applicable law, including federal and state securities laws; provided, that if such contact is not so identified in such questionnaire, the relevant Lender hereby agrees to promptly (and in any event within one (1) Business Day) provide such a contact to Agent and the Credit Parties upon request therefor by Agent or the Credit Parties. Notwithstanding such Lender's election to abstain from receiving MNPI, such Lender acknowledges that if such Lender chooses to communicate with Agent, it assumes the risk of receiving MNPI concerning the Credit Parties or their Affiliates.

8.8 Expenses; Indemnities; Withholding.

(a) Each Lender agrees to reimburse each Agent and each of its Related Persons (to the extent not reimbursed by any Credit Party) promptly upon demand, severally and ratably, for any costs and expenses (including fees, charges and disbursements of financial, legal and other advisors and Other Taxes paid in the name of, or on behalf of, any Credit Party) that may be incurred by Agent or any of its Related Persons in connection with the preparation, syndication, execution, delivery, administration, modification, consent, waiver or enforcement of, or the taking of any other action (whether through negotiations, through any work-out, bankruptcy, restructuring or other legal or other proceeding (including, without limitation, preparation

for and/or response to any subpoena or request for document production relating thereto) or otherwise) in respect of, or legal advice with respect to, its rights or responsibilities under, any Loan Document.

(b) Each Lender further agrees to indemnify Agent, and each of their respective Related Persons (to the extent not reimbursed by any Credit Party), severally and ratably, from and against Liabilities (including, to the extent not indemnified pursuant to Section 8.8(c), Taxes, interests and penalties imposed for not properly withholding or backup withholding on payments made to or for the account of any Lender) that may be imposed on, incurred by or asserted against Agent or any of their respective Related Persons in any matter relating to or arising out of, in connection with or as a result of any Loan Document, any Related Document or any other act, event or transaction related, contemplated in or attendant to any such document, or, in each case, any action taken or omitted to be taken by Agent or any of their respective Related Persons under or with respect to any of the foregoing; provided, however, that no Lender shall be liable to Agent or any of its Related Persons to the extent such liability has resulted from the gross negligence, bad faith or willful misconduct of Agent or, as the case may be, such Related Person, as determined by a court of competent jurisdiction in a final non-appealable judgment or order.

(c) To the extent required by any Requirement of Law, Administrative Agent may withhold from any payment to any Lender under a Loan Document an amount equal to any applicable withholding Tax (including withholding Taxes imposed under Chapters 3 and 4 of Subtitle A of the Code). If the IRS or any other Governmental Authority asserts a claim that Agent did not properly withhold Tax from amounts paid to or for the account of any Lender (because the appropriate certification form was not delivered, was not properly executed, or fails to establish an exemption from, or reduction of, withholding Tax with respect to a particular type of payment, or because such Lender failed to notify Agent or any other Person of a change in circumstances which rendered the exemption from, or reduction of, withholding Tax ineffective, failed to maintain a Participant Register or for any other reason), or Agent reasonably determines that it was required to withhold Taxes from a prior payment but failed to do so, such Lender shall promptly indemnify Agent fully for all amounts paid, directly or indirectly, by Agent as Tax or otherwise, including penalties and interest, and together with all expenses incurred by Agent, including legal expenses, allocated internal costs and out-of-pocket expenses. Agent may offset against any payment to any Lender under a Loan Document, any applicable withholding Tax that was required to be withheld from any prior payment to such Lender but which was not so withheld, as well as any other amounts for which Agent is entitled to indemnification from such Lender under this Section 8.8(c).

8.9 Resignation of Agent.

(a) Either Agent may resign at any time by delivering written notice of such resignation to the Lenders and the Borrower Representative, effective on the date set forth in such notice or, if no such date is set forth therein, upon the date such notice shall

be effective in accordance with the terms of this Section 8.9. If Agent delivers any such notice, the Required Lenders shall have the right to appoint a successor Agent, who shall be a "U.S. person" and a "financial institution" within the meaning of Treasury Regulations Section 1.1441-1, with the consent of the Borrower Representative (which consent shall not be unreasonably withheld, conditioned or delayed and shall not be required during the existence of an Event of Default). If, after 30 days after the date of the retiring Agent's notice of resignation, no successor Agent that has been appointed by the Required Lenders has accepted such appointment, then the retiring Agent may, on behalf of the Lenders, appoint a successor Agent from among the Lenders. Each appointment under this clause (a) shall be subject to the prior written consent of the Borrower Representative, which may not be unreasonably withheld but shall not be required during the continuance of an Event of Default.

(b) Effective immediately upon its resignation, (i) the retiring Agent shall be discharged from its duties and obligations under the Loan Documents, (ii) the Required Lenders shall assume and perform all of the duties of such retiring Agent until a successor Agent shall have accepted a valid appointment hereunder, (iii) the retiring Agent and its Related Persons shall no longer have the benefit of any provision of any Loan Document other than with respect to any actions taken or omitted to be taken while such retiring Agent was, or because such Agent had been, validly acting as Agent under the Loan Documents and (iv) subject to its rights under Section 8.3, the retiring Agent shall take such action as may be reasonably necessary to assign to the successor Agent its rights as Agent under the Loan Documents. Effective immediately upon its acceptance of a valid appointment as Agent, a successor Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Agent under the Loan Documents.

8.10 Release of Collateral or Guarantors. Each Lender hereby consents to the release and hereby directs Collateral Agent to, and Collateral Agent shall, release (or, in the case of clause (b)(ii) below, release or subordinate) the following:

(a) any Subsidiary of a Borrower from its guaranty of any Secured Obligation if all of the Stock and Stock Equivalents of such Subsidiary owned by any Credit Party are sold or transferred in a transaction permitted under the Loan Documents (including pursuant to a waiver or consent) or such Subsidiary becomes an Excluded Domestic Subsidiary, to the extent that, after giving effect to such transaction, such Subsidiary would not be required to guaranty any Secured Obligations pursuant to Section 4.12; and

(b) any Lien held by Collateral Agent for the benefit of the Secured Parties against (i) any Collateral that is sold, transferred, conveyed or otherwise disposed of by a Credit Party in a transaction permitted by the Loan Documents (including pursuant to a valid waiver or consent), to the extent all Liens required to be granted in such Collateral pursuant to Section 4.12 after giving effect to such transaction have been granted, (ii) any Property subject to a Lien permitted hereunder in reliance upon Section 5.1(h) or (i), (iii) Property that does not constitute Collateral, (iv) Property owned by a Subsidiary that

is released in accordance with clause (a) above and (v) all of the Collateral and all Credit Parties, upon the occurrence of the Facility Termination Date.

Each Lender hereby directs Collateral Agent, and Agent hereby agrees, upon receipt of reasonable advance notice from the Borrower Representative, to execute and deliver or file such documents and to perform other actions reasonably necessary to release the guaranties and Liens when and as directed in this Section 8.10, in each case, at the Borrowers' expense.

8.11 Additional Secured Parties. The benefit of the provisions of the Loan Documents directly relating to the Collateral or any Lien granted thereunder shall extend to and be available to any Secured Party that is not a Lender party hereto as long as, by accepting such benefits, such Secured Party agrees, as among Collateral Agent and all other Secured Parties, that such Secured Party is bound by (and, if requested by Collateral Agent, shall confirm such agreement in a writing in form and substance acceptable to Agent) this Article VIII, Section 9.3, Section 9.9(a), Section 9.10, Section 9.11, Section 9.17 and Section 9.24 and the decisions and actions of Agent and the Required Lenders (or, where expressly required by the terms of this Agreement, a greater proportion of the Lenders or other parties hereto as required herein) to the same extent a Lender is bound; provided, however, that, notwithstanding the foregoing, (a) such Secured Party shall be bound by Section 8.8 only to the extent of Liabilities, costs and expenses with respect to or otherwise relating to the Collateral held for the benefit of such Secured Party, in which case the obligations of such Secured Party thereunder shall not be limited by any concept of pro rata share or similar concept, (b) each of Collateral Agent, the Lenders party hereto shall be entitled to act at its sole discretion, without regard to the interest of such Secured Party, regardless of whether any Secured Obligation to such Secured Party thereafter remains outstanding, is deprived of the benefit of the Collateral, becomes unsecured or is otherwise affected or put in jeopardy thereby, and without any duty or liability to such Secured Party or any such Secured Obligation and (c) except as otherwise set forth herein, such Secured Party shall not have any right to be notified of, consent to, direct, require or be heard with respect to, any action taken or omitted in respect of the Collateral or under any Loan Document.

8.12 Intercreditor Agreements. The Agents are authorized by the other Secured Parties to enter into subordination agreements (including any amendments, amendments and restatements, restatements or waivers of or supplements to or other modifications to such agreements in connection with the incurrence by an Credit Party of any permitted Subordinated Indebtedness in order to permit such Indebtedness to be subordinated), intercreditor and similar agreements in respect of debt and/or liens contemplated by this Agreement or referenced in Section 8.10 and the parties hereto acknowledge that any such agreement (if entered into) will be binding upon them.

8.13 Lead Arranger and Other Agents. Notwithstanding any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document, the Lead Arrangers, and agents (other than the Agent), if any, shall not have any duties or responsibilities in their respective capacities as such, nor shall the Lead Arrangers and such agents have or be deemed to have any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other

Loan Document or otherwise exist against the Lead Arrangers or such agents. At any time that any Lender serving (or whose Affiliate is serving) as an agent hereunder shall have transferred to any other Person (other than any Affiliates) all of its interests in the Loans and the Delayed Draw Term Loan Commitment or any Incremental Delayed Draw Term Loan Commitment, as applicable, such Lender (or an Affiliate of such Lender acting as an agent) shall be deemed to have concurrently resigned as such agent.

8.14 Credit Bid. Each of the Lenders hereby irrevocably authorizes (and by entering into a Secured Rate Contract or Bank Product (as applicable), each Secured Swap Provider and Bank Product Provider (as applicable) hereby authorizes and shall be deemed to authorize) Collateral and/or Administrative Agent, on behalf of all Secured Parties, to take any of the following actions upon the instruction of the Collateral Agent or the Required Lenders following the occurrence and during the continuance of any Event of Default:

(a) consent to the disposition of all or any portion of the Collateral free and clear of the Liens securing the Secured Obligations in connection with any disposition pursuant to the applicable provisions of the Bankruptcy Code, including Section 363 thereof;

(b) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any disposition of all or any portion of the Collateral pursuant to the applicable provisions of the Bankruptcy Code, including under Section 363 thereof;

(c) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any disposition of all or any portion of the Collateral pursuant to the applicable provisions of the UCC, including pursuant to Sections 9-610 or 9-620 of the UCC;

(d) credit bid all or any portion of the Secured Obligations, or purchase all or any portion of the Collateral (in each case, either directly or through one or more acquisition vehicles), in connection with any foreclosure or other disposition conducted in accordance with applicable law, including by power of sale, judicial action or otherwise; and/or

(e) estimate the amount of any contingent or unliquidated Secured Obligations of such Lender or other Secured Party;

it being understood that no Secured Party shall be required to fund any amount (other than by means of offset) in connection with any purchase of all or any portion of the Collateral by Agent pursuant to the foregoing clauses (b), (c) or (d) without its prior written consent.

Each Secured Party agrees that Agent is under no obligation to credit bid any part of the Secured Obligations or to purchase or retain or acquire any portion of the Collateral; provided

that, in connection with any credit bid or purchase described under clauses (b), (c) or (d) of the preceding paragraph, the Secured Obligations owed to all of the Secured Parties (other than with respect to contingent or unliquidated liabilities as set forth in the next succeeding paragraph) may be, and shall be, credit bid by Agent on a ratable basis.

With respect to each contingent or unliquidated claim that is a Secured Obligation, Agent is hereby authorized, but is not required, to estimate the amount thereof for purposes of any credit bid or purchase described in the second preceding paragraph so long as the estimation of the amount or liquidation of such claim would not unduly delay the ability of Agent to credit bid the Secured Obligations or purchase the Collateral in the relevant disposition. In the event that Agent, in its sole and absolute discretion, elects not to estimate any such contingent or unliquidated claim or any such claim cannot be estimated without unduly delaying the ability of Agent to consummate any credit bid or purchase in accordance with the second preceding paragraph, then any contingent or unliquidated claims not so estimated shall be disregarded, shall not be credit bid, and shall not be entitled to any interest in the portion or the entirety of the Collateral purchased by means of such credit bid.

Each Secured Party whose Secured Obligations are credit bid under clauses (b), (c) or (d) of the third preceding paragraph shall be entitled to receive interests in the Collateral or any other asset acquired in connection with such credit bid (or in the Stock of the acquisition vehicle or vehicles that are used to consummate such acquisition) on a ratable basis in accordance with the percentage obtained by dividing (x) the amount of the Secured Obligations of such Secured Party that were credit bid in such credit bid or other disposition, by (y) the aggregate amount of all Secured Obligations that were credit bid in such credit bid or other disposition.

For purposes of this Section 8.14, "disposition" shall means (a) the sale, lease, conveyance or other disposition of Property and (b) the sale or transfer by a Borrower or any Subsidiary of a Borrower of any Stock issued by any Subsidiary of such Borrower.

8.15 Collateral Agent Advances. (a) The Collateral Agent may from time to time make such disbursements and advances (collectively "Collateral Agent Advances") in an aggregate amount not to exceed $5,000,000 at any time outstanding which the Collateral Agent, in its sole discretion, deems necessary or desirable to preserve, protect, prepare for sale or lease or dispose of the Collateral or any portion thereof, to enhance the likelihood or maximize the amount of repayment by the Borrowers of the Loans and other Obligations or to pay any other amount chargeable to the Borrowers pursuant to the terms of this Agreement, including, without limitation, costs, fees and expenses as described in Section 9.5. The Collateral Agent Advances shall be repayable on demand and be secured by the Collateral and shall bear interest at a rate per annum equal to the rate then applicable to Loans that are Base Rate Loans. The Collateral Agent Advances shall constitute Obligations hereunder. The Collateral Agent shall notify each Lender and the Borrower Representative in writing of each such Collateral Agent Advance, which notice shall include a description of the purpose of such Collateral Agent Advance. Each Lender agrees that it shall make available to the Collateral Agent, upon the Collateral Agent's demand, in Dollars in immediately available funds, the amount equal to such Lender's Commitment Percentage of each such Collateral Agent Advance. If such funds are not made available to the

Collateral Agent by such Lender, the Collateral Agent shall be entitled to recover such funds on demand from such Lender, together with interest thereon for each day from the date such payment was due until the date such amount is paid to the Collateral Agent, at the Federal Funds Rate for three Business Days following such demand and thereafter at the Base Rate.

8.16 Erroneous Payments. If all or any part of any payment or other distribution by or on behalf of either Agent to the Borrower Representative, any Lender, or any other Person is determined by such Agent in its sole discretion to have been made in error as determined by such Agent (any such payment or other distribution, an "**Erroneous Payment**"), then the relevant Borrower Representative, Lender, or other Person shall forthwith on written demand (accompanied by a reasonably detailed calculation of such Erroneous Payment) repay to such Agent the amount of such Erroneous Payment received by such Person; provided that such written demand shall have been made no later than one hundred and eighty (180) days following the receipt of such Erroneous Payment by any such Lender or other Person. Any determination by either Agent, in its sole discretion, that all or a portion of any payment or other distribution to the Borrower, any Lender, or any other Person was an Erroneous Payment shall be conclusive absent manifest error. The Borrower, each Lender, and each other potential recipient of an Erroneous Payment hereunder waives any claim of discharge for value and any other claim of entitlement to, or in respect of, any Erroneous Payment.

ARTICLE IX

MISCELLANEOUS

9.1 Amendments and Waivers.

(a) Subject to the provisions of Section 9.1(f) hereof, no amendment, waiver, supplement or other modification of any provision of this Agreement or any other Loan Document (other than the Fee Letter, any Collateral Documents (other than the Guaranty and Security Agreement), or any landlord, bailee or mortgagee agreement, which, in each case, may be amended as provided therein and, if not provided therein, by each of the parties thereto), and no consent with respect to any departure by any Credit Party therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by the Agents with the consent of the Required Lenders), and the Borrowers and then such waiver, modification or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver, modification or consent shall, unless in writing and signed by all the Lenders directly and adversely affected thereby (or by the Agents with the consent of all the Lenders directly and adversely affected thereby), in addition to the Required Lenders (or by the Agents with the consent of the Required Lenders) and the Borrowers, do any of the following:

(i) increase or extend the Commitment of any Lender (or reinstate any Commitment terminated pursuant to Section 7.2(a));

(ii) postpone or delay any date fixed for, or reduce or waive, any scheduled installment of principal or any payment of interest (other than default rate interest, which may be postponed, delayed, reduced or waived by the Required Lenders), fees or other amounts (other than principal) due to the Lenders (or any of them) hereunder or under any other Loan Document (for the avoidance of doubt, mandatory prepayments pursuant to Section 1.8 (other than scheduled installments under Section 1.8(a)) may be postponed, delayed, reduced, waived or modified with the consent of Required Lenders);

(iii) reduce the principal of, or the rate of interest (other than default rate interest, which may be postponed, delayed or waived by the Required Lenders) specified herein (it being agreed that any waiver or reduction of the default interest margin shall only require the consent of Required Lenders) or the amount of interest payable in cash specified herein on any Loan, or of any fees or other amounts payable hereunder or under any other Loan Documents;

(iv) amend, modify or waive (A) the order in which Secured Obligations are paid or (B) the pro rata sharing of payments by and among the Lenders, in each case in accordance with Section 1.10(c) or any other Section of this Agreement (including voluntary and mandatory prepayments), except in connection with Extended Term Loans as specified in Section 9.1(f)(iii);

(v) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans which shall be required for the Lenders or any of them to take any action hereunder;

(vi) amend this Section 9.1 (other than Section 9.1(e) or, subject to the terms of this Agreement, the definition of Required Lenders, or any provision providing for consent or other action by all Lenders;

(vii) discharge any Credit Party from its respective payment Obligations under the Loan Documents (other than in connection with the release of any Credit Party pursuant to a transaction expressly permitted hereunder or under any other Loan Document), or release all or substantially all of the Collateral, except as otherwise may be provided in this Agreement or the other Loan Documents; or

(viii) subordinate any Loan or any Lien on Collateral to any other Indebtedness or Lien other than as expressly permitted by Section 8.10 hereof.

It being agreed that all Lenders shall be deemed to be directly and adversely affected by an amendment or waiver of the type described in the preceding clauses (v), (vi) and (vii). It being further agreed that the Agents shall receive copies of all final amendments or waivers of this Agreement or any other Loan Documents.

(b) No amendment, waiver or consent shall, unless in writing and signed by Agents, in addition to the Required Lenders or all Lenders directly and adversely affected

thereby, as the case may be (or by the Agents with the consent of the Required Lenders or all the Lenders directly and adversely affected thereby, as the case may be), affect the rights or duties of the Agent under this Agreement or any other Loan Document. No amendment, modification or waiver of this Agreement or any Loan Document (i) altering the ratable treatment of Secured Obligations arising under Secured Rate Contracts or Bank Products (as applicable) resulting in such Secured Obligations being junior in right of payment to principal on the Loans or resulting in Secured Obligations owing to any Secured Swap Provider or Bank Product Provider (as applicable) becoming unsecured (other than releases of Liens permitted in accordance with the terms hereof) or (ii) to the definitions of "Secured Obligations", "Rate Contract", "Secured Rate Contract", "Bank Product", "Bank Product Debt" or "Bank Product Provider" (in each case, but only to the extent any such Bank Product Provider has previously provided, to the extent required by the terms of this Agreement, a notice to the Administrative Agent), in each case in a manner adverse to any Secured Swap Provider or Bank Product Provider (as applicable), shall be effective without the written consent of such Secured Swap Provider or such Bank Product Provider (as applicable) (other than in accordance with Section 9.1(a)(vii)).

(c) [Reserved].

(d) This Agreement may be amended with the written consent of the Agents, the Borrower and the Required Lenders to (i) add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the outstanding principal and accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the accrued interest and fees in respect thereof and (ii) include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

(e) Notwithstanding anything to the contrary contained in this Section 9.1, (i) the Borrowers may amend Schedules 3.19 and 3.21 upon notice to the Agents, (ii) Agents may amend Schedules 1.1(a), and 1.1(b) to reflect Sales entered into pursuant to Section 9.9, (iii) Agents and the Borrowers may amend or modify this Agreement and any other Loan Document to (1) cure any ambiguity, omission, defect or inconsistency therein, (2) grant a new Lien for the benefit of the Secured Parties, extend an existing Lien over additional Property for the benefit of the Secured Parties or join additional Persons as Credit Parties, and (3) [Reserved], and (iv) Agents and Borrowers may amend or modify this Agreement or any other Loan Document to reflect any conforming amendments permitted under Section 5.12.

(f) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an "**Extension Offer**") made from time to time by Borrower Representative to all Lenders holding Term Loans with a like maturity date on a pro rata basis (based on the aggregate outstanding principal amount of such respective Term Loans) and on the same terms to each such Lender, Borrowers are hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms

contained in any such Extension Offers to extend the maturity date and/or commitment termination of each such Lender's Term Loans and, subject to the terms hereof, otherwise modify the terms of such Term Loans pursuant to the terms of the relevant Extension Offer (including by increasing the interest rate and/or fees payable in respect of such Term Loans (and related outstandings) and/or modifying the amortization schedule in respect of such Lender's Term Loans) (each, an "**Extension**"; and each group of Term Loans, so extended, as well as the original Term Loans not so extended, being a separate Class), so long as the following terms are satisfied:

(i) no Default or Event of Default shall have occurred and be continuing at the time the applicable Extension Offer is delivered to the Lenders;

(ii) [Reserved];

(iii) except as to interest rates, original issue discount, fees, amortization, final maturity date, premium, required prepayment dates and participation in prepayments (which shall, subject to immediately succeeding clauses (iv), (v) and (vi), be determined by Borrower Representative and set forth in the relevant Extension Offer, subject to acceptance by the Extending Term Lenders), the Term Loans of any Term Lender that agrees to an Extension (such commitment, an "**Extended Term Loan Commitment**") with respect to such Term Loans owed to it (an "**Extending Term Lender**") extended pursuant to any Extension ("**Extended Term Loans**") shall have the same terms as the Class of Term Loans subject to such Extension Offer (except for covenants or other provisions contained therein applicable only to periods after the then Latest Maturity Date of the Term Loans extended thereby);

(iv) the final maturity date of any Extended Term Loans shall be no earlier than the Latest Maturity Date of the Term Loans extended thereby and the amortization schedule applicable to Loans pursuant to Section 1.8(a) for periods prior to the original maturity date of the Term Loans shall not be increased;

(v) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the Weighted Average Life to Maturity of the Term Loans extended thereby;

(vi) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not greater than pro rata basis) with non-extended Classes of Term Loans in any voluntary or mandatory prepayments hereunder, in each case as specified in the respective Extension Offer; and

(vii) if the aggregate principal amount of Term Loans (calculated on the outstanding principal amount thereof) in respect of which Term Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans offered to be extended by Borrower Representative pursuant to such Extension Offer, then the Term Loans of such

Term Lenders shall be extended ratably up to such maximum amount based on the respective principal or commitment amounts with respect to which such Term Lenders have accepted such Extension Offer.

With respect to all Extensions consummated by Borrowers pursuant to this Section 9.1(f), (i) such Extensions shall not constitute voluntary or mandatory payments or prepayments for purposes of Sections 1.7 or 1.8 and (ii) no Extension Offer is required to be in any minimum amount or any minimum increment; provided that Borrower Representative may at its election specify as a condition to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in Borrower Representative's sole discretion and may be waived by Borrower) of Term Loans of any or all applicable Classes be tendered. Agents and the Lenders hereby consent to the transactions contemplated by this Section (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Term Loans on such terms as may be set forth in the relevant Extension Offer) and hereby waive the requirements of any provision of this Agreement or any other Loan Document that may otherwise prohibit or conflict with any such Extension or any other transaction contemplated by this Section 9.1(f). Any Lender that does not respond to an Extension Offer by the applicable due date shall be deemed to have rejected such Extension Offer.

No consent of either Agent or any Lender shall be required to effectuate any Extension, other than the consent of each Lender agreeing to such Extension with respect to one or more of its Term Loans (or a portion thereof). All Extended Term Loans and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents and secured by the Collateral on a pari passu basis with all other applicable Obligations. The Lenders hereby irrevocably authorize Agents to enter into amendments to this Agreement and the other Loan Documents with Borrowers (on behalf of all Credit Parties) as may be necessary in order to establish new Classes or sub-Classes in respect of Term Loans so extended and such technical amendments as may be necessary in the reasonable opinion of Agents and Borrowers in connection with the establishment of such new Classes or sub-Classes, in each case on terms consistent with this Section 9.1(f). Without limiting the foregoing, in connection with any Extensions the applicable Credit Parties shall (at their expense) amend (and Collateral Agent is hereby directed by the Lenders to amend) any Mortgage that has a maturity date prior to the later of the then latest maturity date of the Term Loans, so that such maturity date referenced therein is extended to the Latest Maturity Date of the Term Loans. Collateral Agent shall promptly notify each Lender of the effectiveness of each such amendment.

In connection with any Extension, Borrower Representative shall provide Agents at least five (5) Business Days (or such shorter period as may be agreed by Agents) prior written notice thereof, and shall agree to such procedures (including regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, Agent, in each case acting reasonably to accomplish the purposes of this Section 9.1(f).

This Section 9.1(f) shall supersede any provisions of this Section 9.1 or Section 9.11 to the contrary.

9.2 Notices.

(a) Addresses. All notices and other communications required or expressly authorized to be made by this Agreement shall be given in writing, unless otherwise expressly specified herein, and (i) addressed to the address set forth on the applicable signature page hereto, (ii) posted to Syndtrak (to the extent such system is available and set up by or at the direction of Agents prior to posting) in an appropriate location by uploading such notice, demand, request, direction or other communication to www.syndtrak.com or using such other means of posting to Syndtrak as may be available and reasonably acceptable to Agents prior to such posting, (iii) posted to any other E-System approved by or set up by or at the direction of Agents or (iv) addressed to such other address as shall be notified in writing (A) in the case of the Borrowers and Agents, to the other parties hereto and (B) in the case of all other parties, to the Borrowers and Agents. Transmissions made by electronic mail or E-Fax to Agents shall be effective only (x) for notices where such transmission is specifically authorized by this Agreement, (y) if such transmission is delivered in compliance with procedures of Agents applicable at the time and previously communicated to the Borrowers, and (z) if receipt of such transmission is acknowledged by Agents.

(b) Effectiveness.

(i) All communications described in clause (a) above and all other notices, demands, requests and other communications made in connection with this Agreement shall be effective and be deemed to have been received (i) if delivered by hand, upon personal delivery, (ii) if delivered by overnight courier service, one (1) Business Day after delivery to such courier service, (iii) if delivered by mail, three (3) Business Days after deposit in the mail, (iv) if delivered by facsimile (other than to post to an E-System pursuant to clause (a)(ii) or (a)(iii) above), upon sender's receipt of confirmation of proper transmission, (v) if delivered by posting to any E-System, on the later of the Business Day of such posting and the Business Day access to such posting is given to the recipient thereof in accordance with the standard procedures applicable to such E-System and (vi) if delivered by electronic mail, pursuant to sub-clauses (y) and (z) of clause (a) above; provided, however, that no communications to either Agent pursuant to Article I shall be effective until received by such Agent.

(ii) The posting, completion and/or submission by any Credit Party of any communication pursuant to an E-System shall constitute a representation and warranty by the Credit Parties that any representation, warranty, certification or other similar statement required by the Loan Documents to be provided, given or made by a Credit Party in connection with any such communication is true, correct and complete in all material respects except as expressly noted in such communication or E-System.

(c) Each Lender shall notify the Agents in writing of any changes in the address to which notices to such Lender should be directed, of addresses of its Lending Office, of payment instructions in respect of all payments to be made to it hereunder and of such other administrative information as Agent shall reasonably request.

9.3 Electronic Transmissions.

(a) Authorization. Subject to the provisions of Section 9.2(a), each of Agent, Lenders, each Credit Party and each of their Related Persons, is authorized (but not required) to transmit, post or otherwise make or communicate, in its sole discretion, Electronic Transmissions in connection with any Loan Document and the transactions contemplated therein. Each Credit Party and each Secured Party hereto acknowledges and agrees that the use of Electronic Transmissions is not necessarily secure and that there are risks associated with such use, including risks of interception, disclosure and abuse and each indicates it assumes and accepts such risks by hereby authorizing the transmission of Electronic Transmissions.

(b) Signatures. Subject to the provisions of Section 9.2(a), (i)(A) no posting to any E-System shall be denied legal effect merely because it is made electronically, (B) each E-Signature on any such posting shall be deemed sufficient to satisfy any requirement for a "signature" and (C) each such posting shall be deemed sufficient to satisfy any requirement for a "writing", in each case including pursuant to any Loan Document, any applicable provision of any UCC, the federal Uniform Electronic Transactions Act, the Electronic Signatures in Global and National Commerce Act and any substantive or procedural Requirement of Law governing such subject matter, (ii) each such posting that is not readily capable of bearing either a signature or a reproduction of a signature may be signed, and shall be deemed signed, by attaching to, or logically associating with such posting, an E-Signature, upon which Agents, each other Secured Party and each Credit Party may rely and assume the authenticity thereof, (iii) each such posting containing a signature, a reproduction of a signature or an E-Signature shall, for all intents and purposes, have the same effect and weight as a signed paper original and (iv) each party hereto or beneficiary hereto agrees not to contest the validity or enforceability of any posting on any E-System or E-Signature on any such posting under the provisions of any applicable Requirement of Law requiring certain documents to be in writing or signed; provided, however, that nothing herein shall limit such party's or beneficiary's right to contest whether any posting to any E-System or E-Signature has been altered after transmission.

(c) Separate Agreements. All uses of an E-System shall be governed by and subject to, in addition to Section 9.2 and this Section 9.3, the separate terms, conditions and privacy policy posted or referenced in such E-System (or such terms, conditions and privacy policy as may be updated from time to time, including on such E-System) and related Contractual Obligations executed by Agents and Credit Parties in connection with the use of such E-System.

(d) LIMITATION OF LIABILITY. ALL E-SYSTEMS AND ELECTRONIC TRANSMISSIONS SHALL BE PROVIDED "AS IS" AND "AS AVAILABLE". NONE OF AGENTS, ANY LENDER OR ANY OF THEIR RELATED PERSONS WARRANTS THE ACCURACY, ADEQUACY OR COMPLETENESS OF ANY E-SYSTEMS OR ELECTRONIC TRANSMISSION AND DISCLAIMS ALL LIABILITY FOR ERRORS OR OMISSIONS THEREIN. NO WARRANTY OF ANY KIND IS MADE BY AGENTS, ANY LENDER OR ANY OF THEIR RELATED PERSONS IN CONNECTION WITH ANY E-SYSTEMS OR ELECTRONIC COMMUNICATION, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS. Each of the Borrowers, each other Credit Party executing this Agreement and each Secured Party agrees that Agents have no responsibility for maintaining or providing any equipment, software, services or any testing required in connection with any Electronic Transmission or otherwise required for any E-System.

9.4 No Waiver; Cumulative Remedies. No failure to exercise and no delay in exercising, on the part of Agents or any Lender, any right, remedy, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. No course of dealing between any Credit Party, any Affiliate of any Credit Party, Agents or any Lender shall be effective to amend, modify or discharge any provision of this Agreement or any of the other Loan Documents.

9.5 Costs and Expenses. Any action taken by any Credit Party under or with respect to any Loan Document, even if required under any Loan Document or at the request of Agent or Required Lenders, shall be at the expense of such Credit Party, and neither Agent nor any other Secured Party shall be required under any Loan Document to reimburse any Credit Party or any Subsidiary of any Credit Party therefor except as expressly provided therein. In addition, the Borrowers agree to pay or reimburse promptly following written demand (a) each Agent for all reasonable and documented out-of-pocket costs and expenses incurred by it or any of its Related Persons, in connection with the investigation, development, preparation, negotiation, syndication, execution, interpretation or administration of, any modification of any term of or termination of, any Loan Document, any commitment or proposal letter therefor, any other document prepared in connection therewith or the consummation and administration of any transaction contemplated therein, in each case including (and in the case of legal counsel, limited to) Attorney Costs, (b) subject to Section 4.9, if applicable, each Agent for all reasonable and documented out-of-pocket costs and expenses incurred by it or any of its Related Persons in connection with field examinations and Collateral examinations (which shall be reimbursed, in addition to the reasonable, documented out-of-pocket costs and expenses of such examiners, at the per diem rate per individual charged by Agent for its examiners), (c) each Agent, its Related Persons for all reasonable and documented out-of-pocket costs and expenses (provided that legal fees shall be limited to Attorney Costs) incurred in connection with (i) the creation, perfection and maintenance of the perfection of Collateral Agent's Liens upon the Collateral, including Lien search, filing and recording fees, (ii) any refinancing or restructuring of the credit arrangements

provided hereunder in the nature of a "work-out", (iii) the enforcement or preservation of any right or remedy under any Loan Document, any Obligation, with respect to the Collateral or any other related right or remedy or any attempt to inspect, verify, protect insure, collect, sell, liquidate or otherwise dispose of any Collateral or (iv) the commencement, defense, conduct of, intervention in, or the taking of any other action (including preparation for and/or response to any subpoena or request for document production relating thereto) with respect to, any proceeding (including any bankruptcy or insolvency proceeding) related to any Credit Party, any Subsidiary of any Credit Party, Loan Document, Obligation or Related Transactions, including Attorney Costs, (d) the cost of purchasing insurance that the Credit Parties fail to obtain as required by the Loan Documents to the extent an Event of Default has resulted therefrom and shall be continuing at the time of such purchase and (e) all reasonable and invoiced fees and out-of-pocket disbursements of one external counsel, any necessary local counsel in each relevant jurisdiction (and, solely in the event of a conflict of interest, one additional primary legal counsel (and, if necessary, one additional local external counsel in each relevant jurisdiction)) on behalf of all Lenders and, if necessary, each Agent, taken as a whole, incurred in connection with any of the matters referred to in clause (c)(ii) through (iv) above.

9.6 Indemnity.

(a) Each Credit Party agrees to indemnify, hold harmless and defend each Agent, and each Lender, and each of their respective Related Persons (each such Person being an "**Indemnitee**") from and against all actual, out-of-pocket Liabilities (including, and in the case of legal fees, limited to Attorney Costs) that may be imposed on, incurred by or asserted against any such Indemnitee (whether brought by a Credit Party, an Affiliate of a Credit Party or any other Person) including any actual or prospective investigation, litigation or other proceeding, whether or not brought by any such Indemnitee or any of its Related Persons, any holders of securities or creditors (and including Attorney Costs), whether or not any such Indemnitee, Related Person, holder or creditor is a party thereto, and whether or not based on any securities or commercial law or regulation or any other Requirement of Law or theory thereof, including common law, equity, contract, tort or otherwise, in each case, in any matter relating to or arising out of, in connection with or as a result of (i) any Loan Document, any commitment letter or fee letter (including the Fee Letter) executed in connection with any Loan Document or any financial accommodation contemplated by a Loan Document, any Obligation (or the repayment thereof), the use or intended use of the proceeds of any Loan or any securities filing of, or with respect to, any Credit Party or (ii) any other act, event or transaction related, contemplated in or attendant to any of the foregoing (collectively, the "**Indemnified Matters**"); provided, however, that no Credit Party shall have any liability under this Section 9.6 to an Indemnitee with respect to any Indemnified Matter, and such Indemnitee shall have any liability with respect to any Indemnified Matter other than (to the extent otherwise liable), to the extent (i) such liability, as determined by a court of competent jurisdiction in a final non-appealable judgment or order, has resulted directly from (A) the gross negligence, bad faith or willful misconduct of such Indemnitee, (B) a material breach by such Indemnitee of its obligations under the Loan Documents or applicable Requirement of Law or (C) a dispute solely among Indemnitees that does not directly involve or result from any act or omission by a Credit Party or its Subsidiaries or Affiliates, or (ii) any settlement of any pending or threatened claim, litigation, investigation or proceeding is effected

without the Borrowers' consent (which shall not be unreasonably withheld, conditioned or delayed). Furthermore, each of the Borrowers and each other Credit Party executing this Agreement waives and agrees not to assert against any Indemnitee, and shall cause each other Credit Party to waive and not assert against any Indemnitee, any right of contribution with respect to any Liabilities that may be imposed on, incurred by or asserted against any Related Person. This Section 9.6(a) shall not apply with respect to Taxes other than any Taxes that represent Liabilities arising from any non-Tax claim. Without limiting the foregoing indemnity for Indemnified Matters that include claims for punitive, exemplary, consequential or indirect damages, no party hereto or any of its respective Affiliates, or, as applicable, Approved Funds, shall be liable for any punitive, exemplary, consequential or indirect damages alleged in connection with, arising out of, or relating to, any Liabilities, the Loan Documents, the Loans and Commitments, the use or the proposed use of the proceeds thereof, the Related Transactions, or any other transaction contemplated by this Agreement.

(b) Without limiting the foregoing, "**Indemnified Matters**" includes all Environmental Liabilities imposed on, incurred by or asserted against any Indemnitee, including those arising from, or otherwise involving, any Property of any Credit Party or any Related Person of any Credit Party or any actual, alleged or prospective damage to Property or natural resources or harm or injury alleged to have resulted from any Release of Hazardous Materials on, upon or into such Property or natural resource or any Property on or contiguous to any Real Estate of any Credit Party or any Related Person of any Credit Party, whether or not, with respect to any such Environmental Liabilities, any Indemnitee is a mortgagee pursuant to any leasehold mortgage, a mortgagee in possession, the successor-in-interest to any Credit Party or any Related Person of any Credit Party or the owner, lessee or operator of any Property of any Related Person through any foreclosure action, in each case except to the extent such Environmental Liabilities (i) are incurred solely following foreclosure by Collateral Agent or following Collateral Agent or any Lender having become the successor-in-interest to any Credit Party or any Related Person of any Credit Party and (ii) are attributable solely to acts of such Indemnitee.

9.7 Marshaling; Payments Set Aside. No Secured Party shall be under any obligation to marshal any Property in favor of any Credit Party or any other Person or against or in payment of any Secured Obligation. To the extent that any Secured Party receives a payment from the Borrower, from any other Credit Party, from the proceeds of the Collateral, from the exercise of its rights of setoff, any enforcement action or otherwise, and such payment is subsequently, in whole or in part, invalidated, declared to be fraudulent or preferential, set aside or required to be repaid to a trustee, receiver or any other party, then to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor, shall be revived and continued in full force and effect as if such payment had not occurred.

9 . 8 Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided that any assignment by any Lender shall be subject to the provisions of Section 9.9, and provided further that neither the Borrowers nor Holdings may assign or transfer any of its respective rights or obligations under this Agreement without the prior written consent of Agent and each Lender.

9.9 Binding Effect; Assignments and Participations.

(a) Binding Effect. This Agreement shall become effective when it shall have been executed by Holdings, the Borrowers, the other Credit Parties signatory hereto and each Agent and when Administrative Agent shall have been notified by each Lender that such Lender has executed it. Thereafter, it shall be binding upon and inure to the benefit of, but only to the benefit of, Holdings, the Borrowers, the other Credit Parties hereto, each Agent, and each Lender receiving the benefits of the Loan Documents and, to the extent provided in Section 8.11, each other Secured Party and, in each case, their respective successors and permitted assigns. Except as expressly provided in any Loan Document (including in Sections 5.3 and 8.9), none of Holdings, the Borrowers, any other Credit Party, or any Agent shall have the right to assign any rights or obligations hereunder or any interest herein.

(b) Right to Assign. Each Lender may sell, transfer, negotiate or assign (a "**Sale**") all or a portion of its rights and obligations hereunder (including all or a portion of its Commitments and its rights and obligations with respect to Loans and Letters of Credit) to:

(i) any existing Lender (other than a Non-Funding Lender, Impacted Lender or Excluded Person);

(ii) any Affiliate or Approved Fund of any existing Lender (other than a Non-Funding Lender, Impacted Lender or Excluded Person); or

(iii) any other Person (other than a natural person and, so long as no Event of Default is continuing, an Excluded Person) acceptable (which acceptance shall not be unreasonably withheld or delayed) to Agents (each an "**Eligible Assignee**"); provided, however, that:

(A) [Reserved];

(B) for each Loan, the aggregate outstanding principal amount (determined as of the effective date of the applicable Assignment) of the Loans and Commitments subject to any such Sale shall be in a minimum amount of $1,000,000, unless such Sale is made to an existing Lender or an Affiliate or Approved Fund of any existing Lender, is of the assignor's (together with its Affiliates and Approved Funds) entire interest in such facility or is made with the prior consent of the Borrower Representative (to the extent the Borrower Representative's consent is otherwise required) and Agents;

(C) interest accrued, other than any interest that is payable-in-kind, prior to and through the date of any such Sale may not be assigned; and

(D) such Sales by Lenders who are Non-Funding Lenders due to clause (a) of the definition of Non-Funding Lender shall be subject to Agents' prior written consent in all instances, unless in connection with such sale, such Non-Funding Lender cures, or causes the cure of, its Non-Funding Lender status as contemplated in Section 1.11(e)(v) and shall not be an Impacted Lender.

Agents' refusal to accept a Sale to a holder of Subordinated Indebtedness or a Person that would be a Non-Funding Lender or an Impacted Lender, or the imposition of conditions or limitations (including limitations on voting) upon Sales to such Persons, shall not be deemed to be unreasonable**.**

(c) Procedure. The parties to each Sale made in reliance on clause (b) above (other than those described in clause (e)or (f) below) shall execute and deliver to Administrative Agent an Assignment via an electronic settlement system designated by Administrative Agent (or, if previously agreed with Administrative Agent, via a manual execution and delivery of the Assignment) evidencing such Sale, together with any existing Note subject to such Sale (or any affidavit of loss therefor reasonably acceptable to Administrative Agent and the Borrower Representative (whose consent shall not be unreasonably withheld, conditioned or delayed)), any Tax forms required to be delivered pursuant to Section 10.1 and all other requested "know your customer" documentation and information required by anti-money laundering rules and regulations, including, without limitation, the Patriot Act, and payment of an assignment fee in the amount of $3,500 to Administrative Agent, unless waived or reduced by Administrative Agent; provided that (i) if a Sale by a Lender is made to an Affiliate or an Approved Fund of such assigning Lender, then no assignment fee shall be due in connection with such Sale, and (ii) if a Sale by a Lender is made to an assignee that is not an Affiliate or Approved Fund of such assignor Lender, and concurrently to one or more Affiliates or Approved Funds of such assignee, then only one assignment fee of $3,500 shall be due in connection with such Sale (unless waived or reduced by Administrative Agent). Upon receipt of all the foregoing, and conditioned upon such receipt and, if such Assignment is made in accordance with clause (iii) of Section 9.9(b), upon Agents (and the Borrower Representative, if applicable) consenting to such Assignment, from and after the recordation date specified in such Assignment, Administrative Agent shall record or cause to be recorded in the Register the information contained in such Assignment.

(d) Effectiveness. From and after the recording of an Assignment by Administrative Agent in the Register pursuant to Section 1.4(b), (i) the assignee thereunder shall become a party hereto and, to the extent that rights and obligations under the Loan Documents have been assigned to such assignee pursuant to such Assignment, shall have the rights and obligations of a Lender, (ii) any applicable Note shall be transferred to such assignee through such entry and (iii) the assignor thereunder shall, to the extent that rights and obligations under this Agreement have been assigned by it pursuant to such Assignment, relinquish its rights (except for those surviving the termination of the Commitments and the payment in full of the Secured Obligations) and

be released from its obligations under the Loan Documents, other than those relating to events or circumstances occurring prior to such assignment (and, in the case of an Assignment covering all or the remaining portion of an assigning Lender's rights and obligations under the Loan Documents, such Lender shall cease to be a party hereto).

(e) Grant of Security Interests. In addition to the other rights provided in this Section 9.9, each Lender may grant a security interest in, or otherwise assign as collateral, any of its rights under this Agreement, whether now owned or hereafter acquired (including rights to payments of principal or interest on the Loans), to (A) any federal reserve bank (pursuant to Regulation A of the Federal Reserve Board), without notice to Agents or (B) any holder of, or trustee for the benefit of the holders of, such Lender's Indebtedness or equity securities, by notice to Agents; provided, however, that no such holder or trustee, whether because of such grant or assignment or any foreclosure thereon (unless such foreclosure is made through an assignment in accordance with clause (b) above), shall be entitled to any rights of such Lender hereunder and no such Lender shall be relieved of any of its obligations hereunder.

(f) Participants and SPVs. In addition to the other rights provided in this Section 9.9, each Lender may, (x) with notice to Agents, grant to an SPV the option to make all or any part of any Loan that such Lender would otherwise be required to make hereunder (and the exercise of such option by such SPV and the making of Loans pursuant thereto shall satisfy the obligation of such Lender to make such Loans hereunder) and such SPV may assign to such Lender the right to receive payment with respect to any Obligation and (y) without notice to or consent from Agents or the Borrowers, sell participations to one or more Persons other than an Excluded Person, a Credit Party, a Founder Group Member or an Affiliate of a Credit Party or a Founder Group Member in or to all or a portion of its rights and obligations under the Loan Documents (including all its rights and obligations with respect to the Term Loans and the Delayed Draw Term Loan Commitment or any Incremental Delayed Draw Term Loan Commitment, as the case may be); provided, however, that, whether as a result of any term of any Loan Document or of such grant or participation, (i) no such SPV or participant shall have a commitment, or be deemed to have made an offer to commit, to make Loans hereunder, and, except as provided in the applicable option agreement, none shall be liable for any obligation of such Lender hereunder, (ii) such Lender's rights and obligations, and the rights and obligations of the Credit Parties and the Secured Parties towards such Lender, under any Loan Document shall remain unchanged and each other party hereto shall continue to deal solely with such Lender, which shall remain the holder of the Obligations in the Register, except that (A) each such participant and SPV shall be entitled to the benefit of Article X, but, with respect to Section 10.1 and Section 10.3, such participant and SPV shall be subject to the requirements and limitations therein, and shall be entitled to the benefits thereunder only to the extent such participant or SPV delivers the Tax forms required to be delivered pursuant to Section 10.1(g) to the same extent as if it were a Lender (it being understood that the documentation required under Section 10.1(g) shall be delivered to the Participating Lender) and to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of

this Section and (B) each such SPV may receive other payments that would otherwise be made to such Lender with respect to Loans funded by such SPV to the extent provided in the applicable option agreement and set forth in a notice provided to Agents by such SPV and such Lender, provided, however, that in no case (including pursuant to clause (A) or (B) above) shall an SPV or participant have the right to enforce any of the terms of any Loan Document, and (iii) the consent of such SPV or participant shall not be required (either directly, as a restraint on such Lender's ability to consent hereunder or otherwise) for any amendments, waivers or consents with respect to any Loan Document or to exercise or refrain from exercising any powers or rights such Lender may have under or in respect of the Loan Documents (including the right to enforce or direct enforcement of the Obligations), except for those described in clauses (ii) and (iii) of Section 9.1(a) with respect to amounts, or dates fixed for payment of amounts, to which such participant or SPV would otherwise be entitled and, in the case of participants, except for those described in clause (vii) of Section 9.1(a). No party hereto shall institute (and the Borrowers and Holdings shall cause each other Credit Party not to institute) against any SPV grantee of an option pursuant to this clause (f) any bankruptcy, reorganization, insolvency, liquidation or similar proceeding, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper of such SPV; provided, however, that each Lender having designated an SPV as such agrees to indemnify each Indemnitee against any Liability that may be incurred by, or asserted against, such Indemnitee as a result of failing to institute such proceeding (including a failure to be reimbursed by such SPV for any such Liability). The agreement in the preceding sentence shall survive the termination of the Commitments and the payment in full of the Secured Obligations. Each Lender that makes a grant to an SPV or sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each SPV or participant and the principal amounts (and stated interest) of each SPV's 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 SPV or participant or any information relating to an SPV's or 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 or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations or where disclosure is otherwise required under the Code or 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, Agents shall have no responsibility for maintaining a Participant Register.

9.10 Non-Public Information; Confidentiality.

(a) MNPI. Each Agent and each Lender acknowledges and agrees that it may receive material non-public information ("**MNPI**") hereunder concerning the Credit

Parties and their Affiliates and agrees to use such information in compliance with all relevant policies, procedures and applicable Requirements of Laws (including United States federal and state securities laws and regulations).

(b) Confidential Information. Each Agent and each Lender agrees to maintain the confidentiality of information obtained by it pursuant to any Loan Document (it being understood and agreed that all such information shall be deemed to be confidential except to the extent designated in writing by any Credit Party as non-confidential), except that such information may be disclosed, solely, as applicable, in the scope necessary for each subsequently stated purpose, (i) with the Borrower Representative's consent, (ii) on a "need to know" basis to Related Persons of such Lender or Agent, as the case may be, in each case, in connection with matters arising out of this Agreement and that are advised of the confidential nature of such information and are instructed to keep such information confidential in accordance with the terms hereof, (iii) to the extent such information presently is or hereafter becomes (A) publicly available other than as a result of a breach of this Section 9.10 or (B) available to such Lender or Agent or any of their Related Persons, as the case may be, on a non-confidential basis from a source (other than any Credit Party or any of its representatives) not in violation of any confidentiality agreement or obligation owed to any Credit Party or its Related Persons with respect thereto, (iv) to the extent disclosure is required by applicable Requirements of Law or other compulsory legal process or requested or demanded by any Governmental Authority; provided, unless prohibited by Requirement of Law or court order, such Lender or Agent, as the case may be, shall make reasonable efforts to notify the Borrower Representative of any request by any Governmental Authority or representative thereof (other than any such request in connection with any examination of the financial condition or other routine examination of such Person by such Governmental Authority) for disclosure of any such nonpublic information prior to disclosure of such information or, in any case, promptly notify the Borrower Representative thereof after such disclosure, (v) to the extent necessary or customary for inclusion in league table measurements (which disclosure shall not include any information other than the names of the Credit Parties and Secured Parties and customarily reported terms with respect to this Agreement), (vi) (A) to the National Association of Insurance Commissioners or any similar organization, any examiner or any nationally recognized rating agency or (B) otherwise to the extent consisting of general portfolio information that does not identify Credit Parties, (vii) on a "need to know" basis to current or prospective assignees, SPVs (including the investors or prospective investors therein), participants or any Eligible Assignee, direct or contractual counterparties to any Secured Rate Contracts and to their respective Related Persons, in each case to the extent such assignees, investors, participants, counterparties or Related Persons agree in writing to be bound by provisions substantially similar to the provisions of this Section 9.10 (and such Person may disclose information to their respective Related Persons in accordance with clause (ii) above), (viii) to any other party hereto, and (ix) in connection with the exercise or enforcement of any right or remedy under any Loan Document, in connection with any litigation or other proceeding to which such Lender or Agent or any of their Related Persons is a party or bound, or to the extent necessary to respond to public statements or

disclosures by Credit Parties or their Related Persons referring to a Lender or Agent or any of their Related Persons. In addition, the Agents and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agents and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments. In the event of any conflict between the terms of this Section 9.10 and those of any other Contractual Obligation entered into with any Credit Party (whether or not a Loan Document), the terms of this Section 9.10 shall govern.

(c) Tombstones. The publication by Agents or any Lender of any press releases, tombstones, advertising or other promotional materials (including via any Electronic Transmission) relating to the financing transactions contemplated by this Agreement using Holdings' and the Borrowers' names, product photographs, logo or trademark; and all contents thereof, are subject to the prior written consent of the Borrower Representative (not to be unreasonably withheld or delayed).

(d) Press Release and Related Matters. No Credit Party shall, and no Credit Party shall permit any of its Affiliates to, issue any press release or other public disclosure (other than any document filed with any Governmental Authority relating to a public offering of securities of any Credit Party) using the name, logo or otherwise referring to RCS or of any of its Affiliates, the Loan Documents or any transaction contemplated herein or therein to which RCS or any of its Affiliates is party without the prior written consent of RCS or such Affiliate (not to be unreasonably withheld or delayed) except to the extent required to do so under applicable Requirements of Law and then, unless prohibited by applicable Requirements of Law or a court order, only after consulting with RCS.

(e) Distribution of Materials to Lenders. The Credit Parties acknowledge and agree that the Loan Documents and all reports, notices, communications and other information or materials provided or delivered by, or on behalf of, the Credit Parties hereunder (collectively, the "**Borrower Materials**") may be disseminated by, or on behalf of, Administrative Agent, and made available, to the Lenders by posting such Borrower Materials on an E-System. The Credit Parties authorize Agents to download copies of their logos from its website and post copies thereof on an E-System.

(f) Material Non-Public Information. The Credit Parties hereby agree that if either they, Holdings or any Subsidiary of the Credit Parties has publicly traded equity or debt securities in the United States, they shall (and shall cause Holdings or Subsidiary, as the case may be, to) (i) identify in writing, and (ii) to the extent reasonably practicable, clearly and conspicuously mark such Borrower Materials that contain only information that is publicly available or that is not material for purposes of United States federal and state securities laws as "PUBLIC". The Credit Parties agree that by identifying such Borrower Materials as "PUBLIC" or publicly filing such Borrower Materials with the Securities and Exchange Commission, then Agents and the Lenders shall be entitled to

treat such Borrower Materials as not containing any MNPI for purposes of United States federal and state securities laws. The Credit Parties further represent, warrant, acknowledge and agree that the following documents and materials shall be deemed to be PUBLIC, whether or not so marked, and do not contain any MNPI: (A) the Loan Documents, including the schedules and exhibits attached thereto, and (B) administrative materials of a customary nature prepared by the Credit Parties or Agents (including, Notices of Borrowing, Notices of Conversion/Continuation, swingline requests and any similar requests or notices posted on or through an E-System). Before distribution of Borrower Materials, the Credit Parties agree to execute and deliver to Agents a letter authorizing distribution of the evaluation materials to prospective Lenders and their employees willing to receive MNPI, and a separate letter authorizing distribution of evaluation materials that do not contain MNPI and represent that no MNPI is contained therein.

9.11 Set-off; Sharing of Payments.

(a) Right of Setoff. Each Agent and each Lender and each Affiliate (including each branch office thereof) of any of them is hereby authorized, without notice or demand (each of which is hereby waived by each Credit Party), at any time and from time to time during the continuance of any Event of Default and to the fullest extent permitted by applicable Requirements of Law, to set off and apply any and all deposits (whether general or special, time or demand, provisional or final) at any time held and other Indebtedness, claims or other obligations at any time owing by Agent, such Lender, or any of their respective Affiliates to or for the credit or the account of the Borrowers or any other Credit Party against any Obligation of any Credit Party now or hereafter existing, whether or not any demand was made under any Loan Document with respect to such Obligation and even though such Obligation may be unmatured. No Lender shall exercise any such right of setoff without the prior consent of Agents or the Required Lenders. Each Agent and each Lender agrees promptly to notify the Borrower Representative and Agents after any such setoff and application made by such Lender or its Affiliates; provided, however, that the failure to give such notice shall not affect the validity of such setoff and application. The rights under this Section 9.11 are in addition to any other rights and remedies (including other rights of setoff) that Agent, the Lenders, their Affiliates and the other Secured Parties, may have.

(b) Sharing of Payments, Etc. If any Lender, directly or through an Affiliate or branch office thereof, obtains any payment of any Obligation of any Credit Party (whether voluntary, involuntary or through the exercise of any right of setoff or the receipt of any Collateral or "proceeds" (as defined under the applicable UCC) of Collateral) (and other than pursuant to Section 9.9, Section 9.22, Article X or any payment to a Lender that has not accepted an Extension Offer in respect of the original terms of those of its Loan and Commitments that, as to Lenders that accepted such Extension Offer, were extended as to such Lenders) and such payment exceeds the amount such Lender would have been entitled to receive if all payments had gone to, and been distributed by, Administrative Agent in accordance with the provisions of the Loan

Documents, such Lender shall purchase for cash from other Lenders such participations in their Obligations as necessary for such Lender to share such excess payment with such Lenders to ensure such payment is applied as though it had been received by Administrative Agent and applied in accordance with this Agreement (or, if such application would then be at the discretion of the Borrowers, applied to repay the Obligations in accordance herewith); provided, however, that (i) if such payment is rescinded or otherwise recovered from such Lender in whole or in part, such purchase shall be rescinded and the purchase price therefor shall be returned to such Lender without interest and (ii) such Lender shall, to the fullest extent permitted by applicable Requirements of Law, be able to exercise all its rights of payment (including the right of setoff) with respect to such participation as fully as if such Lender were the direct creditor of the applicable Credit Party in the amount of such participation. If a Non-Funding Lender or Impacted Lender receives any such payment as described in the previous sentence, such Lender shall turn over such payments to Administrative Agent in an amount that would satisfy the cash collateral requirements set forth in Section 1.11(e).

9.12 Counterparts; Electronic Transmission. This Agreement may be executed in any number of counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. Delivery of an executed signature page of this Agreement by facsimile transmission or Electronic Transmission shall be as effective as delivery of a manually executed counterpart hereof.

9.13 Severability. The illegality or unenforceability of any provision of this Agreement or any instrument or agreement required hereunder shall not in any way affect or impair the legality or enforceability of the remaining provisions of this Agreement or any instrument or agreement required hereunder.

9.14 Captions. The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

9.15 Independence of Provisions. The parties hereto acknowledge that this Agreement and the other Loan Documents may use several different limitations, tests or measurements to regulate the same or similar matters, and that such limitations, tests and measurements are cumulative and must each be performed, except as expressly stated to the contrary in this Agreement.

9.16 Interpretation. This Agreement is the result of negotiations among and has been reviewed by counsel to Credit Parties, Agents, each Lender and other parties hereto, and is the product of all parties hereto. Accordingly, this Agreement and the other Loan Documents shall not be construed against the Lenders or Agents merely because of Agents' or Lenders' involvement in the preparation of such documents and agreements. Without limiting the generality of the foregoing, each of the parties hereto has had the advice of counsel with respect to Sections 9.18 and 9.19.

9.17 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and legal benefit of the Borrowers and the Lenders party hereto**,** Agents and, subject to the provisions of Section 8.11, each other Secured Party, and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents. Neither Agent nor any Lender shall have any obligation to any Person not a party to this Agreement or the other Loan Documents.

9.18 Governing Law and Jurisdiction.

(a) Governing Law. The laws of the State of New York shall govern all matters arising out of, in connection with or relating to this Agreement, including its validity, interpretation, construction, performance and enforcement (including any claims sounding in contract or tort law arising out of the subject matter hereof and any determinations with respect to post-judgment interest).

(b) Submission to Jurisdiction. Any legal action or proceeding with respect to any Loan Document shall be brought exclusively in the courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America for the Southern District of New York and, by execution and delivery of this Agreement, each Person executing this Agreement hereby accepts for itself and in respect of its Property, generally and unconditionally, the jurisdiction of the aforesaid courts; provided that nothing in this Agreement shall limit the right of any Agent to commence any proceeding in the federal or state courts of any other jurisdiction to the extent such Agent reasonably determines that such action is necessary or appropriate to exercise its rights or remedies under the Loan Documents with respect to the Collateral. The parties hereto (and, to the extent set forth in any other Loan Document, each other Credit Party) hereby irrevocably waive any objection, including any objection to the laying of venue or based on the grounds of forum *non conveniens*, that any of them may now or hereafter have to the bringing of any such action or proceeding in courts of the State of New York located in the City of New York, Borough of Manhattan, or of the United States of America for the Southern District of New York.

(c) Service of Process. Each party hereto hereby irrevocably waives personal service of any and all legal process, summons, notices and other documents and other service of process of any kind and consents to such service in any suit, action or proceeding brought in the United States with respect to or otherwise arising out of or in connection with any Loan Document by any means permitted by applicable Requirements of Law, including by the mailing thereof (by registered or certified mail, postage prepaid) to the address of such party specified herein (and shall be effective when such mailing shall be effective, as provided therein). Each party hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(d) Non-Exclusive Jurisdiction. Nothing contained in this Section 9.18 shall affect the right of any Agent or any Lender to serve process in any other manner

permitted by applicable Requirements of Law or commence legal proceedings or otherwise proceed against any Credit Party in any other jurisdiction.

9.19 Waiver of Jury Trial. THE PARTIES HERETO, TO THE EXTENT PERMITTED BY LAW, WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF, IN CONNECTION WITH OR RELATING TO, THIS AGREEMENT, THE OTHER LOAN DOCUMENTS AND ANY OTHER TRANSACTION CONTEMPLATED HEREBY AND THEREBY. THIS WAIVER APPLIES TO ANY ACTION, SUIT OR PROCEEDING WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE. EACH PARTY HERETO (A) CERTIFIES THAT NO OTHER PARTY AND NO RELATED PERSON 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 THE LOAN DOCUMENTS, AS APPLICABLE, BY THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

9.20 Entire Agreement; Release; Survival.

(a) THE LOAN DOCUMENTS EMBODY THE ENTIRE AGREEMENT OF THE PARTIES AND SUPERSEDE ALL PRIOR AGREEMENTS AND UNDERSTANDINGS RELATING TO THE SUBJECT MATTER THEREOF AND ANY PRIOR LETTER OF INTEREST, COMMITMENT LETTER, CONFIDENTIALITY AND SIMILAR AGREEMENTS INVOLVING ANY CREDIT PARTY AND ANY LENDER OR ANY OF THEIR RESPECTIVE AFFILIATES RELATING TO A FINANCING OF SUBSTANTIALLY SIMILAR FORM, PURPOSE OR EFFECT. IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS AGREEMENT AND ANY OTHER LOAN DOCUMENT, THE TERMS OF THIS AGREEMENT SHALL GOVERN (UNLESS OTHERWISE EXPRESSLY STATED IN SUCH OTHER LOAN DOCUMENTS OR SUCH TERMS OF SUCH OTHER LOAN DOCUMENTS ARE NECESSARY TO COMPLY WITH APPLICABLE REQUIREMENTS OF LAW, IN WHICH CASE SUCH TERMS SHALL GOVERN TO THE EXTENT NECESSARY TO COMPLY THEREWITH).

(b) In no event shall any Indemnitee be liable on any theory of liability for any special, indirect, consequential or punitive damages (including any loss of profits, business or anticipated savings). Each of the Credit Parties and the Secured Parties hereby waives, releases and agrees (and, with respect to the Credit Parties, shall cause each other Credit Party to waive, release and agree) not to sue upon any such claim for any special, indirect, consequential or punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(c) (i) Any indemnification or other protection provided to any Indemnitee pursuant to this Section 9.20, Sections 9.5 (Costs and Expenses), and 9.6 (Indemnity), and Article VIII (Agents) and Article X (Taxes, Yield Protection and Illegality), and (ii) the provisions of Section 8.1 of the Guaranty and Security Agreement, in each case,

shall (x) survive the termination of the Commitments and the payment in full of all other Secured Obligations and (y) with respect to clause (i) above, inure to the benefit of any Person that at any time held a right thereunder (as an Indemnitee or otherwise) and, thereafter, its successors and permitted assigns.

9.21 USA Patriot Act; Beneficial Ownership Regulation. Each Lender that is subject to the USA Patriot Act (and Agents (for themselves and not on behalf of any Lender)) hereby notifies the Credit Parties that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies each Credit Party, which information includes the name and address of each Credit Party and other information that will allow such Lender or Agent to identify each Credit Party in accordance with the USA Patriot Act. The Credit Parties shall, promptly following a request by Agent or any Lender, provide all documentation and other information that Agent or such Lender reasonably requests in order to comply with its ongoing obligations under the Beneficial Ownership Regulation.

9.22 Replacement of Lender. Within forty-five days after: (i) receipt by the Borrower Representative of written notice and demand from (A) any Lender (an "**Affected Lender**") for payment of additional costs as provided in Sections 10.1, 10.3 and/or 10.6 or that has become a Non-Funding Lender or Impacted Lender or (B) any SPV or participant (an "**Affected SPV/Participant**") for payment of additional costs as provided in Section 9.9(f), unless the option or participation of such Affected SPV/Participant shall have been terminated prior to the exercise by Borrower Representative of its rights hereunder; or (ii) any failure by any Lender (other than Agent or an Affiliate of Agent) to consent to a requested amendment, waiver or modification to any Loan Document in which Required Lenders (or the relevant directly affected Lenders holding a majority of the Loans and Commitments of such group of directly affected Lenders) have already consented to such amendment, waiver or modification but the consent of each Lender (or each Lender directly affected thereby, as applicable) is required with respect thereto, or any failure by any Lender to accept any Extension Offer, the Borrower Representative may, at its option, notify (A) in the case of clause (i)(A) or (ii) above, Agents and such Affected Lender (or such non-consenting Lender) of the Borrower Representative's intention to obtain, at the Borrowers' expense, a replacement Lender ("**Replacement Lender**") for such Affected Lender (or such non-consenting Lender), or (B) in the case of clause (i)(B) above, Agents, such Affected SPV/Participant, if known, and the applicable Lender (such Lender, a "**Participating Lender**") that (1) granted to such Affected SPV/Participant the option to make all or any part of any Loan that such Participating Lender would otherwise be required to make hereunder or (2) sold to such Affected SPV/Participant a participation in or to all or a portion of its rights and obligations under the Loan Documents, of the Borrower Representative's intention to obtain, at the Borrowers' expense, a Replacement Lender for such Participating Lender, in each case, which Replacement Lender shall be reasonably satisfactory to Agents. In the event the Borrower Representative obtains a Replacement Lender within forty-five (45) days following notice of its intention to do so, the Affected Lender (or such non-consenting Lender) or Participating Lender, as the case may be, shall sell and assign its Loans and Commitments to such Replacement Lender (provided that no Excluded Person may be a Replacement Lender), at par, provided that the Borrowers have reimbursed such Affected Lender or Affected SPV/Participant, as applicable, for its increased costs for which it is entitled to reimbursement under this Agreement through the

date of such sale and assignment, and in the case of a Participating Lender being replaced by a Replacement Lender, (x) all right, title and interest in and to the Obligations and Commitments so assigned to the Replacement Lender shall be assigned free and clear of all Liens or other claims (including pursuant to the underlying option or participation granted or sold to the Affected SPV/Participant, but without affecting any rights, if any, of the Affected SPV/Participant to the proceeds constituting the purchase price thereof) of the Affected SPV/Participant, and (y) to the extent required by the underlying option or participation documentation, such Participating Lender shall apply all or a portion of the proceeds received by it as a result of such assignment, as applicable, to terminate in full the option or participation of such Affected SPV/Participant. In the event that a replaced Lender does not execute an Assignment pursuant to Section 9.9 within five (5) Business Days after receipt by such replaced Lender of notice of replacement pursuant to this Section 9.22 and presentation to such replaced Lender of an Assignment evidencing an assignment pursuant to this Section 9.22, the Borrower Representative shall be entitled (but not obligated) to execute such an Assignment on behalf of such replaced Lender, and any such Assignment so executed by the Borrower Representative, the Replacement Lender (provided that no Excluded Person may be a Replacement Lender) and Agents, shall be effective for purposes of this Section 9.22 and Section 9.9. Notwithstanding the foregoing, with respect to a Lender that is a Non-Funding Lender or Impacted Lender, Agents may, but shall not be obligated to, obtain a Replacement Lender (provided that no Excluded Person may be a Replacement Lender) and execute an Assignment on behalf of such Non-Funding Lender or Impacted Lender at any time with three (3) Business Days' prior notice to such Lender (unless notice is not practicable under the circumstances) and cause such Lender's Loans and Commitments to be sold and assigned, in whole or in part, at par. Upon any such assignment and payment and compliance with the other provisions of Section 9.9, such replaced Lender shall no longer constitute a "**Lender**" for purposes hereof; provided, any rights of such replaced Lender to indemnification hereunder shall survive.

9.23 Joint and Several. The obligations of the Credit Parties hereunder and under the other Loan Documents are joint and several. Without limiting the generality of the foregoing, reference is hereby made to Article II of the Guaranty and Security Agreement, to which the obligations of the Borrowers and the other Credit Parties are subject.

9.24 Creditor-Debtor Relationship. The relationship between Agents and each Lender on the one hand, and the Credit Parties, on the other hand, is solely that of creditor and debtor. No Secured Party has any fiduciary relationship or duty to any Credit Party arising out of or in connection with, and there is no agency, tenancy or joint venture relationship between the Secured Parties and the Credit Parties by virtue of, any Loan Document or any transaction contemplated therein.

9.25 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 Credit Party to honor all of its payment obligations under the Guaranty and Security Agreement in respect of Swap Obligations under any Secured Rate Contract (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 9.25 for the maximum amount of such liability that can be hereby incurred without

rendering its obligations under this Section 9.25, or otherwise under the Guaranty and Security Agreement, voidable under applicable Requirements of Law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 9.25 shall remain in full force and effect until the guarantees in respect of Swap Obligations under each Secured Rate Contract have been discharged, or otherwise released or terminated in accordance with the terms of this Agreement. Each Qualified ECP Guarantor intends that this Section 9.25 constitute, and this Section 9.25 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Credit Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

9.26 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

9.27 Borrower Representative. Each Borrower hereby designates and appoints Holdings as its representative and agent on its behalf (the "**Borrower Representative**") for the purposes of (a) issuing Notices of Borrowing, Notices of Conversion/Continuation, swingline requests and any similar requests or notices, (b) delivering certificates, including Compliance Certificates, (c) giving instructions with respect to the disbursement of the proceeds of the Loans, (d) selecting interest rate options, giving and receiving all other notices and consents hereunder or under any of the other Loan Documents and (e) taking all other actions (including in respect of compliance with covenants, but without relieving any other Borrower of its joint and several

obligations to pay and perform the Obligations) on behalf of any Borrower or the Borrowers under the Loan Documents. The Borrower Representative hereby accepts such appointment. Agents and each Lender may regard any notice or other communication pursuant to any Loan Document from the Borrower Representative as a notice or communication from all Borrowers. Each warranty, covenant, agreement and undertaking made on behalf of a Borrower by the Borrower Representative shall be deemed for all purposes to have been made by such Borrower and shall be binding upon and enforceable against such Borrower to the same extent as if the same had been made directly by such Borrower.

ARTICLE X

TAXES, YIELD PROTECTION AND ILLEGALITY

10.1 Taxes.

(a) Except as required by a Requirement of Law, each payment by any Credit Party under any Loan Document shall be made free and clear of 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) with respect thereto (collectively, "**Taxes**").

(b) If any Taxes shall be required by any Requirement of Law (as determined in good faith discretion of the relevant Credit Party or other withholding agent) to be deducted or withheld from or in respect of any amount payable under any Loan Document to any Lender or Agent (each, a "**Recipient**") then (i) if such Tax is an Indemnified Tax, such amount payable by the Credit Party shall be increased as necessary to ensure that, after all required deductions for Indemnified Taxes are made (including deductions applicable to any increases to any amount under this Section 10.1), such Recipient receives the amount it would have received had no such deductions been made, (ii) the relevant withholding agent shall make such deductions or withholdings, (iii) the relevant withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable Requirements of Law and (iv) as soon as practicable after such payment is made, the relevant Credit Party shall deliver to Administrative Agent an original or certified copy of a receipt issued by such Governmental Authority evidencing such payment or other evidence of payment reasonably satisfactory to Administrative Agent.

(c) In addition, but without duplication of amounts otherwise payable by a Credit Party pursuant to this Article X, the Borrowers agree to pay, and authorizes Administrative Agent to pay in its name, any stamp, court or documentary, intangible, recording, filing or similar Tax imposed by any applicable Requirement of Law or Governmental Authority and all interest, additions to tax, or penalties with respect thereto (including by reason of any delay in payment thereof), in each case 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, grant of a participation, designation of a new office for receiving payments by or on account of the Borrowers or other transfer (other than an assignment or designation of a new office made pursuant to Section 9.22) (collectively, "**Other Taxes**"). As soon as practicable after the date of any payment of Other Taxes by any Credit Party, the Borrowers shall furnish to Administrative Agent, at its address referred to in Section 9.2, the original or a certified copy of a receipt issued by the relevant Governmental Authority evidencing payment thereof or other evidence of payment reasonably satisfactory to Administrative Agent.

(d) The Borrowers shall reimburse and indemnify, within ten (10) days after receipt of demand therefor (with copy to Administrative Agent), each Recipient for all Indemnified Taxes (including any Indemnified Taxes imposed by any jurisdiction on amounts payable under this Section 10.1) paid or payable by such Recipient and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally asserted. A certificate of the Recipient (or of Agent on behalf of such Recipient) claiming any compensation under this clause (d), setting forth in reasonable detail the nature and amounts of Indemnified Taxes to be paid thereunder and delivered to the Borrower with copy to Administrative Agent, shall be conclusive absent manifest error.

(e) Failure or delay on the part of any Lender to demand compensation pursuant to this Section 10.1 shall not constitute a waiver of such Lender's right to demand such compensation; provided, however that the Borrowers shall not be required to compensate a Lender pursuant to this Section 10.1 for any Indemnified Taxes incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative of the event giving rise to such Indemnified Tax and of such Lender's intention to claim compensation therefor; provided further, that if the event giving rise to such Indemnified Tax is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(f) Any Lender claiming any additional amounts payable pursuant to this Section 10.1 shall use its reasonable efforts (consistent with its internal policies of general application and Requirements of Law) to change the jurisdiction of its Lending Office if such a change would reduce any such additional amounts (or any similar amount that may thereafter accrue) and would not, in the sole determination of such Lender, be otherwise disadvantageous to such Lender. In determining such amount, Agent and such Lender may use any reasonable averaging and attribution methods.

(g)

(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 Representative and the Administrative Agent, at the time or times reasonably requested by the Borrower Representative or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower Representative 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 Representative or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by the Borrower Representative or the Administrative Agent as will enable the Borrower Representative 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 described in this paragraph (g)(i) (other than such documentation set forth in paragraphs (g)(ii), (iii) and (iv) of this Section) 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) Each Non-U.S. Lender Party that, at any of the following times, is entitled to an exemption from United States withholding Tax or, is subject to such withholding Tax at a reduced rate under an applicable Tax treaty, shall (w) on or prior to the date such Non-U.S. Lender Party becomes a "Non-U.S. Lender Party" hereunder, (x) on or prior to the date on which any such form or certification expires or becomes obsolete, (y) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (ii) and (z) from time to time if reasonably requested by the Borrower Representative or Administrative Agent and at the time or times prescribed by a Requirement of Law (or, in the case of a participant or SPV, the relevant Lender), provide Administrative Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed and executed originals of each of the following, as applicable: (A) Forms W-8ECI (claiming exemption from U.S. withholding Tax because the income is effectively connected with a U.S. trade or business), W-8BEN or W-8BEN-E (claiming exemption from, or a reduction of, U.S. withholding Tax under an income Tax treaty (x) with respect to payments of interest under any Loan Document, pursuant to the "interest" article of such tax treaty, and (y) with respect to any other payments under any Loan Document, pursuant to the "business profits" or "other income" article of such tax treaty) and/or W-8IMY (together with appropriate forms, certifications and supporting statements from each beneficial owner, as applicable) or any successor forms, (B) in the case of a Non-U.S. Lender Party claiming exemption under Sections 871(h) or 881(c) of the Code, Form W-8BEN or W-8BEN-E (claiming exemption from U.S. withholding Tax under the portfolio interest exemption) or any successor form and a certificate in form and substance acceptable to Administrative Agent that such Non-U.S. Lender Party is not (1) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (2) a "10 percent shareholder" of Holdings or a Borrower within the meaning of Section 881(c)(3)(B) of the Code or (3) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code or

(C) any other applicable document prescribed by the IRS certifying as to the entitlement of such Non-U.S. Lender Party to such exemption from United States withholding Tax or reduced rate with respect to all payments to be made to such Non-U.S. Lender Party under the Loan Documents. Unless the Borrower Representative and Administrative Agent have received forms or other documents reasonably satisfactory to them indicating that payments under any Loan Document to or for a Non-U.S. Lender Party are not subject to United States withholding Tax or are subject to such Tax at a rate reduced by an applicable Tax treaty, the Credit Parties and Administrative Agent shall be entitled to withhold amounts required to be withheld by applicable Requirements of Law from such payments at the applicable statutory rate.

(iii) Each U.S. Lender Party shall (A) on or prior to the date such U.S. Lender Party becomes a "U.S. Lender Party" hereunder, (B) on or prior to the date on which any such form or certification expires or becomes obsolete, (C) after the occurrence of any event requiring a change in the most recent form or certification previously delivered by it pursuant to this clause (iii) and (D) from time to time if reasonably requested by the Borrower Representative or Administrative Agent and at the time or times prescribed by a Requirement of Law (or, in the case of a participant or SPV, the relevant Lender), provide Administrative Agent and the Borrower Representative (or, in the case of a participant or SPV, the relevant Lender) with two completed and executed originals of Form W-9 (certifying that such U.S. Lender Party is entitled to an exemption from U.S. backup withholding Tax) or any successor form.

(iv) Each Lender having sold a participation in any of its Obligations or identified an SPV as such to Administrative Agent shall collect from such participant or SPV the documents described in this clause (g) and provide them to Administrative Agent.

(v) If a payment made to a Lender Party would be subject to United States federal withholding Tax imposed by FATCA if such Lender Party fails to comply with the applicable reporting requirements of FATCA (including those contained in Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender Party shall deliver to Administrative Agent and the Borrower Representative at the time or times prescribed by law and at such time or times reasonably requested by Borrower Representative or Administrative Agent any documentation under any Requirement of Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) or reasonably requested by Administrative Agent or the Borrower Representative sufficient for Administrative Agent or the Borrowers to comply with their obligations under FATCA and to determine that such Lender Party has complied with its obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for the purposes of this clause (v), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(vi) On or before the date the Agents become a party to this Agreement, the Agents shall provide to the Borrower Representative, two duly-signed, properly completed copies of the documentation prescribed in clause (i) or (ii) below, as applicable (together with all required attachments thereto): (i) IRS Form W-9 or any successor thereto, or (ii) (A) IRS Form W-8ECI or any successor thereto, and (B) with respect to payments received on account of any Lender, a U.S. branch withholding certificate on IRS Form W-8IMY or any successor thereto evidencing its agreement with the Borrowers to be treated as a U.S. person for U.S. federal withholding purposes. At any time thereafter, the Agents shall provide updated documentation previously provided (or a successor form thereto) when any documentation previously delivered has expired or become obsolete or invalid or otherwise upon the reasonable request of the Borrower Representative.

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, provide such successor form, or promptly notify the Borrower Representative and the Agents in writing of its legal inability to do so.

(h) If any indemnified party determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes as to which it has been indemnified pursuant to this Section 10.1 (including by the payment of additional amounts pursuant to Section 10.1(b)), it shall pay to the relevant indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 10.1 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 Section 10.1(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 Section 10.1(h), in no event shall the indemnified party be required to pay any amount to a indemnifying party pursuant to this Section 10.1(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 and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section 10.1(h) 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.

10.2 Illegality. If after the date hereof any Lender shall determine that the introduction of any Requirement of Law, or any change in any Requirement of Law or in the interpretation or administration thereof, has made it unlawful, or that any central bank or other Governmental

Authority has asserted that it is unlawful, for any Lender or its Lending Office to make SOFR Rate Loans, then, on notice thereof by such Lender to the Borrower Representative through Administrative Agent, the obligation of that Lender to make SOFR Rate Loans shall be suspended until such Lender shall have notified Administrative Agent and the Borrower Representative that the circumstances giving rise to such determination no longer exists.

(a) Subject to clause (c) below, if any Lender shall determine that it is unlawful to maintain any SOFR Rate Loan, the Borrowers shall prepay in full all SOFR Rate Loans of such Lender then outstanding, together with interest accrued thereon, either on the last day of the Interest Period thereof if such Lender may lawfully continue to maintain such SOFR Rate Loans to such day, or immediately, if such Lender may not lawfully continue to maintain such SOFR Rate Loans, together with any amounts required to be paid in connection therewith pursuant to Section 10.4.

(b) If the obligation of any Lender to make or maintain SOFR Rate Loans has been terminated, the Borrowers may elect, by giving notice to such Lender through Agent that all Loans which would otherwise be made by any such Lender as SOFR Rate Loans shall be instead Base Rate Loans.

(c) Before giving any notice to Administrative Agent pursuant to this Section 10.2, the affected Lender shall designate a different Lending Office with respect to its SOFR Rate Loans if such designation will avoid the need for giving such notice or making such demand and will not, in the judgment of the Lender, be illegal or otherwise disadvantageous to the Lender.

10.3 Increased Costs and Reduction of Return.

(a) If any Lender shall determine that, due to either (i) the introduction of, or any change in, or in the interpretation of, any Requirement of Law or (ii) the compliance with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), in the case of either clause (i) or (ii) subsequent to the date hereof, (x) there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining any SOFR Rate Loans or (y) the Lender shall be subject to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (e) 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, then the Borrowers shall be liable for, and shall from time to time, within thirty (30) days of demand therefor by such Lender (with a copy of such demand to Administrative Agent), pay to Administrative Agent for the account of such Lender, additional amounts as are sufficient to compensate such Lender for such increased costs or such Taxes; provided, that the Borrowers shall not be required to compensate any Lender pursuant to this Section 10.3(a) for any increased costs incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative, in writing of the increased costs and of such Lender's intention to claim compensation thereof; provided, further, that if the

circumstance giving rise to such increased costs is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If any Lender shall have determined that:

(i) the introduction of any Capital Adequacy Regulation;

(ii) any change in any Capital Adequacy Regulation;

(iii) any change in the interpretation or administration of any Capital Adequacy Regulation by any central bank or other Governmental Authority charged with the interpretation or administration thereof; or

(iv) compliance by such Lender (or its Lending Office) or any entity controlling the Lender, with any Capital Adequacy Regulation;

affects the amount of capital required or expected to be maintained by such Lender or any entity controlling such Lender and (taking into consideration such Lender's or such entities' policies with respect to capital adequacy and such Lender's desired return on capital) determines that the amount of such capital is increased as a consequence of its Commitment(s), loans, credits or obligations under this Agreement, then, within thirty (30) days of demand of such Lender (with a copy to Administrative Agent), the Borrowers shall pay to such Lender, from time to time as specified by such Lender, additional amounts sufficient to compensate such Lender (or the entity controlling the Lender) for such increase; provided, that the Borrowers shall not be required to compensate any Lender pursuant to this Section 10.3(b) for any amounts incurred more than 180 days prior to the date that such Lender notifies the Borrower Representative, in writing of the amounts and of such Lender's intention to claim compensation thereof; provided, further, that if the event giving rise to such increase is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(c) Notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case in respect of this clause (ii) pursuant to Basel III, shall, in each case, be deemed to be a change in a Requirement of Law under Section 10.3(a) above and/or a change in Capital Adequacy Regulation under Section 10.3(b) above, as applicable, regardless of the date enacted, adopted or issued.

10.4 Funding Losses. The Borrowers agree to reimburse each Lender and to hold each Lender harmless from any loss or expense which such Lender may sustain or incur as a consequence of:

(a) the failure of the Borrowers to make any payment or mandatory prepayment of principal of any SOFR Rate Loan as and when due hereunder (including payments made after any acceleration thereof);

(b) the failure of the Borrowers to borrow, continue or convert a Loan after the Borrower Representative has given (or is deemed to have given) a Notice of Borrowing or a Notice of Conversion/Continuation;

(c) the failure of the Borrowers to make any prepayment after the Borrower Representative has given a notice in accordance with Section 1.7;

(d) the prepayment (including pursuant to Section 1.7 or Section 1.8) of a SOFR Rate Loan on a day which is not the last day of the Interest Period with respect thereto; or

(e) the conversion pursuant to Section 1.6 of any SOFR Rate Loan to a Base Rate Loan on a day that is not the last day of the applicable Interest Period;

including any such loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain its SOFR Rate Loans hereunder or from fees payable to terminate the deposits from which such funds were obtained; provided that, with respect to the expenses described in clauses (d) and (e) above, such Lender shall have notified Administrative Agent of any such expense within two (2) Business Days of the date on which such expense was incurred. Solely for purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 10.4 and under Section 10.3(a): each SOFR Rate Loan made by a Lender (and each related reserve, special deposit or similar requirement) shall be conclusively deemed to have been funded at the SOFR used in determining the interest rate for such SOFR Rate Loan by a matching deposit or other borrowing in the interbank Eurodollar market for a comparable amount and for a comparable period, whether or not such SOFR Rate Loan is in fact so funded.

10.5 [Reserved].

10.6 [Reserved].

10.7 Certificates of Lenders. Any Lender claiming reimbursement or compensation pursuant to this Article X shall deliver to the Borrower Representative (with a copy to Agent) a certificate setting forth in reasonable detail the amount payable to such Lender hereunder and such certificate shall be conclusive and binding on the Borrowers in the absence of manifest error.

ARTICLE XI

DEFINITIONS

11.1 Defined Terms. The following terms are defined in the Section referenced opposite such terms:

"Administrative Agent"	Preamble
"**Affected Lender**"	9.22
"**Affected SPV/Participant**"	9.22
"**Agents**"	Preamble
"**Aggregate Excess Funding Amount**"	1.11(e)(iv)
"**Agreement**"	Preamble
"**Anti-Corruption Laws**"	3.25(c)
"**Borrower(s)**"	Preamble
"**Borrower Materials**"	9.10(e)
"**Borrower Representative**"	9.27
"**BRCB**"	Preamble
"BRCR"	Preamble
"**BRD**"	Preamble
"**BRR**"	Preamble
"**BRSO**"	Preamble
"BRSO PNW"	Preamble
"BRSO 67th"	Preamble
"**Cash Flow**"	Exhibit 4.2(b)
"Collateral Agent"	Preamble
"Collateral Agent Advances"	8.15
"**Compliance Certificate**"	4.2(b)
"DDTL Funding Conditions"	1.5(c)
"Delayed Draw Term Loan Commitment Fee"	1.9(b)
"**EBITDA**"	Exhibit 4.2(b)
"**ECF Payment Date**"	1.8(e)
"**Eligible Assignee**"	9.9(b)(iii)
"Equity Recap Distributions"	5.8(f)
"Erroneous Payment"	8.16
"**Event of Default**"	7.1
"**Excess Cash Flow**"	Exhibit 4.2(b)
"**Excluded Accounts**"	4.11
"**Extended Term Loans**"	9.1(f)(iii)
"**Extended Term Loan Commitment**"	9.1(f)(iii)
"**Extending Term Lender**"	9.1(f)(iii)
"**Extension**"	9.1(f)

"**Extension Offer**"	9.1(f)
"**FCPA**"	3.25(c)
"**Fee Letter**"	1.9(a)
"**Fixed Charge Coverage Ratio**"	6.1(b) and Exhibit 4.2(b)
"Fourth Amendment Term Loan"	1.1(b)
"**Holdings**"	Preamble
"Increase Effective Date"	1.14(a)
"Increase Joinder"	1.14(d)
"Incremental Delayed Draw Term Loan"	1.14(b)(i)
"Incremental Delayed Draw Term Loan Commitment"	1.14(a)
"Incremental Delayed Draw Term Loan Lenders"	1.14(a)
"Incremental Delayed Draw Term Loan Maturity Date"	1.14(c)(ii)
"**Indemnified Matters**"	9.6(a)
"**Indemnitee**"	9.6(a)
"**Investments**"	5.4
"**Lender**" and "**Lenders**"	Preamble
"**Maximum Lawful Rate**"	1.3(d)
"**MNPI**"	9.10(a)
"**Net Interest Expense**"	Exhibit 4.2(b)
"**Non-Recurring Expenses**"	Exhibit 4.2(b)
"**Notice of Conversion/Continuation**"	1.6(a)
"**OFAC**"	3.25(a)
"OID"	1.14(c)(iv)
"**Other Taxes**"	10.1(c)
"**Participant Register**"	9.9(f)
"**Participating Lender**"	9.22
"**Permitted Liens**"	5.1
"**Prepayment Period**"	1.7(c)
"Principal Place of Business"	3.9(b)
"**RCS**"	Preamble
"**Recipient**"	10.1(b)
"**Register**"	1.4(b)
"**Rejection Notice**"	1.8(h)
"**Restricted Payments**"	5.8
"**Replacement Lender**"	9.22
"**Sale**"	9.9(b)
"**Sanctioned Country**"	3.25(a)
"**Sanctions**"	3.25(a)
"**SDN List**"	3.25(a)
"**Senior Leverage Ratio**"	Exhibit 4.2(b)

"**Tax Returns**"	3.10
"**Taxes**"	10.1(a)
"**Term Loan A**"	1.1(a)
"**TSC**"	Preamble

In addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

"**Account**" means, as at any date of determination, all "accounts" (as such term is defined in the UCC) of a Borrower and its Subsidiaries, including the unpaid portion of the obligation of a customer of a Borrower or any of its Subsidiaries in respect of Inventory purchased by and shipped to such customer and/or the rendition of services by a Borrower or such Subsidiary, as stated on the respective invoice of a Borrower or such Subsidiary, net of any credits, rebates or offsets owed to such customer.

"**Account Debtor**" means the customer of a Borrower or any of its Subsidiaries who is obligated on or under an Account.

"**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 (including by way of a merger or other business combination) and (b) the acquisition of in excess of fifty percent (50%) of the Stock and Stock Equivalents of any Person or otherwise causing any Person to become a Subsidiary of a Borrower (in either case, including by way of a merger or other business combination).

"Adjusted Term SOFR Rate" means the sum of: (i) the Term SOFR Screen Rate, and (ii) 0.11448% (11.448 basis points) for an Available Tenor of one-month's duration, 0.26161% (26.161 basis points) for an Available Tenor of three-months' duration, and 0.42826% (42.826 basis points) for an Available Tenor of six-months' duration; provided that, if the Adjusted Term SOFR Rate determined as provided above shall ever be less than the Floor, then the Adjusted Term SOFR Rate shall be deemed to be the Floor.

"**Affected Financial Institution**" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

"**Affiliate**" means, with respect to any Person, any Person that directly or indirectly controls, is controlled by, or is under common control with, such Person; provided, however, that no Secured Party shall be an Affiliate of any Credit Party or of any Subsidiary of any Credit Party solely by reason of the provisions of the Loan Documents. For purposes of this definition, "**control**" means the possession of either (a) the power to vote, or the beneficial ownership of, 10% or more of the voting Stock of such Person (either directly or through the ownership of Stock Equivalents) or (b) the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise. For the avoidance of doubt, any director, officer or general partner that owns ten

percent (10%) or more of the Stock (either directly or through ownership of Stock Equivalents) of a Person shall for purposes of this agreement be deemed an Affiliate of such other Person.

"**Aggregate Term Loan Commitment**" means the sum of (a) the combined Term Loan Commitments of the Lenders, which shall initially be in the amount up to $80,000,000, and (b) the combined Fourth Amendment Term Loan Commitments of the Fourth Amendment Term Lenders, which shall initially be in the amount up to $12,500,000, as each such amount may be reduced from time to time pursuant to this Agreement.

"**Applicable Margin**" means (a) from the Fourth Amendment Effective Date through the date upon which the Administrative Agent receives a Compliance Certificate pursuant to Section 4.2(b) for the fiscal quarter ended June 30, 2024, Pricing Level 2 below, and (b) from and after delivery of the Compliance Certificate referred to in clause (a), the applicable rate per annum set forth below determined by reference to the Total Net Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 4.2(b):

		Applicable Margin	
Pricing Level	Total Net Leverage Ratio	Term SOFR Loans	Base Rate Loans
1	≥4.25:1.00	6.50% plus the PIK Amount	5.50% plus the PIK Amount
2	≥3.25:1.00, but <4.25:1.00	6.00% plus the PIK Amount	5.00% plus the PIK Amount
3	<3.25:1.00	6.00%	5.00%

"PIK Amount" means, in all instances, 0.50%

Any increase or decrease in the Applicable Margin resulting from a change in the Total Net Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 4.2(b); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Lenders, Pricing Level 1 shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and in each case shall remain in effect until the date on which such Compliance Certificate is delivered.

In the event that the Administrative Agent and the Borrowers determine in good faith that any financial statement or Compliance Certificate delivered pursuant to Sections 4.1(a) or 4.2(b), respectively, is inaccurate, and such inaccuracy, if corrected, would have led to a higher Applicable Margin pursuant to clause (b) above for any period (an "Applicable Period") than the Applicable Margin pursuant to clause (b) above applied for such Applicable Period, then (i) the Borrowers shall immediately deliver to the Administrative Agent a correct Compliance Certificate for such Applicable Period, (ii) the Applicable Margin pursuant to clause (b) above

shall be determined by reference to the corrected Compliance Certificate (but in no event shall the Lenders owe any amounts to the Borrowers), and (iii) the Borrowers shall within five (5) Business Days of demand therefor by the Administrative Agent pay to the Administrative Agent the additional interest or fees owing as a result of such increased Applicable Margin pursuant to clause (b) above for such Applicable Period, which payment shall be promptly applied by the Administrative Agent in accordance with the terms hereof; provided, that (x) any nonpayment of such additional interest or fees shall not constitute a Default or Event of Default until the expiration of such five (5) Business Day period and (y) no such amounts shall be deemed overdue or accrue interest at the rate pursuant to Section 1.3(c) until the expiration of such five (5) Business Day period; provided, further, that if, as a result of such correction, a proper calculation of the Total Net Leverage Ratio would have resulted in higher pricing for one or more periods and lower pricing for one or more other periods (due to the shifting of income or other expenses from one period to another period or any similar reason), then the amount payable by the Borrowers pursuant to clause (iii) above shall be based upon the excess, if any, of the amount of interest and fees that should have been paid for all Applicable Periods over the amount of interest and fees paid for all such periods.

"**Applicable Prepayment Premium**" means, at the date of determination (i) during the period from the Closing Date through the first anniversary of the Closing Date, an amount equal to 2.00% times the principal amount of the Term Loan prepaid on such date, (ii) during the period after the first anniversary of the Closing Date and through the second anniversary of the Closing Date, an amount equal to 1.00% times the principal amount of the Term Loan prepaid on such date and (iii) 0% thereafter.

"**Approved Fund**" means, with respect to any Lender, any Person (other than a natural Person) that (a) (i) 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 Business or (ii) temporarily warehouses loans for any Lender or any Person described in clause (i) above and (b) is advised or managed by (i) such Lender, (ii) any Affiliate of such Lender or (iii) any Person (other than an individual) or any Affiliate of any Person (other than an individual) that administers or manages such Lender.

"A&R Holdings LLC Agreement" means the Sixth Amended and Restated Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC dated on or about and as in effect on the Fourth Amendment Effective Date.

"**Assignment**" means an assignment agreement entered into by a Lender, as assignor, and any Person, as assignee, pursuant to the terms and provisions of Section 9.9 (with the consent of any party whose consent is required by Section 9.9), and accepted by Administrative Agent, substantially in the form of Exhibit 11.1(a) or any other form approved by Administrative Agent.

"**Attorney Costs**" means and includes all reasonable and invoiced fees and out-of-pocket disbursements of one external counsel and any necessary local counsel in each relevant jurisdiction (and, solely in the event of a conflict of interest, one additional primary legal external counsel (and, if necessary, one additional local external counsel in each relevant jurisdiction)), in

each case, for Agents, the Secured Parties and any Related Persons as a group and selected by Agents.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (x) if the then-current 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 or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, pursuant to this Agreement as of such date.

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

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

"**Bank Product**" means any of the following products, services or facilities extended to any Credit Party or any Subsidiary by any Bank Product Provider: (a) cash management services; and (b) commercial credit card, purchase card and merchant card services; provided, however, that for any of the foregoing to be included as "Secured Obligations" for purposes of a distribution under Section 1.11(c), the applicable Bank Product Provider must have previously provided a written notice to the Administrative Agent which shall provide the following information: (i) the existence of such Bank Product and (ii) the maximum dollar amount of obligations arising thereunder, which must be satisfactory to both Agents in their sole discretion (the "Bank Product Amount"). The Bank Product Amount may be changed from time to time upon written notice to each Agent by the Bank Product Provider. Any Bank Product established from and after the time that the Lenders have received written notice from the Borrowers or the Administrative Agent that an Event of Default exists and is continuing, until such Event of Default has been waived in accordance with Section 9.1, shall not be included as "Secured Obligations" for purposes of a distribution under Section 1.11(c).

"**Bank Product Amount**" has the meaning set forth in the definition of Bank Product.

"**Bank Product Debt**" means the Indebtedness and other obligations of any Credit Party or Subsidiary relating to Bank Products.

"**Bank Product Provider**" means any Person that provides Bank Products to a Credit Party or any Subsidiary to the extent that such Person is a Lender, an Affiliate of a Lender or any other Person that was a Lender (or an Affiliate of a Lender) at the time it entered into the Bank

Product but has ceased to be a Lender (or whose Affiliate has ceased to be a Lender) under this Agreement.

"**Bankruptcy Code**" means the Federal Bankruptcy Reform Act of 1978 (11 U.S.C. §101 *et seq.*, as amended and in effect from time to time.

"**Base Rate**" for any day the greatest of (a) 2.50% per annum, (b) the Federal Funds Rate plus 0.5%, (c) the Prime Rate, and (d) the Adjusted Term SOFR Rate for a one-month tenor in effect on such date plus 1.0%; provided that for purposes of determining the Base Rate during any period that the Term SOFR Screen Rate is unavailable (as determined by the Administrative Agent), the Base Rate shall be determined using, for clause (d) hereof, the Term SOFR Screen Rate in effect immediately prior to the Term SOFR Screen Rate becoming unavailable plus, in each instance.

"**Base Rate Loan**" means a Loan that bears interest based on the Base Rate.

"BE Facility Agreement" means, collectively, the transactions contemplated by that certain Loan Agreement between Viking Cake and BEL 44, LLC, an Arizona limited liability company ("BE Lending"), together with its successors and assigns, dated as of February 23, 2023 (the "BE Loan Agreement"), the Promissory Note of Viking Cake in favor of BE Lending dated February 23, 2023 in the maximum principal amount of $10,000,000, the "Deed of Trust", "Guaranty", "Mortgage", "Environmental Indemnity Agreement" and each of the other "Loan Documents", as each such term is defined in the BE Loan Agreement.

"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 1.12.

"Benchmark Replacement" means either of the following to the extent selected by the Administrative Agent:

(1) Daily Simple SOFR; or

(2) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower Representative 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.

If the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor for SOFR Rate Loans, the Benchmark Replacement will be deemed to be

the Floor for SOFR Rate Loans 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 pursuant to clause (2) thereof for any applicable Interest Period and Available Tenor for any setting of such 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 Representative for the applicable Benchmark giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for U.S. dollar-denominated syndicated credit facilities that are substantially similar to the credit facilities under this Agreement.

"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 the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (c) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

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

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

(a) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation

thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

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

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

"Benchmark 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 1.12 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 1.12.

"**Beneficial Ownership Certification**" means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation, which certification shall be in form and substance reasonably acceptable to Administrative Agent, and as of the Closing Date, substantially similar in form and substance to the form of Certification Regarding Beneficial Owners of Legal Entity Customers published jointly in May 2018 by the Loan Syndications and Trading Association and Securities Industry and Financial Markets Association.

"**Beneficial Ownership Regulation**" means 31 C.F.R. § 1010.230.

"**Board of Directors**" means, for any Person, the board of directors (or equivalent governing body) of such Person or, if such Person does not have such a board of directors (or equivalent governing body) and is owned or managed by another entity or entities, the board of directors (or equivalent governing body) of such entity or entities.

"**Borrowing**" means a borrowing hereunder consisting of Loans made to or for the benefit of the Borrowers on the same day by the Lenders pursuant to Article I.

"**Business Day**" means any day that is not a Saturday, Sunday or a day on which banks are required or authorized to close in New York City; provided that, when used in connection with SOFR, Term SOFR, Term SOFR Screen Rate or Term SOFR Rate, the term "Business Day" excludes any day on which the Securities Industry and Financial Markets Association (SIFMA) recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"**Capital Adequacy Regulation**" means any guideline, request or directive of any central bank or other Governmental Authority, or any other law, rule or regulation, whether or not having the force of law, in each case, regarding capital adequacy of any Lender or of any corporation controlling a Lender.

"**Capital Lease**" means, with respect to any Person, any lease of, or other arrangement conveying the right to use, any Property by such Person as lessee that has been or should be accounted for as a capital lease on a balance sheet of such Person prepared in accordance with GAAP, subject to the last sentence of Section 11.3.

"**Capital Lease Obligations**" means, at any time, with respect to any Capital Lease, any lease entered into as part of any sale leaseback transaction of any Person or any synthetic lease, the amount of all obligations of such Person that is (or that would be, if such synthetic lease or other lease were accounted for as a Capital Lease) capitalized on a balance sheet of such Person prepared in accordance with GAAP, subject to the last sentence of Section 11.3.

"**Cash Equivalents**" means (a) any readily-marketable securities (i) issued by, or directly, unconditionally and fully guaranteed or insured by the United States federal government or (ii) issued by any agency of the United States federal government the obligations of which are fully backed by the full faith and credit of the United States federal government, (b) any readily-marketable direct obligations issued by any other agency of the United States federal government, any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case having a rating of at least "A-1" from S&P or at least "P-1" from Moody's, (c) any commercial paper rated at least "A-1" by S&P or "P-1" by Moody's and issued by any Person organized under the laws of any state of the United States, (d) any Dollar-denominated time deposit, insured certificate of deposit, overnight bank deposit or bankers' acceptance issued or accepted by (i) any Lender or (ii) any commercial bank that is (A) organized under the laws of the United States, any state thereof or the District of Columbia, (B) "adequately capitalized" (as defined in the regulations of its primary federal banking regulators) and (C) has Tier 1 capital (as defined in such regulations) in excess of $250,000,000 and (e) shares of any United States money market fund that (i) has substantially all of its assets

invested continuously in the types of investments referred to in clause (a), (b), (c) or (d) above with maturities as set forth in the proviso below, (ii) has net assets in excess of $500,000,000 and (iii) has obtained from either S&P or Moody's the highest rating obtainable for money market funds in the United States; provided, however, that the maturities of all obligations specified in any of clauses (a), (b), (c) or (d) above shall not exceed 365 days.

"Cash Interest Portion" means, with respect to each interest payment on each Interest Payment Date, an amount equal to accrued interest on such Interest Payment Date minus the PIK Amount.

"**Class**" (a) when used with respect to Commitments, refers to whether such Commitment is a Term Loan Commitment, Delayed Draw Term Loan Commitment, Incremental Delayed Draw Term Loan Commitment or Extended Term Loan Commitment, (b) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are initial Term Loans, Delayed Draw Term Loans, Incremental Delayed Draw Term Loans or Extended Term Loans that result from the same Extension, and (c) when used with respect to any Lender, refers to whether such Lender has a Loan or Commitment with respect to a particular Class of Loans or Commitments. Notwithstanding the foregoing, Commitments (and in each case, the Loans made pursuant to such Commitments) that have identical terms and conditions shall be construed to be in the same Class.

"**Closing Date**" means April 29, 2022.

"**Closing Leverage**" means 4.91:1.00.

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

"**Collateral**" means all Property and interests in Property and proceeds thereof now owned or hereafter acquired by any Credit Party in or upon which a Lien is granted, purported to be granted, or now or hereafter exists in favor of any Lender or Collateral Agent for the benefit of Agents, Lenders and other Secured Parties, whether under this Agreement or under any other documents executed by any Credit Party and delivered to Collateral Agent. Notwithstanding the foregoing, Collateral shall not include Excluded Collateral (as defined in the Guaranty and Security Agreement).

"**Collateral Access Agreement**" means any landlord waiver or other agreement, in form or substance satisfactory to the Agents, between the Collateral Agent and any third party (including any landlord, bailee, consignee, customs broker, or other Person) in possession of any Collateral or acting as landlord of any real property where any Collateral is located, as such landlord waiver or other agreement may be amended, restated, supplemented or otherwise modified from time to time.

"**Collateral Documents**" means, collectively, the Guaranty and Security Agreement, the Mortgages, each Collateral Access Agreement, each Control Agreement and all other security agreements, pledge agreements, patent and trademark security agreements, lease assignments, guaranties and other similar agreements, and all amendments, restatements, modifications or

supplements thereof or thereto, by or between any one or more of any Credit Party pledging or granting a lien on Collateral or guaranteeing the payment and performance of the Obligations, and any Lender or Agent for the benefit of Agents, the Lenders and other Secured Parties now or hereafter delivered to the Lenders or Agents pursuant to or in connection with the transactions contemplated hereby, and all financing statements (or comparable documents now or hereafter filed in accordance with the UCC or comparable law) against any such Person as debtor in favor of any Lender or Agent for the benefit of Agents, the Lenders and the other Secured Parties, as secured party, as any of the foregoing may be amended, restated and/or modified from time to time.

"**Commitment**" means, for each Lender, the sum of its Term Loan Commitment and Delayed Draw Term Loan Commitment (or Incremental Delayed Draw Term Loan Commitment, as the case may be).

"**Commitment Percentage**" means, as to any Lender, the percentage equivalent of such Lender's Term Loan Commitment or Delayed Draw Term Loan Commitment or Incremental Delayed Draw Term Loan Commitment, as the case may be, divided by the Aggregate Term Loan Commitment and Delayed Draw Term Loan Commitment or Incremental Delayed Draw Term Loan Commitment, as the case may be, as applicable; provided that after any Term Loan, Delayed Draw Term Loan or Incremental Delayed Draw Term Loan has been funded, Commitment Percentages shall be determined for such Term Loan (including any funded Delayed Draw Term Loan and Incremental Delayed Draw Term Loan) by reference to the outstanding principal balances thereof as of any date of determination rather than the Commitments therefor; provided, further, that following acceleration of the Loans, such term means, as to any Lender, the percentage equivalent of the principal amount of the Loans held by such Lender, divided by the aggregate principal amount of the Loans held by all Lenders.

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

"**Common Units**" has the meaning given such term in the A&R Holdings LLC Agreement as in effect on the Closing Date.

"Conforming Changes" means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "Term SOFR Screen Rate", the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 1.12 and other technical, administrative or operational matters) that the Administrative Agent decide 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 decide that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determine that no

market practice for the administration of any such rate exists, in such other manner of administration as the Administrative Agent decide 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 income (however denominated) or that are franchise Taxes or branch profit Taxes.

"**Consolidated EBITDA**" means, for any Measurement Period, for any Person, without duplication, an amount equal to Consolidated Net Income for such period plus (a) the following to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges for such period, (ii) the provision for federal, state, local and foreign income taxes (and franchise tax in the nature of income tax) payable by such Person for such period, (iii) depreciation and amortization expense, (iv) other non-cash items of such Person reducing Consolidated Net Income which do not represent a cash item in such period or any future period (and excludes write-downs of accounts and inventory), (v) any extraordinary, exceptional, unusual or non-recurring items, charges, expenses or losses not otherwise described or contemplated under any of the other numbered clauses or sub-clauses including initial public offering expenses and costs and expenses related to growth objectives; provided that (A) such items, charges, expenses or losses are reasonably identifiable, factually supportable and described in a reasonably detailed statement certified by a Responsible Officer of the Borrower Representative and (B) the aggregate amount added back pursuant to this clause (v) plus the amount added back pursuant to clause (ix) below shall not exceed twenty percent (20.0%) of Consolidated EBITDA for any Measurement Period (without giving effect to such addbacks), (vi) an amount equal to the difference between Rental Expense as determined pursuant to GAAP and Rental Expense as determined on a cash basis (if GAAP basis Rental Expense is greater than cash basis Rental Expense), (vii) an amount equal to the pre-opening costs of each Store opened and incurred during such Measurement Period not to exceed $125,000 per Store, (viii) transaction fees, costs and expenses incurred and paid (A) to the Agents, Lenders or their counsel in connection with any amendment or waiver of the Loan Documents; (B) to counsel on behalf of the Credit Parties in connection with the BE Facility Agreement, the Cynosure 2023 Preferred Equity Agreement, the Fourth Amendment Related Transactions (including for the avoidance of doubt, and without limitation, the sale and issuance of Series A-1 Preferred Units on May 20, 2024 in order to fund the repurchase of Series A Preferred Units pursuant to and in accordance with the terms and provisions of the Series A Redemption Agreement), the Second Tranche Preferred Unit Redemption and any amendment or waiver of the Loan Documents; and (C) to the Agents, Lenders, holders of Preferred Equity or each's respective counsel in connection with the Fourth Amendment Related Transactions and the Second Tranche Preferred Unit Redemption (including, without limitation, the payment of fees in connection with the aforementioned transactions in the aggregate amount of $4,000,000, as and when paid, pursuant to the Cynosure Fee Letter); provided in each instance that such transaction fees, costs and expenses are reasonably identifiable, and certified by a Responsible Officer of the Borrower Representative, and (ix) new store run rate adjustment equal to $150,000 per store, less actual contribution to Consolidated EBITDA from each such store for the first twelve (12) months after the grand opening, provided, that the amount added back pursuant to this clause (ix), plus the amount added back pursuant to clause (v) above, shall not exceed twenty present (20.0%) of

Consolidated EBITDA for any Measurement Period (without giving effect to such addbacks) minus (b) the following to the extent included in calculating such Consolidated Net Income for such period: (i) Federal, state, local and foreign income tax credits of such Person for such period, (ii) all non-cash items increasing Consolidated Net Income for such period, (iii) any gain from extraordinary items or net gains from disposition of property outside of ordinary course of business, (iv) an amount equal to the difference between Rental Expense as determined on a cash basis and Rental Expense as determined pursuant to GAAP (if cash basis Rental Expense is greater than GAAP basis rental expense), and (v) whether or not included in calculating Consolidated Net Income for such period, the aggregate amount of Restricted Payments under Section 5.8(g) during such period.

"**Consolidated Interest Charges**" means, for any period, for any Person, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of such Person paid in cash (and non- cash to the extent provided below) in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP and (b) the portion of rent expense of such Person with respect to such period under Capital Leases and Synthetic Lease Obligations that is treated as interest in accordance with GAAP. For purposes of calculating Consolidated EBITDA, such Consolidated Interest Charges shall include both cash and any non-cash interest charges. For the avoidance of doubt, the "Yield Maintenance Premium" of up to $27,000,000 paid by Holdings in connection with the conversion of the Subordinated Term Loans to Preferred Equity Obligations as part of the Existing Debt Refinancing Transactions and any paid-in-kind yield on such Preferred Equity Obligations and Existing Preferred Units shall be excluded from the calculation of Consolidated Interest Charges.

"**Consolidated Net Income**" means, for any period, for any Person on a consolidated basis, the net income of such Person for that period determined in accordance with GAAP.

"Consolidated Total Debt" means, at any date of determination, the aggregate principal amount of the outstanding Term Loans and other Funded Indebtedness, in each case for Holdings and the Borrowers on a consolidated basis. For avoidance of doubt, Preferred Equity Obligations and Existing Preferred Units are excluded when calculating Consolidated Total Debt.

"**Contingent Acquisition Consideration**" means any earn-out obligation or similar deferred obligation of a Borrower or any of its Subsidiaries incurred or created in connection with any Permitted Acquisition (as defined in the Credit Agreement prior to the Third Amendment Effective Date).

"**Contingent Obligation**" means, as to any Person, any direct or indirect liability, contingent or otherwise, of that Person: (a) with respect to any Indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (b) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (c) under any Rate

Contracts; (d) to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement; or (e) for the obligations of another Person through any agreement to purchase, repurchase or otherwise acquire such obligation or any Property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another Person. The amount of any Contingent Obligation shall be equal to the outstanding amount of the primary obligation so guarantied or otherwise supported or, if not a fixed and determined amount, the maximum amount so guarantied or supported.

"**Contractual Obligations**" means, as to any Person, any provision of any security issued by such Person or of any agreement, undertaking, contract, indenture, mortgage, deed of trust or other instrument, document or agreement (other than a Loan Document) to which such Person is a party or by which it or any of its Property is bound or to which any of its Property is subject.

"**Control Agreement**" means, with respect to any deposit account, securities account, commodity account, securities entitlement or commodity contract, an agreement, in form and substance reasonably satisfactory to Agents, among Collateral Agent, the financial institution or other Person at which such account is maintained or with which such entitlement or contract is carried and the Credit Party maintaining such account or owning such entitlement or contract, effective to grant "control" (within the meaning of Articles 8 and 9 under the applicable UCC) over such account to Collateral Agent.

"**Conversion Date**" means any date on which the Borrower Representative converts a Base Rate Loan to a Term SOFR Loan or a Term SOFR Loan to a Base Rate Loan.

"**Copyrights**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to copyrights and all mask work, database and design rights, whether or not registered or published, all registrations and recordations thereof and all applications in connection therewith.

"**Credit Parties**" means the Borrowers, Holdings and the other Guarantors and **"Credit Party"** means any of the foregoing.

"**Cynosure 2023 Preferred Equity Agreement**" means that certain Securities Purchase Agreement, dated as of the Third Amendment Effective Date (and as amended by that certain Amendment to Securities Purchase Agreement, dated as of May 20, 2024), providing for the purchase by the investors named therein of $25,000,000 of Preferred Equity of Holdings on the Third Amendment Effective Date and an additional $10,000,000 of such Preferred Equity on or prior to the Fourth Amendment Effective Date, all on terms and conditions set forth in such agreement.

"**Cynosure Fee Letter**" means that certain fee letter by and among Holdings, Cynosure Partners 2020, LP, Cynosure Partners 2020 PV, LP, Cynosure Partners 2020 Co-Investment LLC, Cynosure Partners III, LP, Riverside Credit Solutions Fund I, LP and RCS I Blocker I, LLC, dated on or about the Fourth Amendment Effective Date.

"Daily Simple SOFR" means for any day, an interest rate per annum equal to SOFR plus 0.11448% (11.448 basis points), 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 their reasonable discretion.

"**Davis Services Agreement**" means that certain Services Agreement, dated as of March 23, 2023, by and between Holdings and Mark Davis, as in effect on the Fourth Amendment Effective Date.

"**Default**" means any event or circumstance that, with the passing of time or the giving of notice or both, would (if not cured or otherwise remedied during such time) become an Event of Default.

"Delayed Draw Availability Period" means the period beginning on the Fourth Amendment Effective Date and ending on the earlier to occur of (a) ~~September 30~~March 31, 202~~5~~6 and (b) the date upon which the Delayed Draw Term Loan Commitment shall have been fully funded or reduced to zero ($0.00) by the Borrowers in accordance with Section 1.7(b).

"Delayed Draw Term Facility" means the Delayed Draw Term Loan Commitments and the Delayed Draw Term Loans provided to or for the benefit of the Borrower pursuant to the terms of this Agreement.

"Delayed Draw Term Lender" means any Lender with a Delayed Draw Term Loan Commitment or an outstanding Delayed Draw Term Loan.

"Delayed Draw Term Loan" means any term loan made by the Delayed Draw Term Lenders to the Borrower pursuant to Section 1.1(c).

"Delayed Draw Term Loan Commitment" means, with respect to each Delayed Draw Term Lender, the commitment of such Delayed Draw Term Lender to make a Delayed Draw Term Loan hereunder in an aggregate amount not to exceed the applicable amount set forth opposite such Delayed Draw Term Lender's name on Schedule 1.1 attached to the Fifth Amendment or in the Assignment pursuant to which such Delayed Draw Term Lender becomes a party hereto, as the same may be (a) reduced from time to time pursuant to Section 1.7, (b) increased from time to time pursuant to Section 1.14 or (c) reduced or increased from time to time pursuant to assignments by or to such Delayed Draw Term Lender pursuant to Section 9.8. ~~The~~ After giving effect to the increase in the Delayed Draw Term Loan Commitment by the $10,000,000 Fifth Amendment Delayed Draw Term Loan Commitment Increase Amount, the ~~aggregate~~ amount of the Delayed Draw Term Lenders' Delayed Draw Term Loan Commitments on the ~~Fourth~~ Fifth Amendment Effective Date is $25,000,000. The Delayed Draw Term Loan Commitment of each Delayed Draw Term Lender shall expire on the last day of the Delayed Draw Availability Period if not funded in accordance with Section 1.1(c).

"Delayed Draw Term Loan Funding Fee" means a fee payable from proceeds of each Delayed Draw Term Loan and Incremental Delayed Draw Term Loan in an amount equal to (i) in connection with the first $15,000,000 principal amount of Delayed Draw Term Loans and Incremental Delayed Draw Term Loans funded on or after the Fifth Amendment Effective Date, one percent (1.00%) of such Delayed Draw Term Loan or Incremental Delayed Draw Term Loan, as applicable~~.~~ and (ii) in connection with the last $10,000,000 principal amount of Delayed Draw Term Loans and Incremental Delayed Draw Term Loans funded after the Fifth Amendment Effective Date, three-quarters of one percent (0.75%) of such Delayed Draw Term Loan or Incremental Delayed Draw Term Loan, as applicable.

"**Development Overview Report**" means the Development Overview Report in the form delivered by the Borrower Representative to the Lenders prior to the Closing Date.

"**Disposition**" means the sale, lease, conveyance or other disposition of Property.

"**Disqualified Stock**" means any Stock or Stock Equivalent which, by its terms (or by the terms of any security or other Stock into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition, (a) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the date that is ninety-one (91) days following the final maturity date of the Term Loans at the time of issuance (excluding any provisions requiring redemption upon a "change of control" or similar event; provided that such "change of control" or similar event would result in the prior payment in full in cash of the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted), the termination of all commitments to lend hereunder and the termination of this Agreement), (b) is convertible into or exchangeable for (i) debt securities or (ii) any Stock or Stock Equivalents referred to in clause (a) above, in each case, at any time on or prior to the date that is ninety-one (91) days following the final maturity date of the Term Loans at the time of issuance, or (c) is entitled to receive scheduled dividends or distributions in cash (except for distributions for taxes attributable to the operations of the business) prior to the time that the Obligations (other than contingent indemnification obligations to the extent no claim giving rise thereto has been asserted) are paid in full in cash.

"**Division**" means, in reference to any Person which is an entity, the division of such Person into two (2) or more separate Persons with the dividing Person either continuing or terminating its existence as part of the division including as contemplated under Section 18-217 of the Delaware Limited Liability Act for limited liability companies formed under Delaware law or any analogous action taken pursuant to any applicable law with respect to any corporation, limited liability company, partnership or other entity. The word "***Divide***", when capitalized shall have correlative meaning.

"**Dollars**", "**dollars**" and "**$**" each mean lawful money of the United States.

"**Domestic Subsidiary**" means any Subsidiary incorporated, organized or otherwise formed under the laws of the United States, any state thereof or the District of Columbia.

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

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

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

"**E-Fax**" means any system used to receive or transmit faxes electronically.

"**E-Signature**" means the process of attaching to or logically associating with an Electronic Transmission an electronic symbol, encryption, digital signature or process (including the name or an abbreviation of the name of the party transmitting the Electronic Transmission) with the intent to sign, authenticate or accept such Electronic Transmission.

"**E-System**" means any electronic system approved by Agents, including DebtX, Syndtrak®, Intralinks® and ClearPar® and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by Agents, any of its Related Persons or any other Person, providing for access to data protected by passcodes or other security system.

"**Electronic Transmission**" means each document, instruction, authorization, file, information and any other communication transmitted, posted or otherwise made or communicated by e-mail or E-Fax, or otherwise to or from an E-System.

"**Environmental Laws**" means all Requirements of Law relating to the protection of human health and safety (from exposure to Hazardous Materials), the environment and natural resources, and including transaction-triggered environmental transfer statutes.

"**Environmental Liabilities**" means all Liabilities (including costs of Remedial Actions, natural resource damages and costs and expenses of investigation and feasibility studies, including the reasonable and documented cost of environmental consultants and Attorney Costs) that may be imposed on, incurred by or asserted against any Credit Party or any Subsidiary of any Credit Party as a result of, or related to, any written claim, suit, action, investigation, proceeding or written demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law or otherwise, arising under any Environmental Law, including without limitation those Liabilities arising in connection with any Release and resulting from the ownership, lease, sublease or other operation or occupation of Real Estate by any Credit Party or any Subsidiary of any Credit Party, whether on, prior or after the date hereof.

"**Equity Contribution**" means all amounts received by Holdings or any of the other Credit Parties in consideration of the issuance by any of them of any Stock or Stock Equivalents.

"**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

"**ERISA Affiliate**" means, collectively, any Credit Party, any Subsidiary of a Credit Party, and any Person under common control or treated as a single employer with any Credit Party or any Subsidiary of a Credit Party, within the meaning of Section 414(b) or (c) of the Code (and, for purposes of Section 302 of ERISA and each "applicable section" under Section 414(t)(2) of the Code, under Section 414(b), (c), (m) or (o) of the Code).

"**ERISA Event**" means any of the following: (a) a reportable event described in Section 4043(c) of ERISA (unless the 30-day notice requirement has been duly waived under the applicable regulations) occurs with respect to a Title IV Plan; (b) the withdrawal of any ERISA Affiliate from a Title IV Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (c) liability with respect to the "withdrawal" or "partial withdrawal" (as such terms are defined in Part I of Subtitle E of Title IV of ERISA) of any ERISA Affiliate from any Multiemployer Plan; (d) with respect to any Multiemployer Plan, the filing of a notice of reorganization, insolvency or termination (or treatment of a plan amendment as termination) under Section 4041A of ERISA; (e) the filing of a notice of intent to terminate a Title IV Plan (or treatment of a plan amendment as termination) under Section 4041 of ERISA; (f) the institution of proceedings to terminate a Title IV Plan or Multiemployer Plan by the PBGC; (g) the failure of any ERISA Affiliate to make any required contribution to any Title IV Plan or Multiemployer Plan unless such failure is cured within thirty (30) days; (h) the imposition of a Lien under Section 412 or 430(k) of the Code or Section 303 or 4068 of ERISA on any property (or rights to property, whether real or personal) of any ERISA Affiliate (i) the failure of a Title IV Plan or any trust thereunder intended to qualify for tax exempt status under Section 401 or 501 of the Code; (j) a Title IV plan is in "at risk" status within the meaning of Code Section 430(i); (k) a Multiemployer Plan is in "endangered status" or "critical status" within the meaning of Section 432(b) of the Code; and (l) any other event or condition that would reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Title IV Plan or Multiemployer Plan or for the imposition of any material liability upon any ERISA Affiliate under Title IV of ERISA other than for PBGC premiums due but not delinquent.

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

"**Event of 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.

"**Excess Cash Flow Reference Period**" means, on any date of determination, the period commencing on the first day of the immediately preceding Fiscal Year and ending on the last day of such Fiscal Year.

"**Excluded Domestic Holdco**" means a Domestic Subsidiary substantially all of the assets of which consist, directly or indirectly of Stock (or Stock and indebtedness) of one or more Foreign Subsidiaries or Excluded Domestic Subsidiaries.

"**Excluded Domestic Subsidiary**" means any Domestic Subsidiary that is (a) a direct or indirect Subsidiary of a Foreign Subsidiary, (b) an Excluded Domestic Holdco, (c) a captive insurance company, and (d) a not-for-profit Subsidiary.

"**Excluded Person**" means (a) any Credit Party or any Subsidiary or Affiliate thereof, (b) any Founder Group Member or Affiliate thereof and (c) any other natural person. Until the disclosure of the identity of an Excluded Person to the Lenders generally by the Administrative Agent, such Person shall not constitute an Excluded Person for purposes of a sale of a participation in a Loan (as opposed to an assignment of a Loan) by a Lender.

"**Excluded Rate Contract Obligation**" means, with respect to any Guarantor, any guarantee of any Swap Obligations under a Secured Rate Contract if, and only to the extent that and for so long as, 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 under a Secured Rate Contract (or any guarantee thereof) is or becomes illegal or unlawful 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 to constitute an "eligible contract participant" as defined in the Commodity Exchange Act at the time the guarantee of such Guarantor or the grant of such security interest would otherwise have become effective with respect to such Swap Obligation under a Secured Rate Contract but for such Guarantor's failure to constitute an "eligible contract participant" at such time. If a Swap Obligation under a Secured Rate Contract arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation under a Secured Rate Contract that is attributable to swaps for which such guarantee or security interest is or becomes illegal or unlawful 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).

"**Excluded Subsidiary**" means (a)(i) any Excluded Domestic Subsidiary described in clauses (a) and (b) of the definition thereof and (ii) any Foreign Subsidiary, and (b) any Domestic Subsidiary that is prohibited by law, rule or regulation from providing a guaranty.

"**Excluded Taxes**" means with respect to any Recipient: (a) Taxes imposed on or measured by net income (however denominated) and franchise Taxes and branch profits taxes, in each case (i) imposed on any Recipient as a result of 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 to the extent

imposed pursuant to a Requirement of Law in effect on the date that such Person became a Lender under this Agreement (other than pursuant to Section 9.22) or designates a new Lending Office, except in each case to the extent such Person is a direct or indirect assignee of any other Lender that was entitled, at the time the assignment to such Person became effective, to receive additional amounts under Section 10.1(b) or such Lender was entitled to receive additional amount under Section 10.1(b) immediately before it changed its Lending Office; (c) Taxes that are directly attributable to the failure by any Recipient to deliver the documentation required to be delivered pursuant to Section 10.1(g); (d) any withholding Taxes imposed under FATCA; and (e) Taxes excluded from the definition of Other Taxes.

"**Existing Debt Agreements**" means, collectively, (a) that certain Credit Agreement, dated as of June 29, 2021, by and among Holdings, and the Borrowers, as borrowers or guarantors, and Bank Midwest, a division of NHB Bank, as Administrative Agent for the Lenders named therein, as amended, supplemented or otherwise modified prior to the Closing Date, (b) the Subordinated Term Loan Agreement.

"**Existing Debt Refinancing Transactions**" means the refinancing, repayment (and, in the case of the Subordinated Term Loan Agreement, conversion to Preferred Equity) of the Indebtedness outstanding under the Existing Debt Agreements, the termination of all commitments under the Existing Debt Agreements and termination and release of any and all Liens and guarantees in connection therewith.

"Existing Preferred Units" means the aggregate 19,974,660 Preferred Units held by Viking Cake BR as of immediately prior to the Fourth Amendment Effective Date.

"Extraordinary Receipts" shall mean any cash received by any Credit Party consisting of (a) pension plan reversions, (b) judgments, proceeds of settlements or other consideration of any kind in connection with any cause of action (other than to the extent such proceeds are (i) payable to a Person that is not an Affiliate of Holdings or any of its Subsidiaries, or (ii) received by any Credit Party as reimbursement for any costs previously incurred or any payment previously made by such Person to a Person that is not an Affiliate of Holdings or any of its Subsidiaries (c) indemnity payments (other than to the extent such indemnity payments are (i) payable to a Person that is not an Affiliate of Holdings or any of its Subsidiaries, or (ii) received by any Credit Party as reimbursement for any costs previously incurred or any payment previously made by such Person to a Person that is not an Affiliate of Holdings or any of its Subsidiaries and (d) any purchase price adjustment (other than working capital adjustments) received in connection with any purchase agreement.

"**Facility Termination Date**" means the date on which (a) all Commitments have terminated and (b) all Loans and all other Obligations (excluding contingent indemnification Obligations as to which no claim has been asserted) under the Loan Documents and, solely for purposes of Section 8.10(b)(v), all Secured Obligations arising under Secured Rate Contracts (other than those for which the Borrowers have entered into an alternative arrangement with the provider of such Secured Rate Contract acceptable thereto), that Agents have theretofore been notified in writing by the holder of such Secured Obligation are then due and payable have been paid and satisfied in full and all Secured Obligations arising under Bank Products provided by a

Bank Product Provider that the Agents have theretofore been notified in writing by the holder of such Secured Obligation are then due and payable, in each case, have been paid and satisfied in full in cash.

"**FATCA**" means Sections 1471, 1472, 1473 and 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), current or future United States Treasury Regulations promulgated thereunder and published guidance or official interpretations with respect thereto, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any applicable intergovernmental agreements with respect thereto (including any fiscal or regulatory legislation, rules or practices adopted pursuant to any such intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code).

"**Federal Flood Insurance**" means federally backed Flood Insurance available under the National Flood Insurance Program to owners of real property improvements located in Special Flood Hazard Areas in a community participating in the National Flood Insurance Program.

"**Federal Funds Rate**" means, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System as published on the next succeeding Business Day by the Federal Reserve Board, or, if such rate is not so published for any day that is a Business Day, the average of the quotations for the day of such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"**Federal Reserve Board**" means the Board of Governors of the Federal Reserve System, or any entity succeeding to any of its principal functions.

"**FEMA**" means the Federal Emergency Management Agency, a component of the U.S. Department of Homeland Security that administers the National Flood Insurance Program.

"Fifth Amendment" means that certain Fifth Amendment to Credit Agreement, dated as of the Fifth Amendment Effective Date, by and among, the Credit Parties, the Lenders and the Agents.

"Fifth Amendment Delayed Draw Term Loan Commitment Increase Amount" means $10,000,000.

"Fifth Amendment Effective Date" means April 24, 2025.

"Fifth Amendment Fee Letter" means that certain Fifth Amendment Fee letter agreement dated as of the Fifth Amendment Effective Date among the Borrower Representative (on behalf of the Borrowers) and the Agents.

"**FIRREA**" means the Financial Institutions Reform, Recovery and Enforcement Act of 1989.

"**Fiscal Month**" means any of the monthly accounting periods of the Credit Parties ending on January 31, February 28 (or February 29, if applicable), March 31, April 30, May 31, June 30, July 31, August 31, September 30, October 31, November 30 and December 31 of each year.

"**Fiscal Quarter**" means any of the quarterly accounting periods of the Credit Parties ending on March 31, June 30, September 30 and December 31 of each year.

"**Fiscal Year**" means any of the annual accounting periods of the Credit Parties ending on December 31 of each year.

"**Flood Insurance**" means, for any Real Estate of a Credit Party located in a Special Flood Hazard Area, Federal Flood Insurance or private insurance reasonably satisfactory to Collateral Agent, in either case, that (a) meets the requirements set forth by FEMA in its *Mandatory Purchase of Flood Insurance Guidelines*, and (b) shall have a coverage amount equal to the lesser of (i) the "replacement cost value" of the buildings and any personal property Collateral located on the Real Estate as determined under the National Flood Insurance Program or (ii) the maximum policy limits set under the National Flood Insurance Program.

"Floor" means, with respect to SOFR Rate Loans, a rate of interest equal to 1.00%, and with respect to Base Rate Loans, a rate of interest equal to 2.50%.

"**Foreign Subsidiary**" means, with respect to any Person, a Subsidiary of such Person, which Subsidiary is not a Domestic Subsidiary.

"Fourth Amendment" means that certain Fourth Amendment and Limited Waiver to Credit Agreement, dated as of the Fourth Amendment Effective Date, by and among, the Credit Parties, the Lenders and the Agents.

"**Fourth Amendment Effective Date**" means May 31, 2024.

"Fourth Amendment Fee Letter" means that certain Fourth Amendment Fee letter agreement dated as of the Fourth Amendment Effective Date among the Borrower Representative (on behalf of the Borrowers) and the Agents.

"Fourth Amendment Related Transactions" means, collectively, (a) the execution and delivery by the Credit Parties of the Fourth Amendment and other Loan Documents executed in connection therewith; (b) the Borrowing of the Fourth Amendment Term Loans; (c) the execution and delivery by the Credit Parties of (i) the A&R Holdings LLC Agreement, (ii) the Series A Redemption Agreement and (iii) the Cynosure Fee Letter, (d) the redemption by Holdings of $10,000,000 of Existing Preferred Units pursuant to and in accordance with the terms and provisions of the aforementioned Series A Redemption Agreement; and (e) the payment of all fees, costs and expenses in connection with the foregoing (including, without limitation, the payment of fees in the amount of $1,500,000 pursuant to the Cynosure Fee Letter).

"**Fourth Amendment Term Lender**" means each Lender that has a Fourth Amendment Term Loan Commitment.

"**Fourth Amendment Term Loan Commitment**" as to each Fourth Amendment Term Lender, its obligation to make a Term Loan to the Borrowers hereunder, expressed as an amount in dollars representing the maximum principal amount of such Term Loan to be made by such Fourth Amendment Term Lender under this Agreement, as such commitment may be reduced or increased from time to time pursuant to assignments by or to such Fourth Amendment Term Lender pursuant to an Assignment. The initial amount of each Fourth Amendment Term Lender's Fourth Amendment Term Loan Commitment is set forth on Schedule 1.1(a) under the caption "Fourth Amendment Term Loan Commitment" or, otherwise, in the Assignment pursuant to which such Fourth Amendment Term Lender shall have assumed its Fourth Amendment Term Loan Commitment, as the case may be. The aggregate amount of the Fourth Amendment Term Loan Commitment on the Fourth Amendment Effective Date is $12,500,000. The Fourth Amendment Term Loan Commitment of each Fourth Amendment Term Lender set forth on Schedule 1.1(a) as in effect on the Fourth Amendment Effective Date shall expire on the Fourth Amendment Effective Date if not funded in accordance with Section 1.1(b) on the Fourth Amendment Effective Date.

"**Founder Group Members**" means, severally, any of Viking Cake BR, Jeffrey Hernandez, Daniel Brand, Jake Spellmeyer, Bryan Pereboom and, with respect to each individual, their spouse and any trust under which such individual or their spouse are trustees or beneficiaries.

"Founder Group Members Pledge Agreements" means, collectively, (i) the Limited Guaranty and Pledge Agreement of Viking Cake BR in favor of the Collateral Agent, dated as of April 29, 2022, (ii) the Second Amended and Restated Limited Guaranty and Pledge Agreements of Daniel Brand, Jeffrey Hernandez, Jake Spellmeyer and Bryan Pereboom, each in favor of the Collateral Agent, and each dated as of the Fourth Amendment Effective Date and (iii) the Limited Guaranty and Pledge Agreements of Vahalda, LLC and Aureata, LLC, each in favor of the Collateral Agent, and each dated as of January 13, 2023, as each of the foregoing may be amended, restated, amended and restated, supplemented and/or otherwise modified from time to time.

"**Franchise Agreement**" means an agreement entered into by any Credit Party pursuant to which such Credit Party as Franchisor agrees to allow a Franchisee to operate a coffee shop using the "Black Rock Coffee Bar" concepts.

"**Franchisee**" means each third party unaffiliated coffee shop operator identified as a franchisee in any Franchise Agreement.

"**Franchised Store Locations**" means, collectively, the property comprising franchised Store locations described in Part (b) of Schedule 3.27 (as such Schedule may be updated from time to time).

"**Franchisor**" means any Credit Party that is party to a Franchise Agreement.

"**Funded Indebtedness**" means, as of any date of measurement, all Indebtedness of Holdings and its Subsidiaries as of the date of measurement (other than Indebtedness of the type described in clauses (e), (h), (j) (with respect to Indebtedness described in clauses (e) and (h) in the definition of Indebtedness) and (k) (other than with respect to clause (k), guaranties of Indebtedness of others of the type not described in clauses (e), (h) and (j) of the definition of Indebtedness) of the definition of Indebtedness; provided that Letters of Credit shall only be treated as Funded Indebtedness to the extent drawn and unreimbursed.

"**GAAP**" means generally accepted accounting principles in the United States, as in effect from time to time, set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants, in the statements and pronouncements of the Financial Accounting Standards Board (or agencies with similar functions and comparable stature and authority within the accounting profession) that are applicable to the circumstances as of the date of determination. Subject to Section 11.3, all references to "GAAP" shall be to GAAP applied consistently throughout the relevant period, except as expressly noted in the relevant financial statements.

"**Governmental Authority**" means any nation, sovereign or government, any state or other political subdivision thereof, any agency, authority or instrumentality thereof and any entity or authority exercising executive, legislative, taxing, judicial, regulatory or administrative functions of or pertaining to government, including any central bank, stock exchange, regulatory body, arbitrator, public sector entity, supra-national entity (including the European Union and the European Central Bank) and any self-regulatory organization (including the National Association of Insurance Commissioners).

"**Guarantors**" means collectively, (a) Holdings, (b) each Borrower (in each case, other than with respect to its own obligations), (c) each Subsidiary and any Person that from time to time guarantees any Secured Obligations. For purposes of clarity, Excluded Subsidiaries shall not be deemed to be Guarantors.

"**Guaranty and Security Agreement**" means that certain Guaranty and Security Agreement, dated as of even date herewith, in form and substance reasonably acceptable to Agents and the Borrowers, made by the Credit Parties in favor of Collateral Agent, for the benefit of the Secured Parties, as the same may be amended, restated and/or modified from time to time.

"**Hazardous Material**" means any substance, material or waste that is classified, regulated or otherwise characterized under any Environmental Law as hazardous, toxic, a contaminant or a pollutant or by other words of similar meaning or regulatory effect, including petroleum or any fraction thereof, asbestos, polychlorinated biphenyls and radioactive substances.

"Holdings Pledge Agreements" means, collectively, the Limited Guaranty and Pledge Agreements of each Holdings Pledgor in favor of (and in form and substance satisfactory in the sole discretion of) the Collateral Agent, as the same may be amended from time to time.

"Holdings Pledgors", means, collectively, each of the following Persons, in each instance, solely to the extent such Person is party to a fully executed, valid and enforceable Holdings Pledge Agreement, and the Collateral Agent has a first priority perfected security interest in the Pledged Collateral (as defined in each such Holdings Pledge Agreement) thereunder: Viking Cake BR, Brand 2021 Irrevocable Trust dated September 10, 2021, Daniel J. Brand 2021 Trust dated September 10, 2021, DJB 2021 Grantor Retained Annuity Trust dated October 6, 2021, Tanya N. Brand 2021 Trust dated September 10, 2021, Hernandez 2021 Irrevocable Trust dated September 10, 2021, Jeffrey R. Hernandez 2021 Trust dated September 10, 2021, Tiffany S. Hernandez 2021 Trust dated September 10, 2021, Bryan D. Pereboom 2021 Trust dated September 10, 2021, Nicole R. Pereboom 2021 Trust dated September 10, 2021, Pereboom 2021 Irrevocable Trust dated September 10, 2021, JRH 2021 Grantor Retained Annuity Trust dated October 4, 2021, Jacob V. Spellmeyer 2021 Trust dated September 10, 2021, Juliet A. Spellmeyer 2021 Trust dated September 10, 2021, Spellmeyer 2021 Irrevocable Trust dated September 10, 2021, Joshua M. Pike 2021 Trust dated September 10, 2021, Shannon R. Pike 2021 Trust dated September 10, 2021.

"**Impacted Lender**" means any Lender that fails to provide Agent, within three (3) Business Days following Agent's written request, written confirmation that such Lender will comply with its prospective funding obligations and otherwise not become a Non-Funding Lender (provided that such Lender shall cease to be an Impacted Lender upon provision of such written confirmation), or any Lender that has a Person that directly or indirectly controls such Lender and such Person (a) becomes subject to a voluntary or involuntary case under the Bankruptcy Code or any similar bankruptcy laws, (b) has appointed a custodian, conservator, receiver or similar official for such Person or any substantial part of such Person's assets, (c) makes a general assignment for the benefit of creditors, is liquidated, or is otherwise adjudicated as, or determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent or bankrupt, or (d) becomes the subject of a Bail-in Action, and for each of clauses (a) through (d), Agent has determined that such Lender is reasonably likely to become a Non-Funding Lender. For purposes of this definition, control of a Person shall have the same meaning as in the second sentence of the definition of Affiliate.

"**Indebtedness**" of any Person means, without duplication: (a) all indebtedness for borrowed money; (b) all obligations issued, undertaken or assumed as the deferred purchase price of Property or services, including earn-outs (other than (i) trade payables entered into or incurred in the Ordinary Course of Business and not more than ninety (90) days past due, (ii) deferred compensation liabilities and (iii) deferred employment bonus liabilities, in each case, incurred and/or accrued in the Ordinary Course of Business); (c) the face amount of all letters of credit issued for the account of such Person and without duplication, all drafts drawn thereunder and all reimbursement or payment obligations with respect to letters of credit, surety bonds and other similar instruments issued by such Person; (d) all obligations evidenced by notes, bonds, debentures or similar instruments, including obligations so evidenced incurred in connection with the acquisition of Property, assets or businesses; (e) all indebtedness created or arising under any conditional sale or other title retention agreement, or incurred as financing, in either case with respect to Property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to

repossession or sale of such Property); (f) all Capital Lease Obligations; (g) the principal balance outstanding under any synthetic lease, off-balance sheet loan or similar off balance sheet financing product; provided, however, that no obligations in respect of any operating lease shall be treated as "Indebtedness" for any purposes under this Agreement solely as a result of its required treatment as Indebtedness under GAAP; (h) all obligations of such Person, whether or not contingent, to purchase, redeem, retire, defease or otherwise acquire for value or make any cash payments in respect of Disqualified Stock, valued at, in the case of redeemable preferred Stock, the greater of the voluntary liquidation preference and the involuntary liquidation preference of such Stock plus accrued and unpaid dividends; (i) obligations under any Rate Contract; (j) all indebtedness referred to in clauses (a) through (i) above secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien upon or in Property (including accounts and contracts rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such indebtedness; (k) all Contingent Obligations described in clause (a) of the definition thereof in respect of indebtedness or obligations of others of the kinds referred to in clauses (a) through (j) above; provided that, if such obligation is limited in recourse against a specific asset, the amount of such Contingent Obligation shall be calculated as the lesser of the obligation so guaranteed or otherwise supported or, if not a fixed and determined amount, the maximum amount so guaranteed or supported and the fair market value of such asset.

"**Indemnified Tax**" means (a) any Tax imposed on or with respect to any payment made by or on account of any obligation of any Credit Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes, in each case, other than Excluded Taxes.

"**Insolvency Proceeding**" means (a) any case, action or proceeding before any court or other Governmental Authority relating to bankruptcy, reorganization, insolvency, liquidation, receivership, dissolution, winding-up or relief of debtors, or (b) any general assignment for the benefit of creditors, composition, marshaling of assets for creditors, or other, similar arrangement in respect of its creditors generally or any substantial portion of its creditors; in each case in (a) and (b) above, undertaken under U.S. federal, state or foreign law, including the Bankruptcy Code.

"**Intellectual Property**" means all rights, title and interests in or relating to intellectual property and industrial property arising under any Requirement of Law and all IP Ancillary Rights relating thereto, including all Copyrights, Patents, Software, Trademarks, Internet Domain Names and Trade Secrets.

"**Interest Payment Date**" means, (a) with respect to any SOFR Rate Loan (other than a SOFR Rate Loan having an Interest Period exceeding (3) months) the last day of each Interest Period applicable to such Loan, (b) with respect to any SOFR Rate Loan having an Interest Period exceeding three (3) months, the last day of each three (3) month interval and, without duplication, the last day of such Interest Period, and (c) with respect to Base Rate Loans, the last Business Day of each Fiscal Quarter.

"**Interest Period**" means, as to any Borrowing, the period commencing on the date of such Loan or Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter (in each case, subject to the availability thereof), as specified in the applicable Notice of Borrowing; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period, (iii) no Interest Period shall extend beyond the Term Loan Maturity Date and (iv) no tenor that has been removed from this definition pursuant to Section 10.5 shall be available for specification in such Notice of Borrowing. For purposes hereof, the date of a Loan or Borrowing initially shall be the date on which such Loan or Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Loan or Borrowing.

"**Internet Domain Name**" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to internet domain names.

"**Inventory**" means all of the "inventory" (as such term is defined in the UCC) of a Borrower and its Subsidiaries, including, but not limited to, all merchandise, raw materials, parts, supplies, work-in-process and finished goods intended for sale, together with all the containers, packing, packaging, shipping and similar materials related thereto, and including such inventory as is temporarily out of a Borrower's or such Subsidiary's custody or possession, including inventory on the premises of others and items in transit.

"**IP Ancillary Rights**" means, with respect to any Intellectual Property, as applicable, all foreign counterparts to, and all divisionals, reversions, continuations, continuations-in-part, reissues, reexaminations, renewals and extensions of, such Intellectual Property and all income, royalties, proceeds and Liabilities at any time due or payable or asserted under or with respect to any of the foregoing or otherwise with respect to such Intellectual Property, including all rights to sue or recover at law or in equity for any past, present or future infringement, misappropriation, dilution, violation or other impairment thereof, and, in each case, all rights to obtain any other IP Ancillary Right.

"**IP License**" means all Contractual Obligations (and all related IP Ancillary Rights), whether written or oral, granting any right, title and interest in or relating to any Intellectual Property.

"**IRS**" means the Internal Revenue Service of the United States and any successor thereto.

"**Las Vegas Franchisee Group Litigation**" has the meaning set forth on Schedule 3.5.

"**Latest Maturity Date**" means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the

latest maturity or expiration date of any Term Loan or any Extended Term Loan, in each case as extended in accordance with this Agreement from time to time.

"**Lead Arrangers"** mean, collectively, Riverside Credit Solutions Fund I, L.P. and TCW Asset Management Company LLC.

"**Leases**" means, collectively, each lease of Real Estate of a Credit Party or a Subsidiary, including each such lease related to a Store or to the operation of the business of the Credit Parties or their Subsidiaries.

"**Lending Office**" means, with respect to any Lender, the office or offices of such Lender specified as its "Lending Office" beneath its name on the applicable signature page hereto, or such other office or offices of such Lender as it may from time to time notify the Borrower Representative and Administrative Agent.

"**Liabilities**" means all claims, actions, suits, judgments, damages, losses, liability, obligations, responsibilities, fines, penalties, sanctions, costs, fees, Taxes, commissions, charges, disbursements and expenses (including, without limitation, those incurred upon any appeal or in connection with the preparation for and/or response to any subpoena or request for document production relating thereto), in each case of any kind or nature (including interest accrued thereon or as a result thereto and fees, charges and disbursements of financial, legal and other advisors and consultants), whether joint or several, whether or not indirect, contingent, consequential, actual, punitive, treble or otherwise.

"**Lien**" means any mortgage, deed of trust, pledge, hypothecation, assignment, charge, deposit arrangement, encumbrance, easement, lien (statutory or otherwise), security interest or other security arrangement and any other preference, priority or preferential arrangement of any kind or nature whatsoever, including any conditional sale contract or other title retention agreement, the interest of a lessor under a Capital Lease and any synthetic or other financing lease having substantially the same economic effect as any of the foregoing.

"**Liquidity**" means the aggregate amount of the Credit Parties' Qualified Cash.

"**Loan**" means any loan made or deemed made by any Lender hereunder.

"**Loan Documents**" means this Agreement, the Notes, the Fee Letter, the Collateral Documents, the Subordination Agreement, the Limited Guaranty and Pledge Agreements, duly executed by each Founder Group Members, the Holdings Pledge Agreements and all documents, instruments or agreements delivered by or on behalf of any Credit Party in favor of the Agents and/or any Lender, each in form satisfactory to the Agents, in connection with any of the foregoing, other than Secured Rate Contracts or agreements relating to Bank Products.

"**Margin Stock**" means "margin stock" as such term is defined in Regulation T, U or X of the Federal Reserve Board.

"**Material Adverse Effect**" means a material adverse change in any of (a) the financial condition, business, operations, prospects or Property of the Credit Parties and their Subsidiaries taken as a whole; (b) the ability of the Credit Parties and their Subsidiaries taken as a whole to perform their obligations under any Loan Document; or (c) the (i) validity or enforceability of any Loan Document or the rights and remedies (taken as a whole) of Collateral Agent, Administrative Agent, the Lenders and the other Secured Parties under any Loan Document and (ii) the perfection or priority of any Liens with respect to the Collateral granted to the Lenders or Collateral Agent for the benefit of the Secured Parties under any Loan Document (except to the extent resulting from an action or failure to act by Collateral Agent).

"**Measurement Period**" means, at any date of determination, the most recently completed four Fiscal Quarters of the Credit Parties ended on or prior to such time (taken as one accounting period) for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(a) or Section 4.1(b), as applicable; provided that, solely for purposes of determining the Fixed Charge Coverage Ratio (or any component definition thereof) for any purposes under the Loan Document in respect of any period ended prior to March 31, 2024, Measurement Period shall mean (i) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of June 30, 2023 but prior to the date specified in clause (ii) below, the one Fiscal Quarter ending as of such date, (ii) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(a) or Section 4.1(b), as applicable, for the Fiscal Quarter ending as of September 30, 2023 but prior to the date specified in clause (iii) below, the two most recently completed Fiscal Quarters ending as of such date (taken as one accounting period), and (iii) at any date of determination occurring on or after the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of December 31, 2023 but prior to the date for which financial statements (including, the applicable Compliance Certificate in connection therewith) have been (or were required to be) furnished pursuant to Section 4.1(b) for the Fiscal Quarter ending as of March 31, 2024, the three (3) most recently completed Fiscal Quarters ending as of such date (taken as one accounting period).

"**Moody's**" means Moody's Investors Service, Inc.

"**Mortgage**" means any deed of trust, leasehold deed of trust, mortgage, leasehold mortgage, deed to secure debt, leasehold deed to secure debt or other document creating a Lien on Real Estate or any interest in Real Estate.

"**Multiemployer Plan**" means any multiemployer plan, as defined in Section 3(37) or 4001(a)(3) of ERISA, as to which any ERISA Affiliate incurs or otherwise has any obligation or liability under ERISA or the Code, contingent or otherwise.

"**National Flood Insurance Program**" means the program created by the U.S. Congress pursuant to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as revised by the National Flood Insurance Reform Act of 1994, that mandates the purchase of flood insurance to cover real property improvements located in Special Flood Hazard Areas in participating communities and provides protection to property owners through a federal insurance program.

"**Net Issuance Proceeds**" means, in respect of any issuance of equity or incurrence of Indebtedness, cash proceeds (including cash proceeds as and when received in respect of non-cash proceeds received or receivable in connection with such issuance), net of underwriting discounts and reasonable out-of-pocket costs and expenses paid or incurred in connection therewith in favor of any Person not an Affiliate of the Borrowers.

"**Net Proceeds**" means proceeds in cash, checks or other cash equivalent financial instruments (including Cash Equivalents) as and when received by the Person making a Disposition, as well as insurance proceeds and condemnation and similar awards received on account of an Event of Loss or otherwise constituting Extraordinary Receipts, net of: (a) in the event of a Disposition (i) the transaction costs, fees and expenses relating to such Disposition excluding amounts payable to the Borrowers or any Affiliate of the Borrowers, (ii) Taxes paid or reasonably estimated to be payable as a result thereof, and (iii) amounts required to be applied to repay principal, interest and prepayment premiums and penalties on Indebtedness (other than the Obligations) secured by a Lien on the asset which is the subject of such Disposition and (b) in the event of an Event of Loss, (i) all money actually applied to repair or reconstruct the damaged Property or Property affected by the condemnation or taking, (ii) all of the costs and expenses reasonably incurred in connection with the collection of such proceeds, award or other payments, (iii) Taxes paid or payable as a result thereof, and (iv) any amounts retained by or paid to parties having superior rights to such proceeds, awards or other payments. After netting out the items in clauses (a) and (b) of the foregoing definition, as applicable, if the amount of Net Proceeds would be less than zero, such amount shall be deemed to be zero.

"**Non-Financing Lease Obligation**" means a lease obligation that is not required to be accounted for as a financing lease or Capital Lease on both the balance sheet and the income statement for financial reporting purposes in accordance with GAAP. For the avoidance of doubt, a straight-line or operating lease shall be considered a Non-Financing Lease Obligation.

"**Non-Funding Lender**" means any Lender that has (a) failed to fund all or any portion of any Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment required to be made by it under the Loan Documents within two (2) Business Days after any such Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment is due (excluding expense and similar reimbursements that are subject to good faith disputes), (b) given written notice (and Agent has not received a revocation in writing), to the Borrower, Administrative Agent, any Lender, or has otherwise publicly announced (and Administrative Agent has not received notice of a public retraction) that such Lender has failed or believes it will fail to fund any Loan or other credit accommodation, disbursement, settlement, reimbursement or other payment required to be funded by it under the Loan Documents or one or

more other syndicated credit facilities or other financing agreements, (c) failed to fund, and not cured, loans, participations, advances, or reimbursement obligations under one or more other syndicated credit facilities or other financing agreements, unless subject to a good faith dispute, or (d) (i) become subject to a voluntary or involuntary case under the Bankruptcy Code or any similar bankruptcy laws, (ii) a custodian, conservator, receiver or similar official appointed for it or any substantial part of such Person's assets, (iii) made a general assignment for the benefit of creditors, been liquidated, or otherwise been adjudicated as, or determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent or bankrupt, or (e) become the subject of a Bail-in Action, and for this clause (e), Administrative Agent has determined that such Lender is reasonably likely to fail to fund any payments required to be made by it under the Loan Documents.

"**Non-U.S. Lender Party**" means each of the Agents, each Lender, each SPV and each participant, in each case that is not a United States person as defined in Section 7701(a)(30) of the Code.

"**Note**" means any Term Note and "**Notes**" means all such Notes.

"**Notice of Borrowing**" means a written notice given by the Borrower Representative to Administrative Agent pursuant to Section 1.5 or 2.1(r), in substantially the form of Exhibit 11.1(b) hereto or such other form approved by the Administrative Agent.

"**Obligations**" means all Loans, and other Indebtedness, advances, debts, liabilities, obligations, covenants and duties owing by any Credit Party to any Lender, Agent or any other Indemnitee, that arises under any Loan Document, whether or not for the payment of money, whether arising by reason of an extension of credit, loan, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired; provided that Obligations of any Guarantor shall not include any Excluded Rate Contract Obligations solely of such Guarantor.

"**Ordinary Course of Business**" means, in respect of any transaction involving any Person, the ordinary course of such Person's business, as conducted by any such Person in accordance with past practice and undertaken by such Person in good faith and not for purposes of evading any covenant or restriction in any Loan Document.

"**Organization Documents**" means, (a) for any corporation, the certificate or articles of incorporation, the bylaws, any certificate of determination or instrument relating to the rights of preferred shareholders of such corporation, and any shareholder rights agreement, (b) for any partnership, the partnership agreement and, if applicable, certificate of limited partnership, (c) for any limited liability company, the operating agreement and articles or certificate of formation or (d) any other document setting forth the manner of election or duties of the officers, directors, managers or other similar persons, or the designation, amount or relative rights, limitations and preference of the Stock of a Person.

"**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 any such connection arising from the Recipient having executed, delivered, become a party to, performed its obligations or received a payment under, received or perfected as 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.

"**Patents**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to letters patent and applications therefor.

"**Patriot Act**" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, P.L. 107-56.

"**PBGC**" means the United States Pension Benefit Guaranty Corporation or any successor thereto.

"**Permits**" means, with respect to any Person, (i) any permit, approval, authorization, license, registration, certificate, concession, grant, franchise, variance or permission from any Governmental Authority or (ii) any other Contractual Obligations with any Governmental Authority, in each case whether or not having the force of law and applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"**Permitted Refinancing**" means Indebtedness constituting a refinancing, replacement or extension of Indebtedness permitted under Section 5.5(c), 5.5(d), 5.5(g), 5.5(o), 5.5(u), or 5.5(v) that (a) has an aggregate outstanding principal amount not greater than the aggregate principal amount of the Indebtedness being refinanced, replaced or extended, (b) has a Weighted Average Life to Maturity (measured as of the date of such refinancing or extension) and maturity no shorter than that of the Indebtedness being refinanced, replaced or extended, (c) is not entered into as part of a sale leaseback transaction, (d) is not secured by a Lien on any assets other than the collateral securing the Indebtedness being refinanced, replaced or extended, (e) to the extent that the holders of such Indebtedness being refinanced, replaced or extended are subject to an intercreditor or subordination agreement or arrangement with an Agent, the holders of such refinancing Indebtedness shall enter into a similar intercreditor or subordination agreement or arrangement with such Agent on terms no less favorable to the Lenders as those contained in the intercreditor or subordination agreement or arrangement governing the Indebtedness being refinanced, replaced or extended (as determined by the Agent in its reasonable discretion), (f) the obligors of which are the same as the obligors of the Indebtedness being refinanced, replaced or extended, and (g) is otherwise on terms no less favorable to the Credit Parties and their Subsidiaries or the Lenders, taken as a whole, than those of the Indebtedness being refinanced, replaced or extended.

"**Person**" means any individual, partnership, corporation (including a business trust and a public benefit corporation), joint stock company, estate, association, firm, enterprise, trust, limited liability company, unincorporated association, joint venture and any other entity or Governmental Authority.

"PIK Amount" has the meaning set forth in the definition of Applicable Margin.

"Preferred Equity" means, the **"Series A-1 Preferred Units"** and the **"Series A-2 Preferred Units"** as each such term is defined in the A&R Holdings LLC Agreement.

"Preferred Equity Obligations" means the obligations of Holdings in respect of the Series A-1 Preferred Units and Series A-2 Preferred Units (as each such term is defined in the A&R Holdings LLC Agreement), in an aggregate principal amount of up to approximately $361,000,000 as of the Fourth Amendment Effective Date, together with paid-in-kind yield accruing thereon and other amounts due in connection therewith, in each instance in accordance with the terms of the A&R Holdings LLC Agreement.

"Prime Rate" means for any day a fluctuating rate of interest per annum equal to the highest of (a) the rate last quoted by The Wall Street Journal as the "Prime Rate" in the United States or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by Administrative Agent) or any similar release by the Federal Reserve Board (as determined by Administrative Agent). Any change in the Prime Rate due to a change in any of the foregoing shall be effective at the opening of business on the day any such change is publicly announced or quoted as being effective.

"**Pro Forma Financial Statements**" means the unaudited pro forma consolidated balance sheet and related pro forma statements of income and cash flows of Holdings and its Subsidiaries for and as of the last day of the most recent twelve (12) month period ended at least thirty (30) days prior to the Closing Date, prepared after giving effect to the Related Transactions and the transactions contemplated hereunder to occur on the Closing Date as if such transactions have occurred on the date thereof or at the beginning of the period covered thereby, as the case may be.

"**Pro Forma Compliance Conditions**" means, at any time of determination, the following conditions: (a) no Default or Event of Default exists or, on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, would result therefrom, (b) on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, the Total Net Leverage Ratio shall not be greater than 4.0 to 1.0, (c) the Credit Parties shall be in compliance with the Fixed Charge Coverage Ratio in Section 6.1(b), as recomputed for the most recently ended Measurement Period, and (d) on a pro forma basis after giving effect to the relevant Restricted Payment, transactions or Borrowings, Liquidity is not less than $5,000,000.

"**Pro Forma Transaction**" means any Investment that results in a Person becoming a Subsidiary, any Investment constituting an acquisition of assets constituting a business unit, line of business or division of another Person or a Store whether by merger, consolidation, amalgamation or otherwise, incurrence or repayment of Indebtedness (other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), any issuance of Stock or Stock Equivalents (other than Disqualified

Stock), and any Restricted Payment that by the terms of this Agreement requires such test to be calculated on a "pro forma basis" or after giving "pro forma effect."

"**Projections**" means the financial model and projections of Holdings and its Subsidiaries delivered to the Agent on or prior to the Closing Date, such projections to include a five year, three-statement base case financial model of the Credit Parties.

"**Property**" means any interest in any kind of property or asset, whether real, personal or mixed, and whether tangible or intangible.

"**Qualified Cash**" means unrestricted cash and Cash Equivalents of the Credit Parties in which Collateral Agent, after giving effect to the time periods set forth in Section 4.11, has a perfected first priority Lien.

"**Qualified Cash Summary**" means a summary of Qualified Cash to be delivered in accordance with Section 4.1(d).

"**Qualified ECP Guarantor**" means, in respect of any Swap Obligation under a Secured Rate Contract, each Credit 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 under a Secured Rate Contract or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act 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.

"**Rate Contracts**" means swap agreements (as such term is defined in Section 101 of the Bankruptcy Code) designed to provide protection against fluctuations in interest or currency exchange rates and any other agreements or arrangements designed to provide such protection.

"**RCC Award Payment**" means the payment of any RCC Award (as defined in the Davis Services Agreement) to Mark Davis pursuant to and in accordance with the terms of the Davis Services Agreement, in an amount not to exceed $8,000,000.

"**RCC Award Payment Conditions**" means the delivery of a certificate of a Responsible Officer of the Borrower Representative certifying to the Agent that (i) prior to giving effect to such proposed RCC Award Payment, Borrowers are in pro forma compliance with the financial covenants set forth in Section 6.1 and (ii) after giving effect to such proposed RCC Award Payment, the Credit Parties have Qualified Cash of no less than $5,000,000.

"**Real Estate**" means any real property owned, leased, subleased or otherwise operated or occupied by any Credit Party or any Subsidiary of any Credit Party.

"**Related Persons**" means, with respect to any Person, each Affiliate of such Person and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisor (including those retained in connection with the satisfaction or attempted satisfaction of any condition set forth in Article II)

and other consultants and agents of or to such Person or any of its Affiliates; provided that, with respect to any reference to such Person or Affiliate of such Person acting in the capability of an agent or other representative, Related Person shall be deemed to include such Person or Affiliate acting in an individual capacity or other capacity.

"**Related Transactions**" means, collectively, (a) the execution and delivery by the Credit Parties of the Loan Documents to which they are a party and the making of the Loans on the Closing Date, (b) the consummation of the Existing Debt Refinancing Transactions, and (c) the payment of any fees or expenses incurred or paid by the Credit Parties or any of their Subsidiaries in connection with the foregoing (including in connection with this Agreement and the other Loan Documents).

"**Releases**" means any release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, disposal, discharge, dumping or leaching of Hazardous Material into the environment.

"Relevant Governmental Body" means the Federal Reserve Board or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board or the Federal Reserve Bank of New York, or any successor thereto.

"**Remedial Action**" means all actions required under applicable Environmental Laws to (a) clean up, remove or treat any Hazardous Material in the environment, (b) prevent or minimize any Release so that a Hazardous Material does not migrate or endanger or threaten to endanger public health or welfare or the environment or (c) perform pre-remedial studies and investigations and post-remedial monitoring and care with respect to any Hazardous Material.

"**Rental Expense**" means, for any period, all rental expense of Borrowers (but excluding lease termination expenses and lease exit costs, whether accounted for as a restructuring costs, lease expense or otherwise in connection with no more than three stores in any Fiscal Year), determined on a consolidated basis in accordance with.

"**Required Lenders**" means at any time, Lenders then holding more than fifty percent (50%) of the sum of (1) the aggregate Delayed Draw Term Loan Commitment or Incremental Delayed Draw Term Loan Commitment, as the case may be, then in effect plus (2) the aggregate unpaid principal balance of the Term Loans then outstanding, provided, that if there are two Lenders at any date of determination (each Lender and its Affiliates being considered a single Lender), Required Lenders means both Lenders.

"**Requirement of Law**" means, with respect to any Person, the common law and any federal, state, local, foreign, multinational or international laws, statutes, codes, treaties, standards, rules and regulations, guidelines, ordinances, orders, judgments, writs, injunctions, decrees (including administrative or judicial precedents or authorities) and the interpretation or administration thereof by, and other determinations, directives, requirements or requests of, any Governmental Authority, in each case whether or not having the force of law and that are applicable to or binding upon such Person or any of its Property or to which such Person or any of its Property is subject.

"**Resolution Authority**" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"**Responsible Officer**" means the chief executive officer, chief financial officer, president, vice president, treasurer, secretary or controller of a Borrower or a Credit Party, as applicable, or any other officer having substantially the same authority and responsibility; or, with respect to compliance with financial covenants or delivery of financial information, the chief financial officer or the treasurer of a Borrower or any other officer having substantially the same authority and responsibility.

"SBA" means the United States Small Business Administration,

"**SBIA**" means the Small Business Investment Act of 1958, as amended.

"**S&P**" means Standard & Poor's Rating Services.

"Second Tranche Preferred Unit Redemption" means, following the receipt by the Agents of the financial reporting due under Section 4.1(b) for the Fiscal Quarter ending June 30, 2024, and concurrent delivery of a certificate of a Responsible Officer of the Borrower Representative certifying to the Agents that no Default or Event of Default has occurred and is continuing, and the Borrowers are in pro forma compliance with the financial covenants set forth in Section 6.1, the (i) redemption or repurchase by Holdings of all of the issued and then outstanding Existing Preferred Units for a price not to exceed $8,000,000 and (ii) the payment of fees pursuant to the Cynosure Fee Letter, in an amount not to exceed $2,500,000.

"**Secured Obligations**" means (a) all Obligations, (b) all Indebtedness, advances, debts, liabilities, obligations, covenants and duties owing by any Credit Party to any Secured Swap Provider that arises under any Secured Rate Contract, whether or not for the payment of money, whether arising by reason of an extension of credit, guaranty, indemnification or in any other manner, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and (c) for purposes of the Collateral Documents and all provisions under the other Loan Documents relating to the Collateral, the sharing thereof and/or payments from proceeds of the Collateral, all Bank Product Debt; provided that Secured Obligations of any Guarantor shall not include any Excluded Rate Contract Obligations solely of such Guarantor.

"**Secured Party**" means Collateral Agent, each Lender, each other Indemnitee, each Secured Swap Provider and each Bank Product Provider.

"**Secured Rate Contract**" means any Rate Contract between a Credit Party (other than Holdings) and a Secured Swap Provider, in effect on the Closing Date or entered into thereafter, to the extent that (x) RCS or any of its Affiliates is the Secured Swap Provider or (y) a Borrower and such Secured Swap Provider have notified Administrative Agent in writing of the intent to include the obligations of such Credit Party arising under such Rate Contract as Secured Rate Contract Obligations, and such Secured Swap Provider shall have acknowledged and agreed to the terms contained herein applicable to Secured Obligations related to Secured Rate Contracts.

"**Secured Swap Provider**" means RCS, a Lender or an Affiliate of a Lender (or a Person who was a Lender or an Affiliate of a Lender at the time of execution and delivery of a Rate Contract) who has entered into a Secured Rate Contract with a Credit Party (other than Holdings).

"**Series A Redemption Agreement** " means that certain Series A Redemption Agreement, dated on or about the Fourth Amendment Effective Date, by and between Viking Cake BR and Holdings.

"SOFR" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Rate Loan" means a Loan that bears interest at the Term SOFR Rate or Daily Simple SOFR.

"**Software**" means (a) all computer programs, including source code and object code versions, (b) all data, databases and compilations of data, whether machine readable or otherwise, and (c) all documentation, training materials and configurations related to any of the foregoing.

"**Solvent**" means, as to any Person as of any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature and (d) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's property would constitute an unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"**Special Flood Hazard Area**" means an area that FEMA's current flood maps indicate has at least a one percent (1%) chance of a flood equal to or exceeding the base flood elevation (a 100-year flood) in any given year.

"**SPV**" means any special purpose funding vehicle identified as such in a writing by any Lender to Agents (other than an Excluded Person).

"**Stock**" means all shares of capital stock (whether denominated as common stock or preferred stock), equity interests, beneficial, partnership or membership interests, joint venture

interests, participations or other ownership or profit interests in or equivalents (regardless of how designated) of or in a Person (other than an individual), whether voting or non-voting.

"**Stock Equivalents**" means all securities convertible into or exchangeable for Stock or any other Stock Equivalent and all warrants, options or other rights to purchase, subscribe for or otherwise acquire any Stock or any other Stock Equivalent, whether or not presently convertible, exchangeable or exercisable.

"**Store**" means any store location operated, or to be operated, by a Credit Party or any Subsidiary, which complies with Section 5.9.

"**Subsidiary**" means, with respect to any Person, any corporation, partnership, joint venture, limited liability company, association or other entity, the management of which is, directly or indirectly, controlled by, or of which an aggregate of more than fifty percent (50%) of the voting Stock is, at the time, owned or controlled directly or indirectly by, such Person or one or more Subsidiaries of such Person.

"Subordinated Indebtedness" means, as of the Closing Date, (i) the Preferred Equity Obligations, and (ii) after the Closing Date, shall include any other Indebtedness of any Credit Party or any Subsidiary of any Credit Party which is subordinated to the Obligations as to right and time of payment and other rights and remedies thereunder and having such other terms as are, in each case, reasonably satisfactory to Agents, including, without limitation, permitted Indebtedness incurred in connection with Acquisition permitted hereunder.

"**Subordinated Term Loans**" means the "Term Loans" as defined in the Subordinated Term Loan Agreement.

"**Subordinated Term Loan Agent**" means Cynosure Partners 2020, LP., a Delaware limited partnership, and its permitted successors of assigns.

"**Subordinated Term Loan Agreement**" means that certain Loan Agreement, dated as of December 21, 2020, by and among Holdings, BRSO, BRD, BRCB, BRR, the lenders party thereto, and the Subordinated Term Loan Agent, as amended, restated, amended and restated, supplemented or otherwise modified from time to time.

"**Subordination Agreement**" means that certain Second Amended and Restated Subordination Agreement, dated as of the Fourth Amendment Effective Date, by and among the Agents and the holders of the Preferred Equity, and acknowledged by the Credit Parties, as amended, amended and restated, replaced, renewed, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"**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.

"**Target**" means any Person engaged in the same business as the Credit Parties or reasonably related thereto which is acquired or proposed to be acquired in an Acquisition.

"**Tax Affiliate**" means, (a) the Borrowers and their Subsidiaries and (b) each other Credit Party.

"**Term Lender**" means each Lender that (a) has a Term Loan Commitment or (b) who holds a Term Loan.

"**Term Loan**" means, as applicable, and as the context may require, (a) a Term Loan A, (b) a Fourth Amendment Term Loan, (c) a funded Delayed Draw Term Loan, (d) a funded Incremental Delayed Draw Term Loan or (e) an Extended Term Loan.

"**Term Loan Amortization Amount**" means, at any applicable time, a fixed dollar amount equal to the product of (a) the sum of (x) the aggregate principal amount of the Term Loan A funded on the Closing Date, plus (y) the aggregate principal amount of the Fourth Amendment Term Loan funded on the Fourth Amendment Effective Date, plus (z) the aggregate principal amount of all funded Delayed Draw Term Loans and Incremental Delayed Draw Term Loans times (b) the applicable Term Loan Amortization Percentage.

"**Term Loan Amortization Percentage**" means, at any applicable time, a percentage equal to 0.250%.

"**Term Loan Commitment**" as to each Term Lender, its obligation to make a Term Loan to the Borrowers hereunder, expressed as an amount in dollars representing the maximum principal amount of such Term Loan to be made by such Term Lender under this Agreement, as such commitment may be reduced or increased from time to time pursuant to assignments by or to such Term Lender pursuant to an Assignment. The initial amount of each Term Lender's Term Loan Commitment is set forth on Schedule 1.1(a) under the caption "Term Loan Commitment" or, otherwise, in the Assignment pursuant to which such Term Lender shall have assumed its Term Loan Commitment, as the case may be. The Term Loan Commitment of each Term Lender set forth on Schedule 1.1(a) as in effect on the Closing Date shall expire on the Closing Date if not funded in accordance with Section 1.1(a) on the Closing Date.

"**Term Loan Maturity Date**" means September 30, 2026. If such date is not a Business Day, the immediately succeeding Business Day.

"**Term Note**" means a promissory note of the Borrowers payable to a Lender, in substantially the form of Exhibit 11.1(d), in the case of the Term Loans, evidencing the Indebtedness of the Borrowers to such Lender resulting from the Term Loans made to the Borrowers by such Lender or its predecessor(s).

"Term SOFR" means the rate per annum determined by the Administrative Agent as the forward-looking term rate based on SOFR.

"Term SOFR Administrator" means CME Group Benchmark Administration Ltd. (or a successor administrator of Term SOFR).

"Term SOFR Administrator's Website" means https://www.cmegroup.com/market-data/cme-group-benchmark-administration/term-sofr, or any successor source for Term SOFR identified as such by the Term SOFR Administrator from time to time.

"Term SOFR Determination Date" means with respect to any Term SOFR Loan for the relevant Interest Period, two Business Days before the first day of such Interest Period.

"Term SOFR Loan" means a Loan that, except as otherwise provided in Sections 8.2 or 8.3, bears interest at the applicable Term SOFR Rate other than pursuant to clause (d) of the definition of Base Rate.

"Term SOFR Rate" means, for the relevant Interest Period, the sum of (a) the Adjusted Term SOFR Rate applicable to such Interest Period, plus (b) the Applicable Margin.

"Term SOFR Screen Rate" means, for the relevant Interest Period, the Term SOFR rate for such Interest Period quoted by the Administrative Agent from the Term SOFR Administrator's Website or the applicable Bloomberg screen (or other commercially available source providing such quotations as may be selected by the Administrative Agent from time to time) (the "Screen") for such Interest Period, which shall be the Term SOFR rate published on the Term SOFR Determination Date. If as of 5:00 p.m. (New York time) on any Term SOFR Determination Date, the Term SOFR rate has not been published by the Term SOFR Administrator or on the Screen, then the rate used will be that as published by the Term SOFR Administrator or on the Screen for the first preceding Business Day for which such rate was published on such Screen so long as such first preceding Business Day is not more than three (3) Business Days prior to such Term SOFR Determination Date.

"Third Amendment Effective Date" means May 8, 2023.

"**Title IV Plan**" means a pension plan subject to Title IV of ERISA, other than a Multiemployer Plan, to which any ERISA Affiliate incurs or otherwise has any obligation or liability under ERISA or the Code, contingent or otherwise.

"Total Net Leverage Ratio" means, at any date of determination, the ratio of (a) an amount equal to Consolidated Total Debt outstanding as of the last day of the Measurement Period most recently ended, less cash and Cash Equivalents of Borrowers on such date in an amount greater than $3,000,000 but not more than $20,500,000 (for avoidance of doubt, a maximum of $17,500,000) deposited in a deposit account subject to a Control Agreement) to (b) Consolidated EBITDA for the Measurement Period most recently ended, in each case for Holdings and the Borrowers on a Consolidated basis. For avoidance of doubt, paid-in-kind yield dividends on the Preferred Equity are excluded from the calculation of the Total Net Leverage Ratio, regardless of whether such paid-in-kind yield dividends constitute Indebtedness under GAAP.

"**Trade Secrets**" means all right, title and interest (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trade secrets.

"**Trademark**" means all rights, title and interests (and all related IP Ancillary Rights) arising under any Requirement of Law in or relating to trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos and other source or business identifiers and, in each case, all goodwill associated therewith, all registrations and recordations thereof and all applications in connection therewith.

"**Type**" means, with respect to a Loan, its character as a SOFR Rate Loan or a Base Rate Loan.

"**UCC**" means the Uniform Commercial Code of any applicable jurisdiction and, if the applicable jurisdiction shall not have any Uniform Commercial Code, the Uniform Commercial Code as in effect from time to time in the State of New York.

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Unadjusted EBITDA" means Consolidated EBITDA excluding the addbacks in clauses (v), (vii) and (ix) of the definition thereof.

"**United States**" and "**U.S.**" each means the United States of America.

"**U.S. Lender Party**" means each Agent, each Lender, each SPV and each participant, in each case that is a "United States person" as defined in Section 7701(a)(30) of the Code.

"Viking Cake" means Viking Cake Holdings II, LLC, a Delaware limited liability company.

"**Viking Cake BR**" means Viking Cake BR, LLC, a Delaware limited liability company.

"**Weighted Average Life to Maturity** " means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (b) the then outstanding principal amount of such Indebtedness; provided that, for purposes of determining the Weighted Average Life to Maturity of any Indebtedness that is being modified, refinanced, refunded, renewed, replaced or extended, the effects of any prepayments made on such Indebtedness prior to the date of the applicable extension shall be disregarded.

"**Wholly-Owned Subsidiary**" of a Person means any Subsidiary of such Person, all of the Stock and Stock Equivalents of which (other than directors' qualifying shares required by law) are owned by such Person, either directly or through one or more Wholly-Owned Subsidiaries of such Person.

"**Write-Down and Conversion Powers**" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

11.2 Other Interpretive Provisions.

(a) Defined Terms. Unless otherwise specified herein or therein, all terms defined in this Agreement or in any other Loan Document shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto. The meanings of defined terms shall be equally applicable to the singular and plural forms of the defined terms. Terms (including uncapitalized terms) not otherwise defined herein and that are defined in the UCC shall have the meanings therein described.

(b) The Agreement. The words "**hereof**", "**herein**", "**hereunder**" and words of similar import when used in this Agreement or any other Loan Document shall refer to this Agreement or such other Loan Document as a whole and not to any particular provision of this Agreement or such other Loan Document; and subsection, section, schedule and exhibit references are to this Agreement or such other Loan Documents unless otherwise specified.

(c) Certain Common Terms. The term "**documents**" includes any and all instruments, documents, agreements, certificates, indentures, notices and other writings, however evidenced. The term "**including**" is not limiting and means "including without limitation."

(d) Performance; Time. Whenever any performance obligation hereunder or under any other Loan Document shall be stated to be due or required to be satisfied on a day other than a Business Day, such performance shall be made or satisfied on the next succeeding Business Day. For the avoidance of doubt, the initial payments of interest and fees relating to the Obligations (other than amounts due on the Closing Date) shall be due and paid on the first day of the first month or quarter, as applicable, following the entry of the Obligations onto the operations systems of Administrative Agent, but in no event later than the first day of the second month or quarter, as applicable, following the Closing Date. In the computation of periods of time from a specified date to a later specified date, the word "**from**" means "from and including"; the words "**to**" and "**until**" each mean "to but excluding", and the word "**through**" means "to and including." All references to the time of day shall be a reference to New York, New York time. If any provision of this Agreement or any other Loan Document refers to any action taken or to

be taken by any Person, or which such Person is prohibited from taking, such provision shall be interpreted to encompass any and all means, direct or indirect, of taking, or not taking, such action.

(e) Contracts. Unless otherwise expressly provided herein or in any other Loan Document, references to agreements and other contractual instruments, including this Agreement and the other Loan Documents, shall be deemed to include all subsequent amendments, thereto, restatements and substitutions thereof and other modifications and supplements thereto which are in effect from time to time, but only to the extent such amendments and other modifications are not prohibited by the terms of any Loan Document.

(f) Laws. References to any statute or regulation may be made by using either the common or public name thereof or a specific cite reference and, except as otherwise provided with respect to FATCA, are to be construed as including all statutory and regulatory provisions related thereto or consolidating, amending, replacing, supplementing or interpreting the statute or regulation.

(g) Divisions. For all purposes under the Loan Documents, in connection with any Division: (i) 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 (ii) 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 Stock at such time. Any reference in Section 5.2, Section 5.3 or Section 5.4 to a combination, merger, consolidation, Disposition, dissolution, liquidation or transfer shall be deemed to apply to a Division (or the unwinding of such a Division) as if it were a combination, merger, consolidation, Disposition, dissolution, transfer or similar term, as applicable, to or with a separate Person. Any Division of a Person shall constitute a separate Person hereunder (and each Division of any Person that is a Subsidiary, Credit Party, joint venture or any other like term shall also constitute such a Person or entity).

11.3 Accounting Terms and Principles. All accounting determinations required to be made pursuant hereto shall, unless expressly otherwise provided herein, be made in accordance with GAAP. If any change in GAAP results in a change in the calculation of the financial covenants or interpretation of related provisions of this Agreement or any other Loan Document, then the Borrower Representative, the Agents and the Required Lenders agree to amend such provisions of this Agreement or any other Loan Document so as to equitably reflect such changes in GAAP with the desired result that the criteria for evaluating the Credit Parties' financial condition shall be the same after such change in GAAP as if such change had not been made; provided that no change in the accounting principles used in the preparation of any financial statement hereafter adopted by Holdings shall be given effect for purposes of measuring compliance with any provision of Article V or VI unless the Borrower Representative, Agents and the Required Lenders agree to modify such provisions to reflect such changes in GAAP and, unless such provisions are modified, all financial statements, Compliance Certificates and similar

documents provided hereunder shall be provided together with a reconciliation between the calculations and amounts set forth therein before and after giving effect to such change in GAAP. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to in Article V and Article VI shall be made, without giving effect to any election under Accounting Standards Codification 825-10 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other Liabilities of any Credit Party or any Subsidiary of any Credit Party at "fair value." A breach of a financial covenant contained in Article VI shall be deemed to have occurred as of the last day of any specified measurement period, regardless of when the financial statements reflecting such breach are delivered to Administrative Agent. For purposes of determining pro forma compliance with any financial covenant as of any date prior to the first date on which such financial covenant is to be tested hereunder, the level of any such financial covenant shall be deemed to be the covenant level for such first test date and if the availability of Indebtedness under this Agreement, or other incurrence of Indebtedness in compliance with this Agreement, is subject to a maximum leverage ratio, then, solely for the purposes of determining such availability or compliance, the cash proceeds of such Indebtedness, shall not be included in the calculation, if applicable, of cash or cash equivalents included in the determination of such leverage ratio. Notwithstanding anything to the contrary, in no event shall any Non-Financing Lease Obligation constitute Indebtedness or a Capital Lease under this Agreement or any other Loan Document, in each case, irrespective of any changes in GAAP after the Closing Date. In addition, and notwithstanding anything to the contrary in this Agreement, all terms of an accounting or financial nature used herein or therein shall be construed, and all computations of amounts and ratios referred to herein and therein shall be made, without giving effect to the Financial Accounting Standards Board Accounting Standards Codification 842 (or any other Accounting Standards Codification having a similar result or effect) (and related interpretations) to the extent any lease (or any similar arrangement conveying the right to use) would be required to be treated as a financing lease or capital lease thereunder where such lease (or similar arrangement) would have been treated as an operating lease under GAAP as in effect immediately prior to the effectiveness of the Financing Accounting Standards Board Accounting Standards Codification 842 (or such other Accounting Standards Codification having a similar result or effect).

11.4 Payments. Administrative Agent may set up standards and procedures to determine or redetermine the equivalent in Dollars of any amount expressed in any currency other than Dollars and otherwise may, but shall not be obligated to, rely on any determination made by any Credit Party. Any such determination or redetermination by Administrative Agent shall be conclusive and binding for all purposes, absent manifest error. No determination or redetermination by any Secured Party or any Credit Party and no other currency conversion shall change or release any obligation of any Credit Party or of any Secured Party (other than Administrative Agent and its Related Persons) under any Loan Document, each of which agrees to pay separately for any shortfall remaining after any conversion and payment of the amount as converted. Administrative Agent may round up or down, and may set up appropriate mechanisms to round up or down, any amount hereunder to nearest higher or lower amounts and may determine reasonable *de minimis* payment thresholds.

11.5 Pro Forma Calculations.

(a) Notwithstanding anything to the contrary in this Agreement, EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio (but excluding, for the avoidance of doubt, the calculation of Excess Cash Flow), shall be calculated in the manner prescribed by this Section 11.5; provided that, notwithstanding anything to the contrary in this Section 11.5, when calculating the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio for purposes of determining actual compliance (and not pro forma compliance, compliance on a pro forma basis or determining compliance giving pro forma effect to a transaction) with Section 6.1, the events described in this Section 11.5 that occurred subsequent to the end of the applicable Measurement Period shall not be given pro forma effect.

(b) For purposes of calculating EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio and the Total Net Leverage Ratio (but excluding, for the avoidance of doubt, the calculation of Excess Cash Flow), Pro Forma Transactions (and the incurrence or repayment of any Indebtedness in connection therewith, subject to Section 11.5(c) that have been made by any Credit Party and/or its Subsidiaries (i) during the applicable Measurement Period or (ii) subject to the proviso set forth in Section 11.5(a), subsequent to such Measurement Period ad prior to or simultaneously with the event for which the calculation of any such ratio or test is made shall be calculated on a pro forma basis assuming that all such Pro Forma Transactions (and the change in EBITDA and other components of the financial covenants resulting from such Pro Forma Transaction) had occurred on the first day of the applicable Measurement Period. If since the beginning of any such Measurement Period any Person that subsequently became a Subsidiary or was merged, amalgamated or consolidated with or into any Credit Party or any Subsidiary of such Credit Party since the beginning of such Measurement Period shall have made any Pro Forma Transaction that would have required adjustment pursuant to this Section 11.5, then EBITDA, Cash Flow and any financial ratios or tests, including the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, shall be calculated giving pro forma effect thereto for such Measurement Period in accordance with this Section 11.5.

(c) In the event that any Credit Party or any Subsidiary incurs (including by assumption or guarantees) or repays (including by redemption, repayment, retirement or extinguishment) any Indebtedness included in the calculations of the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, as the case may be (in each case, other than Indebtedness incurred or repaid under any revolving credit facility in the ordinary course of business for working capital purposes), (i) during the applicable Measurement Period or (ii) subsequent to the end of the applicable Measurement Period and prior to or simultaneously with the event for which the calculation of any such ratio is made, then the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio, as applicable, shall be calculated giving pro forma effect to such incurrence or repayment of Indebtedness, to the extent required, as if the same had occurred (A) in the case of the Fixed Charge Coverage Ratio

(or any similar ratio or test), on the first day of the applicable Measurement Period and (B) in the case of the Total Net Leverage Ratio and the Senior Leverage Ratio, as applicable, on the last day of the applicable Measurement Period.

(d) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of the event for which the calculation of the Fixed Charge Coverage Ratio, the Total Net Leverage Ratio and the Senior Leverage Ratio is made had been the applicable rate for the entire period (taking into account any interest hedging arrangements applicable to such Indebtedness). Interest on a Capital Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a Responsible Officer of the Borrower Representative to be the rate of interest implicit in such Capital Lease Obligation in accordance with GAAP. Interest on any Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate or other rate shall be determined to have been based upon the rate actually chosen, or if none, then based upon such optional rate chosen by the Borrower Representative.

[*Signature Pages Follow*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

RCS AGENT, LLC

By: _____
Name: Béla R. Schwartz
Title: Vice President and Secretary

Address for Notices (if to the Administrative Agent):

RCS Agent, LLC
800 Boylston Street, Suite 1590
Boston, Massachusetts 02199
Attention: Dave Dobies
Email:

RCS SBIC FUND II, L.P.

By: RCS II SBIC GP, LLC, its general partner

By: _____
Name: Béla R. Schwartz
Its: Vice President and Secretary

TCW ASSET MANAGEMENT COMPANY LLC

By: _____
Name: Suzanne Grosso
Title: Managing Director

Address for Notices (if to the Collateral Agent):

TCW Asset Management Company LLC
200 Clarendon Street, 51st Floor
Boston, Massachusetts 02116
Attention: James Synborski
Telephone:
Facsimile:
E-Mail:

TCW DIRECT LENDING VIII LLC

By: TCW Asset Management Company LLC,
its Investment Advisor

By: _____
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING VIII LLC

By: TCW Asset Management Company LLC,
its Collateral Manager

By: _____
Name: Suzanne Grosso
Title: Managing Director

TCW SKYLINE LENDING, L.P.

By: TCW Asset Management Company LLC,
its Investment Advisor

By: _____
Name: Suzanne Grosso
Title: Managing Director

TCW DIRECT LENDING STRUCTURED SOLUTIONS 2019 LLC

By: TCW Asset Management Company LLC,
its Investment Manager

By: _____
Name: Suzanne Grosso
Title: Managing Director

TMD-DL HOLDINGS LLC

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: _____
Name: Suzanne Grosso
Title: Managing Director

SAFETY NATIONAL CASUALTY CORPORATION

By: TCW Asset Management Company LLC,
Its Investment Manager and Attorney-in-Fact

By: _____
Name: Suzanne Grosso
Title: Managing Director

PHILADELPHIA INDEMNITY INSURANCE COMPANY

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: _____
Name: Suzanne Grosso
Title: Managing Director

RELIANCE STANDARD LIFE INSURANCE COMPANY

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: _____
Name: Suzanne Grosso
Title: Managing Director

BUILD PRIVATE CREDIT, L.P.

By: TCW Asset Management Company LLC,
its Investment Manager and Attorney-in-Fact

By: _____
Name: Suzanne Grosso
Title: Managing Director

BLACK ROCK COFFEE HOLDINGS, LLC,
a Delaware limited liability company

By: _____
Name: Rodd Booth
Title: Cheif Financial Officer

Address for Notices (if to any Credit Party):

c/o Black Rock Coffee Holdings, LLC
9170 E Bahia Drive, Suite 101
Scottsdale, Arizona 85260
Attn: Rodd Booth
E-Mail:

BLACK ROCK COFFEE BAR, LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: _____
Name: Rodd Booth
Title: Cheif Financial Officer

BLACK ROCK STORE OPERATIONS LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: _____
Name: Rodd Booth
Title: Cheif Financial Officer

BLACK ROCK DEVELOPMENT, LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: _____
Name: Rodd Booth
Title: Cheif Financial Officer

BLACK ROCK ROASTING, LLC,
an Oregon limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: _____
Name: Rodd Booth
Title: Cheif Financial Officer

BRSO 67th, LLC,
an Arizona limited liability company

By: Black Rock Store Operations, LLC, an Oregon limited liability company, Member

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: _____
Name: Rodd Booth
Title: Cheif Financial Officer

BR CASTLE ROCK LLC,
a Colorado limited liability company

By: Black Rock Store Operations, LLC, an Oregon limited liability company, Member

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: _____
Name: Rodd Booth
Title: Cheif Financial Officer

BRSO PNW XX, LLC,
a Washington limited liability company

By: Black Rock Store Operations, LLC, an Oregon limited liability company, Member

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Managing Member

By: _____
Name: Rodd Booth
Title: Cheif Financial Officer

BLACK ROCK COFFEE INVESTMENTS, LLC,
a Delaware limited liability company

By: Black Rock Coffee Holdings, LLC, a Delaware limited liability company, Manager

By: _____
Name: Rodd Booth
Title: Cheif Financial Officer

Exhibit 10.7

TAX RECEIVABLE AGREEMENT

by and among

BLACK ROCK COFFEE BAR, INC.

BLACK ROCK COFFEE HOLDINGS, LLC

TRA PARTIES

and

OTHER PERSONS FROM TIME TO TIME PARTY HERETO

Dated as of [●], 2025

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Exhibits

Exhibit A	-	Form of Joinder Agreement

TAX RECEIVABLE AGREEMENT

This TAX RECEIVABLE AGREEMENT (this "Agreement"), dated as of [●], 2025, is hereby entered into by and among Black Rock Coffee Bar, Inc., a Texas corporation (the "Corporation"), Black Rock Coffee Holdings, LLC, a Delaware limited liability company (the "LLC") and each of the TRA Parties.

RECITALS

WHEREAS, the LLC is treated as a partnership for U.S. federal income tax purposes;

WHEREAS, immediately prior to the consummation of the IPO (as defined below), the LLC entered into the Operating Agreement wherein the LLC recapitalized all existing ownership interests in the LLC, which included common units, Series A-1 units, Series A-2 units, and profits interests, into membership interests in the form of Common Units (the "Recapitalization") and admitted the Corporation as the sole managing member of the LLC;

WHEREAS, the TRA Parties hold membership interests in the LLC designated as Common Units as of the date hereof;

WHEREAS, on the date hereof, the Corporation issued shares of its Class A Common Stock in an initial public offering of its Class A Common Stock (the "IPO");

WHEREAS, the Operating Agreement provides each TRA Party with a redemption right pursuant to which each TRA Party may cause the LLC to redeem all or a portion of its Common Units from time to time for shares of Class A Common Stock or, under certain circumstances, cash (a "Redemption"), subject to the Corporation's right, in its sole discretion, to elect to effect a direct exchange of cash or shares of Class A Common Stock for such Common Units between the Corporation and the applicable TRA Party in lieu of such a Redemption (a "Direct Exchange");

WHEREAS, as a result of any Redemption, any Direct Exchange or any other Exchange the Corporation may be entitled to utilize (or otherwise be entitled to the benefits arising out of) certain Covered Tax Assets;

WHEREAS, the Parties to this Agreement desire to provide for certain payments and make certain arrangements with respect to certain tax benefits to be derived by the Corporation as the result of Covered Tax Assets and the making of payments under this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth herein, the Parties hereto agree as follows:

ARTICLE I

Definitions

Section 1.1. Definitions. As used in this Agreement, the terms set forth in this Article I shall have the following meanings (such meanings to be equally applicable to (i) the singular and plural, (ii) the active and passive and (iii) for defined terms that are nouns, the verified forms of the terms defined).

"Actual Tax Liability" means, with respect to any Taxable Year, the liability for Covered Taxes of the Corporation (a) appearing on Tax Returns of the Corporation or the LLC (but only to the extent allocable to the Corporation) for such Taxable Year or (b) if applicable, determined in accordance with a Determination; provided, that for purposes of determining Actual Tax Liability, the Corporation shall use the Assumed State Tax Rate for purposes of determining liabilities for all state Covered Taxes (including, for the avoidance of doubt, the U.S. federal income tax benefit realized by the Corporation with respect to such state Covered Taxes).

"Advisory Firm" means an accounting firm that is nationally recognized as being expert in Covered Tax matters selected by the Corporation.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such first Person.

"Agreed Rate" means the lesser of (i) 6.5% and (ii) SOFR plus 100 basis points.

"Agreement" is defined in the preamble.

"Amended Schedule" is defined in Section 2.3(b).

"Amount Realized" means, with respect to any Exchange that is not eligible for nonrecognition treatment (as determined for U.S. federal income tax purposes), at any time, the sum of (i) the Market Value of the shares of Class A Common Stock or the amount of cash (as applicable) transferred to a TRA Party pursuant to such Exchange, (ii) the amount of payments made pursuant to this Agreement with respect to such Exchange (but excluding any portions thereof attributable to Imputed Interest) and (iii) the amount of liabilities allocated to the Common Units acquired pursuant to the Exchange under Section 752 of the Code.

"Assumed State Tax Rate" means the Corporation's reasonable estimate of the tax rate equal to the sum of the products of (i) the Corporation's or the LLC's income tax apportionment factor for each state in which the Corporation or the LLC files income or franchise tax returns for the relevant Taxable Year and (ii) the highest applicable corporate income and franchise tax rate(s) for each such state in which the Corporation or the LLC files income Tax Returns for each relevant Taxable Year.

"Attributable" is defined in Section 3.1(b)(i).

"Audit Committee" means the audit committee of the Board.

"Basis Adjustment" means an increase or decrease to, or the Corporation's proportionate share of, the tax basis of the Reference Assets under Section 362(a), 732, 734(b), 743(b) or 1012 of the Code (or any similar provisions of state tax Law) as a result of any Exchange or any payment made under this Agreement.

"Basis Schedule" is defined in Section 2.2(a).

"Board" means the Board of Directors of the Corporation.

"Business Day" means any day other than a Saturday or a Sunday or a day on which banks located in New York City, New York generally are authorized or required by Law to close.

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

(i) any "person" or "group" (within the meaning of Sections 13(d) and 14(d) of the Exchange Act, but excluding (A) any employee benefit plan of such person and its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan and (B) the TRA Parties and any of their Affiliates) becomes the "beneficial owner" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of voting securities representing in the aggregate more than fifty percent (50%) of the voting power of all of the outstanding voting securities of the Corporation;

(ii) the shareholders of the Corporation approve a plan of complete liquidation or dissolution of the Corporation or there is consummated an agreement or series of related agreements for the sale or other disposition, directly or indirectly, by the Corporation of all or substantially all of the Corporation's assets (including a sale of all or substantially all of the assets of the LLC), other than such sale or other disposition by the Corporation of all or substantially all of the Corporation's assets to an entity at least 50% of the combined voting power of the voting securities of which are owned by shareholders of the Corporation in substantially the same proportions as their ownership of the Corporation immediately prior to such sale or other disposition;

(iii) there is consummated a merger or consolidation of the Corporation with any other corporation or entity, and, immediately after the consummation of such merger or consolidation, either (A) the Board immediately prior to the merger or consolidation does not constitute at least a majority of the board of directors of the Person resulting from such merger or consolidation or, if the surviving company is a Subsidiary, the ultimate parent thereof or (B) the voting securities of the Corporation outstanding immediately prior to such merger or consolidation do not continue to represent, or are not converted into, voting securities representing in the aggregate more than fifty percent (50%) of the voting power of all of the outstanding

voting securities of the Person resulting from such merger or consolidation or, if the surviving company is a Subsidiary, the ultimate parent thereof; or

(iv) the Corporation ceases to be the sole Manager (as defined in the Operating Agreement) of the LLC.

Notwithstanding the foregoing, a "Change of Control" shall not be deemed to have occurred (a) by virtue of the consummation of any transaction or series of integrated transactions immediately following which the record holders of the Class A Common Stock, Class B Common Stock, Class C Common Stock, preferred stock and/or any other class or classes of capital stock of the Corporation immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in and voting control over, and own substantially all of the shares of, an entity which owns all or substantially all of the assets of the Corporation immediately following such transaction or series of transactions; or (b) if a majority of the TRA Parties (measured by Tax Benefit Payments receivable by the TRA Parties upon the occurrence of any transaction, series of related transactions or any other occurrence that may otherwise qualify as a "Change of Control") and all of the TRA Representatives agree in writing to elect for a "Change in Control" to not have occurred upon the occurrence of any transaction, series of related transactions or any other occurrence that may otherwise qualify as a "Change of Control" or (c) if the TRA Parties are the "beneficial owner" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of shares of Class A Common Stock, Class B Common Stock, Class C Common Stock, preferred stock and/or any other class or classes of capital stock of the Corporation (if any) representing in the aggregate more than fifty percent (50%) of the voting power of all of the outstanding shares of capital stock of the Corporation entitled to vote (or, in the case of a transaction described in the foregoing clause (iii), more than fifty percent (50%) of the combined voting power of the then outstanding voting securities of the Person resulting from such merger or consolidation or, if the surviving company is a Subsidiary, the ultimate parent thereof).

"Class A Common Stock" means the Class A common stock, par value $0.00001 per share, of the Corporation.

"Class B Common Stock" means the Class B common stock, par value $0.00001 per share, of the Corporation.

"Class C Common Stock" means the Class C common stock, par value $0.00001 per share, of the Corporation.

"Code" means the U.S. Internal Revenue Code of 1986, as amended. Unless the context requires otherwise, any reference herein to a specific section of the Code shall be deemed to include any corresponding provisions of future Law as in effect for the relevant taxable period.

"Common Units" shall have the meaning ascribed to such term in the Operating Agreement.

"Control" means the direct or indirect possession of the power to direct or cause the direction of the management or policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"Corporation" is defined in the preamble to this Agreement.

"Covered Tax Assets" means (i) Basis Adjustments and (ii) Imputed Interest reasonably determined to be allocable to payments pursuant to this Agreement. For the avoidance of doubt, Covered Tax Assets shall include any carryforwards, carrybacks or similar attributes that are attributable to the tax items described in clauses (i) and (ii).

"Covered Taxes" means any U.S. federal and state taxes, assessments or similar charges that are based on or measured with respect to net income or profits and any interest imposed in respect thereof under applicable Law.

"Cumulative Net Realized Tax Benefit" is defined in Section 3.1(b)(iii).

"Default Rate" means SOFR plus 500 basis points.

"Default Rate Interest" is defined in Section 5.2.

"Determination" shall have the meaning ascribed to such term in Section 1313(a) of the Code or any similar provisions of state tax Law, as applicable, or any other event (including the execution of IRS Form 870-AD) that finally and conclusively establishes the amount of any liability for tax.

"Direct Exchange" is defined in the recitals to this Agreement.

"Dispute" is defined in Section 7.7(a).

"Early Termination Effective Date" means (i) with respect to an early termination pursuant to Section 4.1(a), the date an Early Termination Notice is delivered, (ii) with respect to an early termination pursuant to Section 4.1(b), the date of the applicable Change of Control and (iii) with respect to an early termination pursuant to Section 4.1(c), the date of the applicable Material Breach.

"Early Termination Notice" is defined in Section 4.2(a).

"Early Termination Payment" is defined in Section 4.3(b).

"Early Termination Reference Date" is defined in Section 4.2(b).

"Early Termination Schedule" is defined in Section 4.2(b).

"Exchange" means any (i) Direct Exchange, (ii) Redemption, (iii) other taxable transfer (as determined for U.S. federal income tax purposes) of Common Units to the Corporation from a TRA Party (including a purchase by the LLC deemed or treated as a

purchase by the Corporation under Section 707(a) of the Code) or (iv) distribution (including a deemed distribution) by the LLC to a TRA Party, in each case, that results in a Basis Adjustment.

"Exchange Act" means the Securities and Exchange Act of 1934, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations.

"Exercise Period" is defined in Section 7.5(a)(ii).

"Expert" is defined in Section 7.8(a).

"Final Payment Date" means any date on which a Payment is required to be made pursuant to this Agreement. The Final Payment Date in respect of (i) a Tax Benefit Payment is determined pursuant to Section 3.1(a) and (ii) an Early Termination Payment is determined pursuant to Section 4.3(a).

"Founders" means Daniel Brand, Jeff Hernandez, Bryan Pereboom, Jake Spellmeyer, Viking Cake BR, LLC, Viking Cake Fuel, LLC, Jeffrey R. Hernandez Revocable Trust, Jeffrey R. Hernandez 2021 Trust, Tiffany S. Hernandez 2021 Trust, Daniel and Tanya Brand Living Trust, Daniel J. Brand 2021 Trust, Tanya N. Brand 2021 Trust, Juliet A. Spellmeyer Revocable Trust, Jacob V. Spellmeyer 2021 Trust, Juliet A. Spellmeyer 2021 Trust, Nicole Pereboom, Bryan D. Pereboom 2021 Trust, Nicole Pereboom 2021 Trust, and each of their Permitted Transferees.

"Hypothetical Tax Liability" means, with respect to any Taxable Year, the hypothetical liability of the Corporation that would arise in respect of Covered Taxes, using the same methods, elections, conventions and similar practices used on the actual relevant Tax Returns of the Corporation and the LLC but calculated without taking into account the Covered Tax Assets (e.g., (i) by calculating depreciation, amortization or other similar deductions, or otherwise calculating any items of income, gain or loss using the tax basis that the Reference Assets would have had at such time if no Basis Adjustments had been made and (ii) by excluding any deduction attributable to Imputed Interest); provided, that for purposes of determining the Hypothetical Tax Liability, (a) the combined tax rate for U.S. state Covered Taxes shall be the Assumed State Tax Rate, and (b) the Corporation shall be entitled to make reasonable simplifying assumptions in making any determinations contemplated by this definition. For the avoidance of doubt, the Hypothetical Tax Liability shall be determined without taking into account the carryover or carryback of any tax item (or portions thereof) that is attributable to any item described in clause (a) or (b) of the previous sentence).

"Imputed Interest" means any interest imputed under Section 483, 1272 or 1274 or any other provision of the Code or any similar provisions of state tax Law with respect to the Corporation's payment obligations under this Agreement.

"Independent Directors" means the members of the Board who are "independent" under the standards of the principal U.S. securities exchange on which the Class A Common Stock is traded or quoted.

"Interest Amount" is defined in Section 3.1(b)(vi).

"Investor Entities" means Cynosure Partners, LP, Cynosure Partners 2020 PV, LP, Cynosure Partners 2020 Co-Investment, LLC, Cynosure Partners III, LP, and each of their Permitted Transferees.

"IPO" is defined in the recitals to this Agreement.

"IRS" means the U.S. Internal Revenue Service.

"Joinder" means a joinder to this Agreement, in form and substance substantially similar to Exhibit A to this Agreement.

"Joinder Requirement" is defined in Section 7.5(a).

"Law" means all laws, statutes, ordinances, rules and regulations of the U.S., any foreign country and each state, commonwealth, city, county, municipality, regulatory or self-regulatory body, agency or other political subdivision thereof.

"LLC" is defined in the preamble to this Agreement.

"LLC Group" means the LLC and each of its direct or indirect Subsidiaries that is treated as a partnership or disregarded entity for applicable tax purposes (but excluding any such Subsidiary to the extent it is directly or indirectly held by any entity treated as a corporation for applicable tax purposes (other than the Corporation)).

"Market Value" means (i) with respect to an Exchange (other than a deemed Exchange described in clause (ii) below), the value of the Class A Common Stock on the applicable Redemption or Direct Exchange date determined by the Corporation on a reasonable and consistent basis and used by the Corporation in its U.S. federal income tax reporting with respect to such Exchange, and (ii) with respect to a deemed Exchange pursuant to the Valuation Assumptions, (a) if the Class A Common Stock trades on a securities exchange or automated or electronic quotation system, the arithmetic average of the high trading price on such date (or if such date is not a Trading Day, the immediately preceding Trading Day) and the low trading price on such date (or if such date is not a Trading Day, the immediately preceding Trading Day) or (b) if the Class A Common Stock no longer trades on a securities exchange or automated or electronic quotation system, the fair market value of one share of Class A Common Stock, as determined by the Corporation in good faith, that would be obtained in an arms' length transaction for cash between an informed and willing buyer and an informed and willing seller, neither of whom is under any compulsion to buy or sell, and without regard to the particular circumstances of the buyer or seller and without any discounts for liquidity or minority discount.

"Material Breach" means the (i) material breach by the Corporation of a material obligation under this Agreement or (ii) the rejection of this Agreement by operation of law in a case commenced in bankruptcy or otherwise.

"Maximum Rate" is defined in Section 7.13.

"Net Tax Benefit" is defined in Section 3.1(b)(ii).

"Non-TRA Portion" is defined in Section 2.2(c).

"Objection Notice" is defined in Section 2.3(a)(ii).

"Offered Price" is defined in Section 7.5(a).

"Offered TRA Interests" is defined in Section 7.5(a)(i).

"Operating Agreement" means that certain Seventh Amended and Restated Limited Liability Company Agreement of the LLC, dated as of the date hereof, as such agreement may be further amended, restated, supplemented or otherwise modified from time to time.

"Parties" means the parties named on the signature pages to this agreement and each additional party that satisfies the Joinder Requirement, in each case with their respective successors and assigns.

"Payment" means any Tax Benefit Payment or Early Termination Payment and in each case, unless otherwise specified, refers to the entire amount of such Payment or any portion thereof.

"Permitted Transferee" means a holder of Common Units pursuant to any Permitted Transfer (as such term is defined in the Operating Agreement).

"Person" means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity or other entity.

"Pre-Exchange Transfer" means any transfer (or deemed transfer) of one or more Common Units (i) that occurs after the consummation of the IPO but prior to an Exchange of such Common Units and (ii) to which Section 743(b) of the Code applies.

"Proposed Transferee" is defined in Section 7.5(a)(i).

"Realized Tax Benefit" is defined in Section 3.1(b)(iv).

"Realized Tax Detriment" is defined in Section 3.1(b)(v).

"Recapitalization" is defined in the recitals to this Agreement.

"Reconciliation Dispute" is defined in Section 7.8(a).

"Reconciliation Procedures" is defined in Section 7.8(a).

"Redemption" is defined in the recitals to this Agreement.

"Relative Ownership Percentage" means as of anytime:

(i) with respect to the TRA Representative (if any) that is included from the Founders group, an amount (expressed as a percentage) equal to (A) the aggregate number of votes for Class A Common Stock, Class B Common Stock and Class C Common Stock held by the Founders Entities as of such time, divided by (B) aggregate number of votes for Class A Common Stock, Class B Common Stock and Class C Common Stock held by the Founder Entities, the Investor Entities and the Chief Executive Officer of the Corporation as of such time;

(ii) with respect to the TRA Representative (if any) that is included from the Investor Entities group, an amount (expressed as a percentage) equal to (A) the aggregate number of votes for Class A Common Stock, Class B Common Stock and Class C Common Stock held by the Investor Entities as of such time, divided by (B) aggregate number of votes for Class A Common Stock, Class B Common Stock and Class C Common Stock held by the Founder Entities, the Investor Entities and the Chief Executive Officer of the Corporation as of such time; and

(iii) with respect to the TRA Representative (if any) that is included from the Chief Executive Officer of the Corporation group, an amount (expressed as a percentage) equal to (A) the aggregate number of votes for Class A Common Stock, Class B Common Stock and Class C Common Stock held by the Chief Executive Officer of the Corporation as of such time, divided by (B) aggregate number of votes for Class A Common Stock, Class B Common Stock and Class C Common Stock held by the Founder Entities, the Investor Entities and the Chief Executive Officer of the Corporation as of such time.

"Reference Asset" means any asset of any member of the LLC Group on the relevant date of determination under this Agreement (including at the time of an Exchange or the IPO, as applicable). A Reference Asset also includes any asset the tax basis of which is determined, in whole or in part, by reference to the tax basis of an asset that is described in the preceding sentence, including "substituted basis property" within the meaning of Section 7701(a)(42) of the Code.

"Right of First Refusal" is defined in Section 7.5(a).

"Right of First Refusal Closing" is defined in Section 7.5(a)(iv).

"Schedule" means any of the following: (i) a Basis Schedule, (ii) a Tax Benefit Schedule; (iii) an Early Termination Schedule; and (iv) any Amended Schedule.

"Seller" is defined in Section 7.5(a).

"Senior Obligations" is defined in Section 5.1.

"SOFR" means the Secured Overnight Financing Rate, as reported by the Wall Street Journal.

"Subsidiary" means, with respect to any Person and as of any determination date, any other Person as to which such first Person (i) owns, directly or indirectly, or otherwise controls, more than 50% of the voting power or other similar interests of such other Person or (ii) is the sole general partner interest, or managing member or similar interest, of such other Person.

"Tax Benefit Payment" is defined in Section 3.1(b).

"Tax Benefit Schedule" is defined in Section 2.2(a).

"Tax Return" means any return, declaration, report or similar statement filed or required to be filed with respect to taxes (including any attached schedules), including any information return, claim for refund, amended return and declaration of estimated tax.

"Taxable Year" means a taxable year of the Corporation as defined in Section 441(b) of the Code or any similar provisions of U.S. state or local tax Law, as applicable (and, therefore, for the avoidance of doubt, may include a period of less than 12 months for which a Tax Return is filed), ending on or after the closing date of the IPO.

"Taxing Authority" means any national, federal, state, county, municipal or local government, or any subdivision, agency, commission or authority thereof, or any quasi-governmental body, or any other authority of any kind, exercising regulatory or other authority in relation to tax matters.

"Trading Day" means a day on which the Nasdaq or such other principal United States securities exchange on which the Class A Common Stock is listed or admitted to trading is open for the transaction of business (unless such trading shall have been suspended for the entire day).

"TRA Interests" is defined in Section 7.5(a).

"TRA Parties" means each of the signatories to this Agreement as of the date hereof and their Permitted Transferees who have executed a Joinder; provided that, notwithstanding anything to the contrary, this Agreement applies only to those Common Units that were received in the Recapitalization in exchange for common units, Series A-1 units, Series A-2 units and profits interests.

"TRA Portion" is defined in Section 2.2(c).

"TRA Representative" means one representative from each of the following groups, provided that if any such group fails to hold any TRA Interests, no representative shall be included from such group: (i) the Founders, (ii) Investor Entities, and (iii) all TRA Parties (other than the Founders and Investor Entities); provided, further that the representative for the group described in clause (iii) shall be the Chief Executive Officer of the Corporation (or his or her designee).

"Transfer" has the meaning set forth in the Operating Agreement and the terms "Transferee," "Transferor," "Transferred," and other forms of the word "Transfer" shall have the correlative meanings.

"Transfer Notice" is defined in Section 7.5(a)(i).

"Treasury Regulations" means the final, temporary and (to the extent they can be relied upon) proposed regulations under the Code, as promulgated from time to time (including corresponding provisions and succeeding provisions) and as in effect for the relevant taxable period.

"U.S." means the United States of America.

"Valuation Assumptions" means, as of an Early Termination Effective Date, the assumptions that:

(i) in each Taxable Year ending on or after such Early Termination Effective Date, the Corporation will have taxable income sufficient to fully use the Covered Tax Assets (other than any such Covered Tax Assets that constitute or have resulted in net operating losses, disallowed interest expense carryforwards, or credit carryforwards or carryovers (determined as of the Early Termination Effective Date), which shall be governed by paragraph (iv) below) during such Taxable Year or future Taxable Years (including, for the avoidance of doubt, Basis Adjustments and Imputed Interest that would result from future Tax Benefit Payments that would be paid in accordance with the Valuation Assumptions) in which such deductions would become available;

(ii) the U.S. federal income tax rates that will be in effect for each such Taxable Year will be those specified for each such Taxable Year by the Code and other applicable Law as in effect on the Early Termination Effective Date, except to the extent any change to such tax rates for such Taxable Year have already been enacted into Law, and the combined U.S. state income tax rates shall be the Assumed State Tax Rate in effect for each such Taxable Year;

(iii) all taxable income of the Corporation will be subject to the maximum applicable tax rates for each Covered Tax throughout the relevant period; provided, that the combined tax rate for U.S. state income taxes shall be the Assumed State Tax Rate;

(iv) any carryovers or carrybacks of losses, credits, or disallowed interest expense generated by any Covered Tax Assets (including any Basis Adjustments or Imputed Interest generated as a result of payments made or deemed to be made under this Agreement) and available (taking into account any known and applicable limitations) as of the date of the Early Termination Schedule will be used by the Corporation ratably in each of the ten (10) consecutive Taxable Years beginning with the Taxable Year that includes the date of the Early Termination Schedule (but, in the case of any such

carryover or carryback that has less than ten (10) remaining Taxable Years, ratably through the scheduled expiration date of such carryover or carryback) (by way of example, if on the date of the Early Termination Schedule the Corporation had $100 of net operating losses, $10 of such net operating losses would be used in each of the ten (10) consecutive Taxable Years beginning in the Taxable Year of such Early Termination Schedule);

(v) any non-amortizable assets (other than Subsidiary stock) will be disposed of on the fifteenth (15th) anniversary of the Early Termination Effective Date; provided that, in the event of a Change of Control that includes the direct sale of any non-amortizable assets, such non-amortizable assets shall be disposed of at the time of the direct sale of the relevant assets in such Change of Control for such price;

(vi) any Subsidiary stock will be deemed never to be disposed of except if Subsidiary Stock is directly disposed of in the Change of Control;

(vii) if, on the Early Termination Effective Date, any TRA Party has Common Units that have not been Exchanged, then such Common Units shall be deemed to be Exchanged for the Market Value of the shares of Class A Common Stock or the amount of cash that would be received by such TRA Party had such Common Units actually been Exchanged on the Early Termination Effective Date;

(viii) any future payment obligations pursuant to this Agreement that are used to calculate the Early Termination Payment will be satisfied on the date that any Tax Return to which any such payment obligation relates is required to be filed excluding any extensions; and

(ix) with respect to Taxable Years ending prior to the Early Termination Effective Date, any unpaid Tax Benefit Payments and any applicable Default Rate Interest will be paid.

"Voluntary Early Termination" is defined in Section 4.2(a)(i).

Section 1.2. Rules of Construction. Unless otherwise specified herein:

(a) For purposes of interpretation of this Agreement:

(i) The words "herein," "hereto," "hereof" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision thereof.

(ii) Unless specified otherwise, references to an Article, Section or clause refer to the appropriate Article, Section or clause in this Agreement.

(iii) References to dollars or "$" refer to the lawful currency of the U.S.

(iv) The terms "include" or "including" are by way of example and not limitation and shall be deemed followed by the words "without limitation".

(v) The term "or", when used in a list of two or more items, means "and/or" and may indicate any combination of the items.

(vi) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(b) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including", the words "to" and "until" each mean "to but excluding" and the word "through" means "to and including."

(c) Section headings herein are included for convenience of reference only and shall not affect the interpretation of this Agreement.

Unless otherwise expressly provided herein, (i) references to organizational documents (including the Operating Agreement), agreements (including this Agreement) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, and (ii) references to any Law (including the Code and the Treasury Regulations) include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

ARTICLE II

Determination of Realized Tax Benefit

Section 2.1. Basis Adjustments; The LLC 754 Election.

(a) Basis Adjustments. The Parties acknowledge and agree that, to the extent permitted by applicable Law, (i) each Redemption shall be treated as a direct purchase of Common Units by the Corporation from the applicable TRA Party pursuant to Section 707(a)(2)(B) of the Code (or any similar provisions of applicable state, local or foreign tax Law) (i.e., equivalent to a Direct Exchange), (ii) each (A) Exchange and (B) payment made by the Corporation under this Agreement (excluding payments with respect to amounts that constitute Imputed Interest) to a TRA Party in connection with an Exchange will give rise to Basis Adjustments, and (iii) the Interest Amount and Default Rate Interest payable with respect to any Exchange shall not be treated as interest for tax purposes but instead shall be treated as additional consideration for the Common Units transferred by the TRA Party in the relevant Exchange. Notwithstanding any other provision of this Agreement, the amount of any Basis Adjustment resulting from an Exchange of one or more Common Units is to be determined as if any Pre-Exchange Transfer of such Common Units had not occurred.

(b) LLC Section 754 Election. The Corporation shall cause each of the LLC and its Subsidiaries that is treated as a partnership for U.S. federal income tax purposes to have in effect an election under Section 754 of the Code (or any similar provisions of applicable state,

local or foreign tax Law) for each Taxable Year. The Corporation shall take commercially reasonable efforts to cause each Person in which the LLC owns a direct or indirect equity interest (other than a Subsidiary) that is so treated as a partnership to have in effect any such election for each Taxable Year.

Section 2.2. Tax Benefit Schedules.

(a) Basis Schedule. Within one hundred twenty (120) calendar days after the filing of the U.S. federal income Tax Return of the Corporation for each relevant Taxable Year, the Corporation shall deliver to the TRA Representatives a schedule showing, in reasonable detail as necessary to perform the calculations required by this Agreement, (a) the non-adjusted Tax basis of the Reference Assets as of each applicable Exchange Date, (b) the Basis Adjustments to the Reference Assets for such Taxable Year, (c) the periods over which the Reference Assets are amortizable or depreciable, and (d) the period over which each Basis Adjustment is amortizable or depreciable (such schedule, a "Basis Schedule"). A Basis Schedule will become final and binding on the Parties pursuant to the procedures set forth in Section 2.3(a) and may be amended by the Parties pursuant to the procedures set forth in Section 2.3(b).

(b) Tax Benefit Schedule. Within one hundred twenty (120) calendar days after the filing of the U.S. federal income Tax Return of the Corporation for each Taxable Year, the Corporation shall provide to the TRA Representative for each of the Investor Entities and the Founders a schedule showing, in reasonable detail, the calculation of the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year (a " Tax Benefit Schedule"). The Tax Benefit Schedule shall also be provided to all TRA Representatives for any Taxable Year in which there is a Realized Tax Benefit or a Realized Tax Detriment. A Tax Benefit Schedule will become final and binding on the Parties pursuant to the procedures set forth in Section 2.3(a) and may be amended by the Parties pursuant to the procedures set forth in Section 2.3(b).

(c) Applicable Principles. Subject to the provisions hereunder, the Realized Tax Benefit or Realized Tax Detriment for each Taxable Year is intended to measure the decrease or increase in the Actual Tax Liability of the Corporation for such Taxable Year attributable to the Covered Tax Assets, as determined using a "with and without" methodology (i.e., the Actual Tax Liability being the "with" calculation and the Hypothetical Tax Liability being the "without" calculation). Carryovers or carrybacks of any tax item attributable to any of the Covered Tax Assets shall be considered to be subject to the rules of the Code and the Treasury Regulations, and the appropriate provisions of state tax Law, governing the use, limitation or expiration of carryovers or carrybacks of the relevant type. If a carryover or carryback of any tax item includes a portion that is attributable to any Covered Tax Assets (a "TRA Portion") and another portion that is not attributable to any Covered Tax Assets (a "Non-TRA Portion"), such portions shall be considered to be used in accordance with the "with and without" methodology so that (i) the amount of any Non-TRA Portion is deemed utilized first, followed by the amount of any TRA Portion (with the TRA Portion being applied on a proportionate basis consistent with the provisions of Section 3.3(a)) and (ii) in the case of a carryback of a Non-TRA Portion, such carryback shall not affect the original "with and without" calculation made in the prior Taxable Year.

Section 2.3. Procedures; Amendments.

(a) Procedures. Each time the Corporation delivers a Schedule to any TRA Representative under this Agreement, the Corporation shall, with respect to such Schedule, also (i) deliver to the TRA Representatives supporting schedules and work papers, as reasonably requested by any TRA Representatives, that provide a reasonable level of detail regarding relevant data and calculations and (ii) allow the TRA Representatives and their advisors to have reasonable access to the appropriate representatives, as reasonably requested by the TRA Representatives, at the Corporation or the Advisory Firm in connection with a review of relevant information. A Schedule will become final and binding on the TRA Parties thirty (30) calendar days from the date on which the TRA Representatives first received the applicable Schedule unless a TRA Representative, within such period, provides the Corporation with written notice of a material objection (made in good faith) to such Schedule and sets forth in reasonable detail such TRA Representative's material objection (an "Objection Notice") or such TRA Representative provides a written waiver to the Corporation of its right to give an Objection Notice within such period, in which case such Schedule becomes final and binding on the date the Corporation has received waivers from the such TRA Representative. If the Parties, for any reason, are unable to resolve the issues raised in such Objection Notice within thirty (30) calendar days after receipt by the Corporation of the Objection Notice, the Corporation and the applicable TRA Representative shall employ the Reconciliation Procedures described in Section 7.8 and the finalization of the Schedule will be conducted in accordance therewith.

(b) Amended Schedule. A Schedule (other than an Early Termination Schedule) for any Taxable Year may only be and shall be amended from time to time by the Corporation (i) in connection with a Determination affecting such Schedule, (ii) to correct inaccuracies in such Schedule identified by the Corporation after the date such Schedule was originally provided to the TRA Parties, (iii) to comply with an Expert's determination under the Reconciliation Procedures, (iv) to reflect a change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to a carryover or carryback of a loss or other tax item to such Taxable Year or (v) to reflect a change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to an amended Tax Return filed for such Taxable Year (any such Schedule in its amended form, an "Amended Schedule"). The Corporation shall provide any Amended Schedule to the applicable TRA Parties within sixty (60) calendar days of the occurrence of an event referred to in any of clauses (i) through (v) of the preceding sentence, and the delivery and finalization of any such Amended Schedule shall, for the avoidance of doubt, be subject to the procedures described in Section 2.3(a).

ARTICLE III

Tax Benefit Payments

Section 3.1. Timing and Amount of Tax Benefit Payments.

(a) Timing of Payments. Subject to Sections 3.2 and 3.3, by the date that is five (5) Business Days following the date on which each Tax Benefit Schedule becomes final in accordance with Section 2.3(a) (such date, the "Final Payment Date" in respect of any Tax

Benefit Payment), the Corporation shall pay in full to each relevant TRA Party the Tax Benefit Payment as determined pursuant to Section 3.1(b). Each such Tax Benefit Payment shall be made by wire transfer of immediately available funds to a bank account designated by such TRA Party.

(b) Amount of Payments. For purposes of this Agreement, a "Tax Benefit Payment" with respect to any TRA Party means an amount equal to the sum of the Net Tax Benefit that is Attributable to such TRA Party and the Interest Amount with respect thereto. No Tax Benefit Payment shall be calculated or made in respect of any estimated tax payments, including any estimated U.S. federal income tax payments.

(i) Attributable. A Net Tax Benefit (and related Realized Tax Benefit) is "Attributable" to a TRA Party in accordance with the following principles:

(A) any Basis Adjustments shall be determined separately with respect to each TRA Party and are Attributable to each TRA Party in an amount equal to the total Basis Adjustment relating to Common Units delivered to the Corporation by such TRA Party in the Exchange; and

(B) any deduction to the Corporation in respect of Imputed Interest is Attributable to the TRA Party that is required to include the Imputed Interest in income (without regard to whether such Person is actually subject to tax thereon).

(ii) Net Tax Benefit. The "Net Tax Benefit" with respect to a TRA Party for a Taxable Year equals the amount of the excess, if any, of (A) 85% of the Cumulative Net Realized Tax Benefit Attributable to such TRA Party as of the end of such Taxable Year over (B) the aggregate amount of all Tax Benefit Payments previously made to such TRA Party under this Section 3.1 (excluding payments attributable to Interest Amounts).

(iii) Cumulative Net Realized Tax Benefit. The "Cumulative Net Realized Tax Benefit" for a Taxable Year equals the cumulative amount of Realized Tax Benefits for all Taxable Years of the Corporation up to and including such Taxable Year, net of the cumulative amount of Realized Tax Detriments for the same period. The Realized Tax Benefit and Realized Tax Detriment for each Taxable Year shall be determined based on the most recent Tax Benefit Schedule or Amended Schedule, if any, in existence at the time of such determination.

(iv) Realized Tax Benefit. The "Realized Tax Benefit" for a Taxable Year equals the excess, if any, of the Hypothetical Tax Liability over the Actual Tax Liability for such Taxable Year. If all or a portion of the Actual Tax Liability for such Taxable Year arises as a result of an audit or similar proceeding by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Benefit unless and until there has been a Determination.

(v) Realized Tax Detriment. The "Realized Tax Detriment" for a Taxable Year equals the excess, if any, of the Actual Tax Liability over the Hypothetical Tax Liability for such Taxable Year. If all or a portion of the Actual Tax Liability for such Taxable Year arises as a result of an audit or similar proceeding by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Detriment unless and until there has been a Determination.

(vi) Imputed Interest. The parties acknowledge that a portion of any Net Tax Benefit payable by the Corporation to a TRA Party under this Agreement is to be treated as Imputed Interest in accordance with applicable Law.

(vii) Interest Amount. The "Interest Amount" in respect of a TRA Party equals interest on the unpaid amount of the Net Tax Benefit with respect to such TRA Party for a Taxable Year, calculated at the Agreed Rate from the due date (without extensions) for filing the U.S. federal income Tax Return of the Corporation for such Taxable Year until the earlier of (A) the date on which no remaining Tax Benefit Payment to the TRA Party is due in respect of such Net Tax Benefit and (B) the applicable Final Payment Date.

(viii) The TRA Parties, the LLC and the Corporation acknowledge and agree that, as of the date of this Agreement and the date of any future Exchange that may be subject to this Agreement, the aggregate value of the Tax Benefit Payments cannot be reasonably ascertained for U.S. federal income or other applicable tax purposes. Notwithstanding anything to the contrary in this Agreement, if a TRA Party notifies the Corporation in accordance with the following, the stated maximum selling price (within the meaning of Treasury Regulation 15A.453-1(c)(2)) with respect to any transfer of Common Units by a TRA Party pursuant to an Exchange shall not exceed the sum of (A) the amounts described in clauses (i) and (iii) of the definition of Amount Realized with respect to such Exchange plus (B) the amount, if any, set forth in the Redemption Notice (as defined in the Operating Agreement) or other written notification delivered by such TRA Party to the Corporation with respect to the relevant Exchange, and the aggregate Payments under this Agreement to such TRA Party (other than amounts accounted for as interest under the Code) relating to the Exchange shall not exceed the amount described in this clause (B).

Section 3.2. No Duplicative Payments. It is intended that the provisions hereunder will not result in the duplicative payment of any amount that may be required under this Agreement, and the provisions hereunder shall be consistently interpreted and applied in accordance with that intent.

Section 3.3. Pro-Ration of Payments as Between the TRA Parties.

(a) Insufficient Taxable Income. Notwithstanding anything in Section 3.1(b) to the contrary, if the aggregate potential Covered Tax benefit of the Corporation as calculated with respect to the Covered Tax Assets (in each case, without regard to the Taxable Year of origination) is limited in a particular Taxable Year because the Corporation does not have

sufficient actual taxable income, then the available Covered Tax benefit for the Corporation shall be allocated among the TRA Parties in proportion to the respective Tax Benefit Payment that would have been payable if the Corporation had sufficient taxable income. For example, if the Corporation had $200 of aggregate potential Covered Tax benefits with respect to the Covered Tax Assets in a particular Taxable Year (with $50 of such Covered Tax benefits Attributable to TRA Party A and $150 Attributable to TRA Party B), such that TRA Party A would have been entitled to a Tax Benefit Payment of $42.50 and TRA Party B would have been entitled to a Tax Benefit Payment of $127.50 if the Corporation had sufficient actual taxable income, and if the Corporation instead had insufficient actual taxable income in such Taxable Year, such that the Covered Tax benefit was limited to $100, then $25 of the aggregate $100 actual Covered Tax benefit for the Corporation for such Taxable Year would be allocated to TRA Party A and $75 would be allocated to TRA Party B, such that TRA Party A would receive a Tax Benefit Payment of $21.25 and TRA Party B would receive a Tax Benefit Payment of $63.75.

(b) Late Payments. If for any reason the Corporation is not able to fully satisfy its payment obligations to make all Tax Benefit Payments due in respect of a particular Taxable Year, then (i) Default Rate Interest will accrue pursuant to Section 5.2, (ii) the Corporation shall pay the available amount of such Tax Benefit Payments (and any applicable Default Rate Interest) in respect of such Taxable Year to each TRA Party pro rata in accordance with Section 3.3(a) and (iii) no Tax Benefit Payment shall be made in respect of any Taxable Year until all Tax Benefit Payments (and any applicable Default Rate Interest) to all TRA Parties in respect of all prior Taxable Years have been made in full.

Section 3.4. Overpayments. Subject to the procedures described in Section 2.3(a), to the extent the Corporation makes a payment to a TRA Party in respect of a particular Taxable Year under Section 3.1(a) in an amount in excess of the amount of such payment that should have been made to such TRA Party in respect of such Taxable Year (taking into account Section 3.3) under the terms of this Agreement, then such TRA Party shall not receive further payments under Section 3.1(a) or Section 4.3(a) until such TRA Party has foregone an amount of payments equal to such excess; provided, that for the avoidance of the doubt, no TRA Party shall be required to return any payment paid by the Corporation to such TRA Party.

ARTICLE IV

Termination

Section 4.1. Early Termination of Agreement; Acceleration Events.

(a) Corporation's Early Termination Right. With the written approval of a majority of the Independent Directors, the Corporation may terminate this Agreement with respect to all or any of the TRA Parties, as and to the extent provided herein, by paying such TRA Party or TRA Parties the Early Termination Payment (along with any applicable Default Rate Interest) due to such TRA Party under this Agreement or such lesser amount otherwise agreed to by the Corporation and such TRA Party or TRA Parties.

(b) Acceleration upon Change of Control. In the event of a Change of Control, the Early Termination Payment (calculated as if an Early Termination Notice had been delivered on the date of the Change of Control) shall become due and payable in accordance with Section 4.3 and the Agreement shall terminate, as and to the extent provided herein.

(c) Acceleration upon Breach of Agreement. In the event of a Material Breach, the Early Termination Payment (calculated as if an Early Termination Notice had been delivered on the date of the Material Breach) shall become due and payable in accordance with Section 4.3 and the Agreement shall terminate, as and to the extent provided herein. Subject to the next sentence, the Corporation's failure to make a Payment (along with any applicable Default Rate Interest) within one hundred twenty (120) calendar days of the applicable Final Payment Date shall be deemed to constitute a Material Breach. To the extent that any Tax Benefit Payment is not made by the date that is one hundred twenty (120) calendar days after the relevant Final Payment Date because the Corporation (i) is prohibited from making such payment under Section 5.1 or the terms of any agreement governing any Senior Obligations or (ii) does not have, and cannot take commercially reasonable actions to obtain, sufficient funds to make such payment, such failure will not constitute a Material Breach; provided, that (A) such payment obligation nevertheless will accrue at the Default Rate Interest for the benefit of the TRA Parties, (B) the Corporation shall promptly (and in any event, within five (5) Business Days) pay the entirety of the unpaid amount (along with any applicable Default Rate Interest) once the Corporation is not prohibited from making such payment under Section 5.1 or the terms of the agreements governing the Senior Obligations and the Corporation has sufficient funds to make such payment and (C) the failure of the Corporation to comply with the foregoing clause (B) will constitute a Material Breach; provided further, that the interest provision of Section 5.2 shall apply to such late payment (unless the Corporation does not have sufficient funds to make such payment as a result of limitations imposed by any Senior Obligations, in which case Section 5.2 shall apply, but the Default Rate shall be replaced by the Agreed Rate). It shall be a Material Breach if the Corporation makes any distribution of cash or other property (other than shares of Class A Common Stock) to its shareholders or uses cash or other property to repurchase any capital stock of the Corporation (including Class A Common Stock), in each case, before (x) all Tax Benefit Payments (along with any applicable Default Rate Interest) that are due and payable as of the date the Corporation enters into a binding commitment to make such distribution or repurchase have been paid or (y) sufficient funds for the payment of all Tax Benefit Payments (along with any applicable Default Rate Interest) that are due and payable on the date of the distribution or repurchase have been reserved therefor. The Corporation shall use commercially reasonable efforts to (1) obtain sufficient available funds for the purpose of making Tax Benefit Payments under this Agreement and (2) avoid entering into any agreements that could be reasonably anticipated to materially delay the timing of the making of any Tax Benefit Payments under this Agreement.

(d) In the case of a termination pursuant to any of the foregoing paragraphs (a), (b) or (c), upon the Corporation's payment to the relevant TRA Parties of the Early Termination Payment (along with any applicable Default Rate Interest) or such lesser amount agreed to by the Corporation and the relevant TRA Parties, the Corporation shall have no further payment obligations under this Agreement. For the avoidance of doubt, if an Exchange

subsequently occurs with respect to Common Units for which the Corporation has paid the Early Termination Payment in full, the Corporation shall have no obligations under this Agreement with respect to such Exchange or the related Covered Tax Assets.

Section 4.2. Early Termination Notice.

(a) If (i) the Corporation chooses to exercise its termination right under Section 4.1(a) ("Voluntary Early Termination "), (ii) a Change of Control occurs or (iii) a Material Breach occurs, the Corporation shall, in each case, deliver to the TRA Parties a reasonably detailed notice of the Corporation's decision to exercise such right or the occurrence of such event, as applicable (an "Early Termination Notice"). In the case of an Early Termination Notice delivered with respect to a Voluntary Early Termination, the Corporation may withdraw such Early Termination Notice and rescind its Voluntary Early Termination at any time prior to the time at which any Early Termination Payment is paid and the terms of this Agreement shall apply as if such Early Termination Notice had never been delivered.

(b) The Corporation shall deliver a schedule showing in reasonable detail the calculation of the Early Termination Payment (an "Early Termination Schedule") (i) simultaneously with the delivery of an Early Termination Notice or (ii) in the case of a termination pursuant to Section 4.1(b) or Section 4.1(c), as soon as reasonably practicable following the occurrence of the Change of Control or Material Breach giving rise to such termination. The date on which such Early Termination Schedule becomes final in accordance with Section 2.3(a) shall be the "Early Termination Reference Date".

Section 4.3. Payment upon Early Termination.

(a) Timing of Payment. By the date that is five (5) Business Days after the Early Termination Reference Date (such date, the "Final Payment Date" in respect of the Early Termination Payment), the Corporation shall pay in full to each applicable TRA Party an amount equal to the Early Termination Payment applicable to such TRA Party or such lesser amount otherwise agreed to by the Corporation and such TRA Party. Such Early Termination Payment or such lesser amount shall be made by the Corporation by wire transfer of immediately available funds to a bank account or accounts designated by the applicable TRA Party.

(b) Amount of Payment. The "Early Termination Payment" payable to a TRA Party pursuant to Section 4.3(a) shall equal the sum of (I) the present value, discounted at the Agreed Rate and determined as of the Early Termination Reference Date, of all Tax Benefit Payments (other than any Tax Benefit Payments in respect of Taxable Years ending prior to the Early Termination Effective Date) that would be required to be paid by the Corporation to such TRA Party, beginning from the Early Termination Effective Date and using the Valuation Assumptions plus (II) any unpaid Tax Benefit Payments (including without duplication any payments of Default Rate Interest) in respect of the Taxable Years ending prior to the Early Termination Effective Date. For the avoidance of doubt, an Early Termination Payment shall be made to each applicable TRA Party in accordance with this Agreement, regardless of whether a TRA Party has Exchanged all of its Common Units as of the Early Termination Effective Date.

ARTICLE V

Subordination and Late Payments

Section 5.1. Subordination. Notwithstanding any other provision of this Agreement to the contrary, any payment required to be made by the Corporation to the TRA Parties under this Agreement shall rank subordinate and junior in right of payment to any principal, interest or other amounts due and payable in respect of any obligations owed in respect of indebtedness for borrowed money of the Corporation (other than, for the avoidance of doubt, any trade payables, intercompany debt or other similar obligations) ("Senior Obligations") and shall rank *pari passu* in right of payment with all current or future obligations of the Corporation that are not Senior Obligations. To the extent that any Payment is not permitted to be made when due as a result of this Section 5.1 and the terms of the agreements governing Senior Obligations, such Payment nevertheless shall accrue for the benefit of the TRA Parties and the Corporation shall make such Payment at the first opportunity that such Payment is permitted to be made in accordance with the terms of the Senior Obligations.

Section 5.2. Late Payments by the Corporation. Subject to the second proviso in the third sentence of Section 4.1(c), the amount of any Payment not made to any TRA Party by the applicable Final Payment Date shall be payable together with "Default Rate Interest", calculated at the Default Rate and accruing on the amount of the unpaid Payment from the applicable Final Payment Date until the date on which the Corporation makes such Payment to such TRA Party.

ARTICLE VI

Tax Matters; Consistency; Cooperation

Section 6.1. Participation in the Corporation's and the LLC's Tax Matters. Except as otherwise provided herein or in Article IX of the Operating Agreement, the Corporation shall have full responsibility for, and sole discretion over, all tax matters concerning the Corporation and the LLC, including preparing, filing or amending any Tax Return and defending, contesting or settling any issue pertaining to taxes. Notwithstanding the foregoing, (i) the Corporation shall notify the TRA Representatives of, and keep them reasonably informed with respect to, the portion of any audit of the Corporation, the LLC or any of the LLC's Subsidiaries by any Taxing Authority, the outcome of which is reasonably expected to materially and adversely affect the TRA Parties' rights and obligations under this Agreement, including the timing of anticipated Tax Benefit Payments and (ii) the TRA Representatives shall have the right to participate in and to monitor at their own expense (but, for the avoidance of doubt, not to control) any such issue in any such tax audit. To the extent there is a conflict between this Agreement and the Operating Agreement as it relates to tax matters concerning Covered Taxes and the Corporation and the LLC, including preparation, filing or amending of any Tax Return and defending, contesting or settling any issue pertaining to taxes, this Agreement shall control.

Section 6.2. Consistency. Except upon the written advice of the Advisory Firm, all calculations and determinations made hereunder, including any Basis Adjustments, the

Schedules and the determination of any Realized Tax Benefits or Realized Tax Detriments, shall be made in accordance with the elections, methodologies and positions taken by the Corporation and the LLC on their respective Tax Returns. Each TRA Party shall prepare its Tax Returns in a manner consistent with the terms of this Agreement and any related calculations or determinations made hereunder, including the terms of Section 2.1 and the Schedules provided to each such TRA Party, except as otherwise required by Law. In the event that an Advisory Firm is replaced with another Advisory Firm acceptable to the Audit Committee, the TRA Parties shall cause such replacement Advisory Firm to perform its services necessitated by this Agreement using procedures and methodologies consistent with those of the previous Advisory Firm, unless otherwise required by Law or unless the Corporation and all of the TRA Representatives agree to the use of other procedures and methodologies.

Section 6.3. Cooperation. Each TRA Party, on the one hand, and the Corporation, on the other hand, shall (i) furnish to the other in a timely manner such information, documents and other materials as the other may reasonably request for purposes of making any determination or computation necessary or appropriate under this Agreement, preparing any Tax Return or contesting or defending any related audit, examination or controversy with any Taxing Authority, or estimating any future Tax Benefit Payments hereunder, (ii) make itself available to the Corporation and its representatives to provide explanations of documents and materials and such other information as may be reasonably requested in connection with any of the matters described in clause (i) above and (iii) reasonably cooperate in connection with any such matter.

ARTICLE VII

Miscellaneous

Section 7.1. Notices. All notices, requests, consents and other communications required or permitted hereunder shall be in writing and (i) delivered personally, (ii) sent by e-mail or (iii) sent by overnight courier, in each case, addressed as follows:

If to the Corporation, to:

Black Rock Coffee Bar, Inc.
9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260
Attn: Sam Seiberling, Chief Legal Officer
E-mail:

With a copy (which shall not constitute notice) to:

Latham & Watkins LLP
1271 6th Avenue,
New York, New York 10020
Attn: Ian Schuman, Stelios Saffos, Scott Westhoff
E-mail:

If to any TRA Party, to the address and e-mail address specified on such TRA Party's signature page to the applicable Joinder or otherwise on file with the Corporation or the LLC.

Any Party may change its address or e-mail address by giving each of the other Party written notice thereof in the manner set forth above.

Section 7.2. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the TRA Parties and delivered to the other TRA Parties, it being understood that all TRA Parties need not sign the same counterpart. Delivery of an executed signature page to this Agreement by e-mail transmission shall be as effective as delivery of a manually signed counterpart of this Agreement.

Section 7.3. Entire Agreement; No Third-Party Beneficiaries. This Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the Parties with respect to the subject matter hereof. This Agreement shall be binding upon and inure solely to the benefit of each Party hereto and their respective successors and permitted assigns, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

Section 7.4. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law or public policy, all other terms and provisions hereunder shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner.

Section 7.5. Assignments; Amendments; Successors; No Waiver.

(a) Right of First Refusal. Before a TRA Party (such TRA Party, the " Seller") may Transfer any interest in this Agreement, including the right to receive any Tax Benefit Payments under this Agreement (collectively, " TRA Interests"), to any Person (other than a Permitted Transferee), in addition to any other requirements set forth in this Agreement (including as set forth in Section 7.5(b)), Seller must comply with the following (the "Right of First Refusal"):

(i) Prior to Seller Transferring any of its TRA Interests to any Person (other than a Permitted Transferee), Seller shall deliver to the Corporation a written notice (the "Transfer Notice") stating: (A) Seller's bona fide intention to Transfer such TRA Interests; (B) the name, address and phone number of each proposed purchaser or other Transferee (each, a "Proposed Transferee"); (C) a description of Seller's TRA Interests (or portion thereof) proposed to be Transferred to each Proposed Transferee (the "Offered TRA Interests"); and (D) the bona fide cash price or, in reasonable detail, other consideration for which Seller proposes to Transfer the Offered TRA Interests (the "Offered Price").

(ii) For a period of 30 days (the "Exercise Period") after the date on which the Transfer Notice is, pursuant to Section 7.1, deemed to have been delivered to the Corporation, the Corporation shall have the right to purchase all or any portion of the Offered TRA Interests on the terms and conditions set forth in this Section 7.5(a). In order to exercise its right hereunder, the Corporation must deliver written notice to elect to purchase to Seller within the Exercise Period. If no such written notice is given within the Exercise Period, the Corporation shall be deemed to have elected not to purchase the Offered TRA Interests.

(iii) The purchase price for the Offered TRA Interests to be purchased by the Corporation exercising its Right of First Refusal under this Agreement will be the Offered Price, and will be payable as set forth in Section 7.5(a)(iv). If the Offered Price includes consideration other than cash, the cash equivalent value of the non-cash consideration will be determined by the Board in good faith, which determination will be binding upon the Corporation and the Seller, absent fraud or manifest error.

(iv) Subject to compliance with applicable state and federal securities laws, the Corporation and Seller shall effect the purchase and sale of all or any portion of the Offered TRA Interests, including the payment of the purchase price, within ten days after the expiration of the Exercise Period or as promptly as otherwise practicable thereafter (the "Right of First Refusal Closing"). Payment of the purchase price will be made by wire transfer to a bank account designated by Seller in writing to the Corporation at least 3 days prior to the Right of First Refusal Closing. At such Right of First Refusal Closing, Seller shall deliver to the Corporation, among other things, such documents and instruments of conveyance as may be necessary in the reasonable opinion of counsel to the Corporation to effect the Transfer of such Offered TRA Interests.

(v) If any of the Offered TRA Interests remain available after the exercise, if any, of the Corporation's Right of First Refusal, then the Seller shall be free to transfer, subject to the general conditions to transfer set forth in Section 7.5(b), any such remaining Offered TRA Interests to the Proposed Transferee at the Offered Price set forth in the Transfer Notice; provided, however, that if the Offered TRA Interests are not so transferred during the 90-day period following the delivery of the Transfer Notice, then the Seller may not Transfer any of such remaining Offered TRA Interests without complying again in full with the provisions of this TRA Agreement.

(b) Assignment. No TRA Party may assign, sell, pledge or otherwise alienate or Transfer any interest in this Agreement, including the right to receive any payments under this Agreement, to more than two (2) transferees (excluding Permitted Transferees) without the prior written consent of the Corporation; provided, that prior to any assignment, sale, pledge or other alienation or transfer of an interest in this Agreement, including the right to receive any payments under this Agreement, the Corporation will have the Right of First Refusal to purchase such interest in this Agreement from such TRA Party. If the Corporation does not exercise its Right of First Refusal and the TRA Party transfers its rights under this Agreement, such Person shall execute and deliver a Joinder agreeing to succeed to the applicable portion of such TRA Party's interest in this Agreement (the " Joinder Requirement"). Notwithstanding the foregoing, if any TRA Party sells, exchanges, distributes or otherwise transfers Common Units to any Person (other than the Corporation or the LLC) in accordance with the terms of the Operating Agreement, such TRA Party shall have the option to assign to the transferee of such Common Units its rights under this Agreement with respect to such transferred Common Units; provided, that such transferee has satisfied the Joinder Requirement. If a TRA Party transfers Common Units in accordance with the terms of the Operating Agreement but does not assign to the Transferee of such Common Units its rights and obligations under this Agreement with respect to such transferred Common Units, (i) such TRA Party shall remain a TRA Party under this Agreement for all purposes, including with respect to the receipt of Tax Benefit Payments to the extent payable hereunder and (ii) the Transferee of such Common Units shall not be a TRA Party for purposes of this Agreement. The Corporation may not assign any of its rights or obligations under this Agreement to any Person (other than in connection with a mandatory assignment or assignment under Section 7.5(d)) without the prior written consent of the TRA Representatives (not to be unreasonably withheld, conditioned or delayed). Any purported assignment in violation of the terms of this Section 7.5 shall be null and void).

(c) Amendments. No provision of this Agreement may be amended unless such amendment is approved in writing by the Corporation and the TRA Representatives; provided, that amendment of the definition of Change of Control will also require the written approval of a majority of the Independent Directors; provided, further that any amendment that materially and adversely affects one or more TRA Parties on a materially disproportionate basis relative to other similarly situated TRA Parties shall require the consent of a majority (measured by Tax Benefit Payments receivable) of such similarly situated TRA Parties so materially disproportionately affected.

(d) Successors. Except as provided in Section 7.5(a), all of the terms and provisions hereunder shall be binding upon, and shall inure to the benefit of and be enforceable by, the Parties and their respective successors, assigns, heirs, executors, administrators and legal representatives. The Corporation shall require and cause any direct or indirect successor (whether by equity purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of the Corporation, by written agreement, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Corporation would be required to perform if no such succession had taken place.

(e) Waiver. No provision of this Agreement may be waived unless such waiver is in writing and signed by the Party against whom the waiver is to be effective. No failure by any Party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

Section 7.6. Titles and Subtitles. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

Section 7.7. Resolution of Disputes; Governing Law.

(a) Except for Reconciliation Disputes subject to Section 7.8, any and all disputes which cannot be settled after good faith negotiation within sixty (60) calendar days, including any ancillary claims of any Party, arising out of, relating to or in connection with the validity, negotiation, execution, interpretation, performance or non-performance of this Agreement (including the validity, scope and enforceability of this Section 7.7 or Section 7.8) (each, a "Dispute") shall be finally resolved by arbitration in accordance with the International Institute for Conflict Prevention and Resolution Rules for Non-Administered Arbitration by the majority vote of a panel of three arbitrators, of which the Corporation shall designate one arbitrator and the TRA Parties that are party to such Dispute shall designate one arbitrator, in each case in accordance with the "screened" appointment procedure provided in Resolution Rule 5.4. In addition to monetary damages, the arbitrators shall be empowered and permitted to award equitable relief, including an injunction and specific performance of any obligation under this Agreement. The arbitrators are not empowered to award damages in excess of compensatory damages, and each TRA Party hereby irrevocably waives any right to recover punitive, exemplary or similar damages with respect to any Dispute. Any award shall be the sole and exclusive remedy between the TRA Parties regarding any claims, counterclaims, issues or accounting presented to the arbitrators. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1 *et seq.,* and judgment upon the award rendered by the arbitrators may be entered by any court having jurisdiction thereof. The place of the arbitration shall be the State of New York.

(b) Notwithstanding the provisions of paragraph (a) above, any Party may bring an action or special proceeding in any court of competent jurisdiction for the purpose of compelling another Party to arbitrate, seeking temporary or preliminary relief in aid of an arbitration hereunder or enforcing an arbitration award and, for the purposes of this paragraph (b), each Party (i) expressly consents to the application of paragraphs (c) and (d) of this Section 7.7 to any such action or proceeding and (ii) agrees that proof shall not be required that monetary damages for breach of the provisions hereunder would be difficult to calculate and that remedies at law would be inadequate.

(c) This Agreement shall be governed in all respects, including as to validity, interpretation and effect, by the internal Laws of the State of New York, without giving effect to the conflict of laws rules thereof. Subject to this Section 7.7 and Section 7.8, the Parties agree

that any suit or proceeding in connection with, arising out of or relating to this Agreement shall be instituted only in a New York state court (or U.S. federal court), and the Parties, for the purpose of any such suit or proceeding, irrevocably consent and submit to the exclusive personal jurisdiction and venue of any such court in any such suit or proceeding. Each Party agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law.

(d) Each Party irrevocably and unconditionally waives, to the fullest extent permitted by Law, (i) any objection that 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 in any court referred to in Section 7.7(b) or 7.7(c) and (ii) the defense of an inconvenient forum to the maintenance of any such suit, action or proceeding in any such court.

(e) Each Party irrevocably consents to service of process by means of notice in the manner provided for in Section 7.1. Nothing in this Agreement shall affect the right of any Party to serve process in any other manner permitted by Law.

(f) WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY HERETO HEREBY KNOWINGLY, VOLUNTARILY, INTENTIONALLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AND WITH THE ADVICE OF ITS COUNSEL, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY SUIT, ACTION OR PROCEEDING, WHETHER A CLAIM, COUNTERCLAIM, CROSS-CLAIM, OR THIRD PARTY CLAIM, DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING IN ANY WAY TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY).

Section 7.8. Reconciliation Procedures.

(a) In the event that the Corporation and any TRA Representative are unable to resolve a disagreement with respect to a Schedule prepared in accordance with the procedures set forth in Section 2.3 or Section 4.2, as applicable, within the relevant time period designated in this Agreement (a "Reconciliation Dispute"), the procedures described in this paragraph (the "Reconciliation Procedures") will apply. The Corporation and the applicable TRA Representative shall, within fifteen (15) calendar days of the commencement of a Reconciliation Dispute, mutually select a nationally recognized expert in the particular area of disagreement (the "Expert") and submit the Reconciliation Dispute to such Expert for determination. The Expert shall be a partner or principal in a nationally recognized accounting firm, and unless the Corporation and such TRA Representative agree otherwise, the Expert (and its employing firm) shall not have any material relationship with the Corporation or such TRA Representative or other actual or potential conflict of interest. If the applicable Parties are unable to agree on an Expert within such fifteen (15) calendar-day time period, the selection of an Expert shall be treated as a Dispute subject to Section 7.7 and an arbitration panel shall pick an Expert from a nationally recognized accounting firm that does not have any material relationship with the applicable Parties or other actual or potential conflict of interest. The Expert shall resolve any matter relating to (i) a Basis Schedule, Early Termination Schedule or an amendment to either

within thirty (30) calendar days and (ii) a Tax Benefit Schedule or an amendment thereto within fifteen (15) calendar days or as soon thereafter as is reasonably practicable, in each case after the matter has been submitted to the Expert for resolution. Notwithstanding the preceding sentence, if the matter is not resolved before any payment that is the subject of a disagreement would be due (in the absence of such disagreement) or any Tax Return reflecting the subject of a disagreement is due, the undisputed amount shall be paid by the date prescribed by this Agreement and such Tax Return may be filed as prepared by the Corporation, subject to adjustment or amendment upon resolution. The Expert shall finally determine any Reconciliation Dispute, and its determinations pursuant to this Section 7.8(a) shall be binding on the applicable Parties and may be entered and enforced in any court having competent jurisdiction. Any dispute as to whether a dispute is a Reconciliation Dispute within the meaning of this Section 7.8 or a Dispute within the meaning of Section 7.7 shall be decided and resolved as a Dispute subject to the procedures set forth in Section 7.7.

(b) Subject to the next sentence, the applicable Parties shall bear their own costs and expenses of such proceeding, unless (i) the Expert adopts the TRA Representative's position, in which case the Corporation shall reimburse the TRA Representative for any reasonable and documented out-of-pocket costs and expenses in such proceeding or (ii) the Expert adopts the Corporation's position, in which case the TRA Representative shall reimburse the Corporation for any reasonable and documented out-of-pocket costs and expenses in such proceeding. The costs and expenses relating to the engagement of such Expert or amending any Tax Return shall be borne by the Corporation.

Section 7.9. Withholding. The Corporation and its Affiliates shall be entitled to deduct and withhold from any payment that is payable to any TRA Party pursuant to this Agreement such amounts as the Corporation is required to deduct and withhold with respect to the making of such payment by applicable Law. To the extent that amounts are so deducted and withheld and paid over to the appropriate Taxing Authority by the Corporation, such deducted and withheld amounts shall be treated for all purposes of this Agreement as having been paid by the Corporation to the relevant TRA Party in respect of whom the deduction and withholding was made. Each TRA Party shall promptly provide the Corporation with any applicable tax forms and certifications reasonably requested by the Corporation in connection with determining whether any such deductions and withholdings are required by applicable Law.

Section 7.10. Admission of the Corporation into a Consolidated Group; Transfers of Corporate Assets.

(a) If the Corporation is or becomes a member of an affiliated or consolidated group of corporations that files a consolidated income Tax Return pursuant to Section 1501 or other applicable sections of the Code governing affiliated or consolidated groups, or any corresponding provisions of state, local or foreign tax Law, then (i) the provisions of this Agreement shall be applied with respect to the group as a whole, and (ii) Payments and other applicable items hereunder shall be computed with reference to the consolidated taxable income of the group as a whole.

(b) If the Corporation or any member of the LLC Group transfers one or more Reference Assets to a Person treated as a corporation for U.S. federal income tax purposes (with which the Corporation does not file a consolidated Tax Return pursuant to Section 1501 of the Code), unless otherwise agreed to by the Corporation and each of the TRA Representatives, such transferor, for purposes of calculating the amount of any Payment due hereunder, shall be treated as having disposed of such asset in a fully taxable transaction on the date of such transfer. The consideration deemed to be received by the Corporation or the LLC Group member, as the applicable transferor, shall be equal to the fair market value of the transferred asset plus the amount of debt to which such asset is subject, in the case of a transfer of an encumbered asset. For purposes of this Section 7.10, a transfer of a partnership interest shall be treated as a transfer of the transferring partner's applicable share of each of the assets and liabilities of that partnership. Notwithstanding anything to the contrary set forth herein, if the Corporation or any member of a group described in Section 7.10(a) transfers its assets pursuant to a transaction that qualifies as a "reorganization" (within the meaning of Section 368(a) of the Code) in which such entity does not survive, pursuant to a contribution described in Section 351(a) of the Code or pursuant to any other transaction to which Section 381(a) of the Code applies, the transfer shall not cause such entity to be treated as having transferred any assets to a corporation (or a Person classified as a corporation for U.S. federal income tax purposes) pursuant to this Section 7.10(b); provided, that this sentence shall not apply to any such reorganization, contribution or other transaction, in each case, pursuant to which such entity transfers assets to a corporation with which the Corporation or any member of the group described in Section 7.10(a) (excluding any such member being transferred in such reorganization or other transaction) does not file a consolidated Tax Return pursuant to Section 1501 of the Code.

Section 7.11. Confidentiality. Each TRA Party and each of its respective assignees acknowledges and agrees that the information of the Corporation is confidential and, except in the course of performing any duties as necessary for the Corporation and its Affiliates, as required by Law or legal process or to enforce the terms of this Agreement, such Person shall keep and retain in the strictest confidence and not disclose to any other Person any confidential information acquired pursuant to this Agreement of the Corporation or its controlled Affiliates or their successors. This Section 7.11 shall not apply to (i) any information that has been made publicly available by the Corporation or any of its controlled Affiliates, becomes public knowledge (except as a result of an act of any TRA Party in violation of this Agreement) or is generally known to the business community, (ii) the disclosure of information to the extent necessary for a TRA Party to prosecute or defend claims arising under or relating to this Agreement and (iii) the disclosure of information to the extent necessary for a TRA Party to prepare and file its Tax Returns, to respond to any inquiries regarding the same from any Taxing Authority or to prosecute or defend any action, proceeding or audit by any Taxing Authority with respect to such Tax Returns. Notwithstanding anything to the contrary herein, the TRA Parties and each of their assignees (and each employee, representative or other agent of the TRA Parties or their assignees, as applicable) may disclose at their discretion to any and all Persons, without limitation of any kind, the tax treatment and tax structure of the Corporation, the TRA Parties and any of their transactions, and all materials of any kind (including tax opinions or other tax analyses) that are provided to the TRA Parties relating to such tax treatment and tax structure. If a TRA Party or an assignee commits, or threatens to commit, a breach of any of the provisions of

this Section 7.11, the Corporation shall have the right and remedy to have the provisions of this Section 7.11 specifically enforced by injunctive relief or otherwise by any court of competent jurisdiction without the need to post any bond or other security, it being acknowledged and agreed that any such breach or threatened breach will cause irreparable injury to the Corporation or any of its controlled Affiliates and that money damages alone will not provide an adequate remedy to such Persons. Such rights and remedies shall be in addition to, and not in lieu of, any other rights and remedies available at Law or in equity.

Section 7.12. Change in Law. Notwithstanding anything herein to the contrary, if, in connection with an actual or proposed change in Law, a TRA Party reasonably believes that the existence of this Agreement could cause income (other than income arising from receipt of a payment under this Agreement) recognized by such TRA Party (or direct or indirect equity holders in such TRA Party) in connection with any Exchange to be treated as ordinary income (other than with respect to assets described in Section 751(a) of the Code) rather than capital gain (or otherwise taxed at ordinary income rates) for U.S. federal income tax purposes or would have other material adverse tax consequences to such TRA Party or any direct or indirect owner of such TRA Party, then, at the written election of such TRA Party in its sole discretion (in an instrument signed by such TRA Party and delivered to the Corporation) and to the extent specified therein by such TRA Party, this Agreement shall cease to have further effect and shall not apply to an Exchange occurring after a date specified by such TRA Party; provided, for the avoidance of doubt, such voluntary termination of rights by a TRA Party shall not result in or cause a termination or acceleration event under Section 4.1.

Section 7.13. Interest Rate Limitation. Notwithstanding anything to the contrary contained herein, the interest paid or agreed to be paid hereunder with respect to amounts due to any TRA Party hereunder shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If any TRA Party shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the applicable payment (but in each case exclusive of any component thereof comprising interest) or, if it exceeds such unpaid non-interest amount, refunded to the Corporation. In determining whether the interest contracted for, charged or received by any TRA Party exceeds the Maximum Rate, such TRA Party may, to the extent permitted by applicable Law, (i) characterize any payment that is not principal as an expense, fee or premium rather than interest, (ii) exclude voluntary prepayments and the effects thereof or (iii) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the payment obligations owed by the Corporation to such TRA Party hereunder. Notwithstanding the foregoing, it is the intention of the Parties to conform strictly to any applicable usury Laws.

Section 7.14. Independent Nature of Rights and Obligations

(a) The rights and obligations of each TRA Party hereunder are several and not joint with the rights and obligations of any other Person. A TRA Party shall not be responsible in any way for the performance of the obligations of any other Person hereunder, nor shall a TRA Party have the right to enforce the rights or obligations of any other Person hereunder (other than obligations of the Corporation). The obligations of a TRA Party hereunder

are solely for the benefit of, and shall be enforceable solely by, the Corporation. Nothing contained herein or in any other agreement or document delivered in connection herewith, and no action taken by any TRA Party pursuant hereto or thereto, shall be deemed to constitute the TRA Parties acting as a partnership, association, joint venture or any other kind of entity, or create a presumption that the TRA Parties are in any way acting in concert or as a group with respect to such rights or obligations or the transactions contemplated hereby.

(b) To the fullest extent permitted by law, none of the TRA Parties shall owe any duties (fiduciary or otherwise) to any other TRA Parties or any other Person in determining to take or refrain from taking any action or decision under or in connection with this Agreement. For purposes of this Agreement, the TRA Parties acknowledge that, in taking or omitting to take any action or decision hereunder, each TRA Party shall be permitted to take into consideration solely its own interests and shall have no duty or obligation to give any consideration to any interest of or factors affecting any other TRA Party or any other Person.

Section 7.15. Coordination with Operating Agreement. To the extent this Agreement imposes obligations on the LLC or a member of the LLC, this Agreement shall be treated as part of the Operating Agreement as described in Section 761(c) of the Code and Sections 1.761-1(c) and 1.704-1(b)(2)(ii)(h) of the Treasury Regulations.

Section 7.16. TRA Representatives. By executing this Agreement, each of the TRA Parties shall be deemed to have irrevocably appointed each of the TRA Representatives as its agent and attorney in fact with full power of substitution to act from and after the date hereof and to do any and all things and execute any and all documents on behalf of such TRA Party which may be necessary, convenient or appropriate to facilitate any matters under this Agreement, including: (i) execution of the documents and certificates required pursuant to this Agreement; (ii) except to the extent provided in this Agreement, receipt and forwarding of notices and communications pursuant to this Agreement; (iii) administration of the provisions of this Agreement; (iv) any and all consents, waivers, amendments or modifications deemed by the TRA Representatives to be necessary or appropriate under this Agreement and the execution or delivery of any documents that may be necessary or appropriate in connection therewith; (v) taking actions the TRA Representatives are authorized to take pursuant to the other provisions of this Agreement; (vi) negotiating and compromising, on behalf of such TRA Parties, any dispute that may arise under, and exercising or refraining from exercising any remedies available under, this Agreement and executing, on behalf of such TRA Parties, any settlement agreement, release or other document with respect to such dispute or remedy; and (vii) engaging attorneys, accountants, agents or consultants on behalf of such TRA Parties in connection with this Agreement and paying any fees related thereto on behalf of such TRA Parties, subject to reimbursement by such TRA Parties. Each TRA Representative may resign upon thirty (30) days' written notice to the Corporation.

Section 7.17. TRA Representative Consent. Notwithstanding anything to the contrary in this Agreement, in the event that, pursuant to this Agreement, (i) the consent of any of the TRA Representatives is required, (ii) all of the TRA Representatives are required to agree on a matter or procedure, or (iii) the TRA Representatives are required to make any other

material determination in connection with this Agreement (collectively, the "TRA Matters"), the TRA Representatives shall act by majority vote; provided, however, (A) if such action results in an economic result that is adverse and disproportionate to the Founders relative to the other TRA Parties, the Founders' consent shall be required for such action, and (B) if such action results in an economic result that is adverse and disproportionate to the Investor Entities relative to the other TRA Parties, the Investor Entities' consent shall be required for such action. At such time that the Investor Entities no longer possess a majority of the Tax Benefit Payments receivable by the TRA Parties upon the occurrence of any contemplated transaction, series of related transactions or any other occurrence that may otherwise qualify as a "Change of Control", and the TRA Representatives are not in agreement as to such TRA Matter, such TRA Representatives shall negotiate to resolve such dispute, and in the event the TRA Representatives cannot successfully resolve their dispute within a reasonable time, then the TRA Representative with the greatest Relative Ownership Percentage shall make the decision with respect to such TRA Matter for all purposes of this Agreement.

[Signature Page Follows this Page]

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Agreement as of the date first written above.

CORPORATION:

BLACK ROCK COFFEE BAR, INC.

By: _____

Name:
Title:

THE LLC:

BLACK ROCK COFFEE HOLDINGS, LLC

By: _____

Name:
Title:

[Signature Page to Tax Receivable Agreement]

TRA PARTIES:

VIKING CAKE BR, LLC

By: Vahalda LLC
Its: Manager

By: _____
Name: Jake Spellmeyer
Title: Manager

VIKING CAKE FUEL, LLC

By: Viking Cake BR, LLC
Its: Member

By: _____
Name: Jeffrey Hernandez
Title: Manager

JEFFREY R. HERNANDEZ REVOCABLE TRUST

By: _____
Name: Jeffrey R. Hernandez
Title: Trustee

JEFFREY R. HERNANDEZ 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name:
Title:

TIFFANY S. HERNANDEZ 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name:
Title:

DANIEL AND TANYA BRAND LIVING TRUST

By: _____
Name: Daniel J. Brand
Title: Trustee

By: _____
Name: Tanya N. Brand
Title: Trustee

DANIEL J. BRAND 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name:
Title:

TANYA N. BRAND 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name:
Title:

JULIET A. SPELLMEYER REVOCABLE TRUST

By: _____
Name: Juliet A. Spellmeyer
Title: Trustee

By: _____
Name: Jacob V. Spellmeyer
Title: Trustee

JACOB V. SPELLMEYER 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name:
Title:

JULIET A. SPELLMEYER 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name:
Title:

_____

NICOLE PEREBOOM

BRYAN D. PEREBOOM 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name:
Title:

NICOLE R. PEREBOOM 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name:
Title:

BOBBY KAUFMAN (RWK VENTURES LLC)

By:_____

Name:
Title:

JUSTIN LESHER (LESHER FAMILY TRUST)

By:_____

Name:
Title:

TONY PALLOTTA

By:_____

CYNOSURE PARTNERS 2020, LP

By: Cynosure Partners 2020 GP, LLC, its general partner

By: Cynosure Management, LLC, its manager

By:_____

Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS 2020 PV, LP

By: Cynosure Partners 2020 GP, LLC, its general partner

By: Cynosure Management, LLC, its manager

By:_____

Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS 2020 CO-INVESTMENT, LLC

By: Cynosure Partners 2020 GP, LLC, its general partner

By: Cynosure Management, LLC, its manager

By:_____

Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS III, LP

By: Cynosure Partners 2020 GP, LLC, its general partner

By: Cynosure Management, LLC, its manager

By:_____

Name: Andrew Braithwaite
Title: Managing Director

MARK DAVIS

By:_____

JENNIFER DAVIS

By:_____

RODD BOOTH

By:_____

BOBBY KAUFMANN

By:_____

CLAY GEYER

By:_____

DEREK TONN

By:_____

JESSICA WEGNER

By:_____

RICK FEDERICO

By:_____

SARAH GROVER

By:_____

SAM SEIBERLING

By:_____

WILL MACINTOSH

By:_____

[Signature Page to Tax Receivable Agreement]

Exhibit A

FORM OF JOINDER AGREEMENT

This JOINDER AGREEMENT, dated as of _____, 20___ (this "Joinder"), is delivered pursuant to that certain Tax Receivable Agreement, dated as of [ ], 2025 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Tax Receivable Agreement"), by and among Black Rock Coffee Bar, Inc., a Texas corporation (the "Corporation"), Black Rock Coffee Holdings, LLC, a Delaware limited liability company, and each of the TRA Parties from time to time party thereto. Capitalized terms used but not otherwise defined herein have the respective meanings set forth in the Tax Receivable Agreement.

1. Joinder to the Tax Receivable Agreement. The undersigned hereby represents and warrants to the Corporation that, as of the date hereof, the undersigned has been assigned an interest in the Tax Receivable Agreement from a TRA Party.

2. Joinder to the Tax Receivable Agreement. Upon the execution of this Joinder by the undersigned and delivery hereof to the Corporation, the undersigned hereby is and hereafter will be a TRA Party under the Tax Receivable Agreement, with all the rights, privileges and responsibilities of a party thereunder. The undersigned hereby agrees that it shall comply with and be fully bound by the terms of the Tax Receivable Agreement as if it had been a signatory thereto as of the date thereof.

3. Incorporation by Reference. All terms and conditions of the Tax Receivable Agreement are hereby incorporated by reference in this Joinder as if set forth herein in full.

4. Address. All notices under the Tax Receivable Agreement to the undersigned shall be direct to:

[Name]
[Address]
[City, State, Zip Code]
Attn:
Facsimile:
E-mail:

[Signature Page Follows this Page]

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Joinder as of the day and year first above written.

[NAME OF NEW TRA PARTY]

By: _____

Name:
Title:

Acknowledged and agreed
as of the date first set forth above:

BLACK ROCK COFFEE BAR, INC.

By: _____

Name:
Title:

BLACK ROCK COFFEE HOLDINGS, LLC

SEVENTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT

Dated as of [●], 2025

THE LIMITED LIABILITY COMPANY INTERESTS REPRESENTED BY THIS SEVENTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, OR UNDER ANY OTHER APPLICABLE SECURITIES LAWS. SUCH LIMITED LIABILITY COMPANY INTERESTS MAY NOT BE SOLD, ASSIGNED, PLEDGED OR OTHERWISE DISPOSED OF AT ANY TIME WITHOUT EFFECTIVE REGISTRATION UNDER SUCH ACT AND LAWS OR EXEMPTION THEREFROM, AND COMPLIANCE WITH THE OTHER SUBSTANTIAL RESTRICTIONS ON TRANSFERABILITY SET FORTH HEREIN.

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BLACK ROCK COFFEE HOLDINGS, LLC

SEVENTH AMENDED AND RESTATED
LIMITED LIABILITY COMPANY AGREEMENT

This SEVENTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT (as the same may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "***Agreement***") of Black Rock Coffee Holdings, LLC, a Delaware limited liability company (the "***Company***"), dated as of [●], 2025 (the "***Effective Date***"), is entered into by and among the Company, Black Rock Coffee Bar, Inc., a Texas corporation (the "***Corporation***"), as the sole Manager (as defined herein) of the Company, and each of the other Members (as defined herein).

RECITALS

WHEREAS, unless the context otherwise requires, capitalized terms used herein have the respective meaning ascribed to them in Article I;

WHEREAS, the Company was formed under the laws of the State of Delaware by the filing of a Certificate of Formation with the Secretary of State of the State of Delaware on May 22, 2018;

WHEREAS, immediately prior to the date hereof, the Company was governed by that certain Sixth Amended and Restated Limited Liability Company Agreement of the Company, dated as of May 31, 2024 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, together with all schedules, exhibits and annexes thereto, the "***Original LLC Agreement***"), among the parties listed on Schedule 1 hereto in their capacity as members (including pursuant to consents and joinders thereto) (collectively, the "***Pre-IPO Members***") ;

WHEREAS, in connection with the IPO, the Company, the Corporation and the Pre-IPO Members desire to recapitalize and convert the Original Units into Common Units (as defined below) (the "***Recapitalization***") as provided herein;

WHEREAS, the Corporation will sell shares of its Class A Common Stock to public investors in the IPO and will use the net proceeds received from the IPO (the "***IPO Net Proceeds***") to (i) purchase newly issued Common Units from the Company pursuant to the IPO Common Unit Subscription Agreement and (ii) purchase certain Common Units held by the Members;

WHEREAS, the Corporation may issue additional shares of Class A Common Stock in connection with the IPO as a result of the exercise by the underwriters of their over-allotment option (the "***Over-Allotment Option***") and, if the Over-Allotment Option is exercised in whole or in part, any additional net proceeds (the "***Over-Allotment Option Net Proceeds***") shall be used

by the Corporation to purchase newly issued Common Units from the Company and Common Units held by the Members;

WHEREAS, in connection with the foregoing matters, the Company and the Members desire to continue the Company without dissolution and amend and restate the Original LLC Agreement in its entirety as of the Effective Date to reflect, among other things, (a) the Recapitalization, (b) the admission of the Corporation as a Member and its designation as sole Manager of the Company and (c) the other rights and obligations of the Members as provided and agreed upon in the terms of this Agreement as of the Effective Date, at which time the Original LLC Agreement shall be superseded entirely by this Agreement and shall be of no further force or effect; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Original LLC Agreement is hereby amended and restated in its entirety and the Company, the Corporation and the other Members, each intending to be legally bound, each hereby agrees as follows:

ARTICLE I.
DEFINITIONS

The following definitions shall be applied to the terms used in this Agreement for all purposes, unless otherwise clearly indicated to the contrary.

"***Additional Member***" has the meaning set forth in Section 12.02.

"***Adjusted Capital Account Deficit***" means, with respect to the Capital Account of any Member as of the end of any Taxable Year, the amount by which the balance in such Capital Account is less than zero. For this purpose, such Member's Capital Account balance shall be:

(a) reduced for any items described in Treasury Regulations Sections 1.704- 1(b)(2)(ii)(d)(4), (5), and (6); and

(b) increased for any amount such Member is obligated to contribute or is treated as being obligated to contribute to the Company pursuant to Treasury Regulations Sections 1.704-1(b)(2)(ii)(c) (relating to partner liabilities to a partnership) or 1.704-2(g)(1) and 1.704-2(i)(5) (relating to minimum gain).

"***Admission Date***" has the meaning set forth in Section 10.06.

"***Affiliate***" (and, with a correlative meaning, "***Affiliated***") means, with respect to a specified Person, each other Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the Person specified. As used in this definition, "control" (including with correlative meanings, "controlled by" and "under common control with") means possession, directly or indirectly, of power to direct or cause the direction of management or policies (whether through ownership of voting

securities or by contract or other agreement or otherwise); provided, however, that notwithstanding the foregoing, no Founder or Founder Fund Related Party shall be deemed to be an Affiliate of the Company or the Corporation or any subsidiary or controlled Affiliate of the Company or the Corporation (or vice versa). Notwithstanding the foregoing, a presumption of control shall not apply where such Person holds Units, in good faith and not for the purpose of circumventing Article I, as an agent, bank, broker, nominee, custodian or trustee for one or more owners who do not individually or as a group have control over such entity.

"***Agreement***" has the meaning set forth in the Preamble.

"***Assignee***" means a Person to whom a Unit has been transferred but who has not become a Member pursuant to Article XII.

"***Assumed Tax Liability***" means, with respect to any Member, an amount equal to the excess of (i) the product of (A) the Distribution Tax Rate *multiplied by* (B) the estimated or actual cumulative taxable income or gain of the Company, as determined for U.S. federal income tax purposes, allocated to such Member for Taxable Years (or portions thereof) commencing on or after the Effective Date, *less* prior losses of the Company allocated to such Member for Taxable Years (or portions thereof) commencing on or after the Effective Date, to the extent such prior losses are available to reduce such income and have not previously been taken into account in the calculation of Assumed Tax Liability for any prior period, in each case, as determined by the Manager and, for the avoidance of doubt, taking into account any Code Section 704(c) allocations (including "reverse" Section 704(c) allocations) *over* (ii) the cumulative Tax Distributions made to such Member after the Effective Date pursuant to Sections 4.01(b)(i), 4.01(b)(ii) and 4.01(b)(iii); *provided* that, in the case of the Corporation, such Assumed Tax Liability shall in no event be less than an amount that will enable the Corporation to meet both its tax obligations and its obligations pursuant to the Tax Receivable Agreement for the relevant Taxable Year.

"***Base Rate***" means, on any date, a variable rate per annum equal to the rate of interest most recently published by *The Wall Street Journal* as the "prime rate" at large U.S. money center banks.

"***Black-Out Period***" means any "black-out" or similar period under the Corporation's policies covering trading in the Corporation's securities to which the applicable Redeeming Member is subject (or will be subject at such time as it owns Class A Common Stock), which period restricts the ability of such Redeeming Member to immediately resell shares of Class A Common Stock to be delivered to such Redeeming Member in connection with a Share Settlement.

"***Book Value***" means, with respect to any property of the Company, the Company's adjusted basis for U.S. federal income tax purposes, adjusted from time to time to reflect the adjustments required or permitted by Treasury Regulations Sections 1.704-1(b)(2)(iv)(d) through (g) and (m) and 1.704-1(b)(2)(iv)(s).

"***Business Day***" means any day other than a Saturday, Sunday or day on which banks located in New York City, New York are authorized or required by Law to close.

"***Capital Account***" means the capital account maintained for a Member in accordance with Section 5.01.

"***Capital Contribution***" means, with respect to any Member, the amount of any cash, cash equivalents, promissory obligations or the Fair Market Value of other property that such Member (or such Member's predecessor) contributes (or is deemed to contribute) to the Company pursuant to Article III hereof.

"***Cash Settlement***" means immediately available funds in U.S. dollars in an amount equal to the greater of (i) the Redeemed Units Equivalent and (ii) if the Redemption Notice provides that the Redemption is to be contingent upon the consummation of a transaction with another Person and specifies the amount of cash to be received therein, such amount of cash which the Redeeming Member would be entitled to receive in such transaction; provided that such funds are (x) in the case of a Redemption occurring in connection with the closing of the IPO, funds that are received from the IPO and (y) in any other case, funds received from a Qualifying Offering.

"***Certificate of Formation***" means the Certificate of Formation of the Company, as amended and/or restated from time to time.

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

(1) any "person" or "group" (within the meaning of Sections 13(d) and 14(d) of the Exchange Act, but excluding any employee benefit plan of such person and its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan, and excluding the Permitted Transferees) becomes the "beneficial owner" (within the meaning of Rules 13d-3 and 13d-5 under the Exchange Act), directly or indirectly, of voting securities representing in the aggregate more than fifty percent (50%) of the voting power of all of the outstanding voting securities of the Corporation;

(2) the stockholders of the Corporation approve a plan of complete liquidation or dissolution of the Corporation or there is consummated a sale or other disposition, directly or indirectly, by the Corporation of all or substantially all of the Corporation's assets (including a sale of all or substantially all of the assets of the Company);

(3) there is consummated a merger or consolidation of the Corporation with any other corporation or entity, and, immediately after the consummation of such merger or consolidation, the voting securities of the Corporation outstanding immediately prior to such merger or consolidation do not continue to represent, or are not converted into, voting securities representing in the aggregate more than fifty percent (50%) of the voting power of all of the outstanding voting securities of the Person resulting from such

merger or consolidation or, if the surviving company is a Subsidiary, the ultimate parent thereof; or

(4) the Corporation ceases to be the sole Manager of the Company.

Notwithstanding the foregoing, a "Change of Control" shall not be deemed to have occurred by virtue of the consummation of any transaction or series of integrated transactions immediately following which the record holders of the Class A Common Stock, Class B Common Stock, Class C Common Stock, preferred stock and/or any other class or classes of capital stock of the Corporation immediately prior to such transaction or series of transactions continue to have substantially the same proportionate ownership in and voting control over, and own substantially all of the shares of, an entity which owns all or substantially all of the assets of the Corporation immediately following such transaction or series of transactions.

"***Change of Control Date***" has the meaning set forth in Section 10.09(a).

"***Change of Control Transaction***" means any Change of Control that was approved by the Corporate Board prior to such Change of Control.

"***Class A Common Stock***" means the shares of Class A common stock, par value $0.00001 per share, of the Corporation.

"***Class B Common Stock***" means the shares of Class B common stock, par value $0.00001 per share, of the Corporation.

"***Class C Common Stock***" means the shares of Class C common stock, par value $0.00001 per share, of the Corporation.

"***Code***" means the United States Internal Revenue Code of 1986, as amended. Unless the context requires otherwise, any reference herein to a specific section of the Code shall be deemed to include any corresponding provisions of future Law as in effect for the relevant taxable period.

"***Common Unit***" means a Unit designated as a "Common Unit" and having the rights, powers and obligations specified with respect to the Common Units in this Agreement.

"***Common Unit Redemption Price***" means, with respect to any Redemption, the VWAP for the five (5) consecutive full Trading Days ending on and including the last full Trading Day immediately prior to the applicable Redemption Date, subject to appropriate and equitable adjustment for any stock splits, reverse splits, stock dividends or similar events affecting the Class A Common Stock. If the Class A Common Stock no longer trades on the Stock Exchange or any other securities exchange or automated or electronic quotation system as of any particular Redemption Date, then the Manager (through a Disinterested Majority of the Corporate Board) shall determine the Common Unit Redemption Price in good faith.

"***Company***" has the meaning set forth in the Preamble.

"***Confidential Information***" has the meaning set forth in Section 15.02(a).

"***Corporate Board***" means the board of directors of the Corporation.

"***Corporate Charter***" means the amended and restated certificate of formation of the Corporation in effect as of the date hereof, as it may be amended or restated.

"***Corporate Incentive Award Plan***" means the 2025 Incentive Award Plan of the Corporation, as the same may be amended, restated, supplemented, or otherwise modified from time to time.

"***Corporation***" has the meaning set forth in the recitals to this Agreement, together with its successors and assigns.

"***Corresponding Rights***" means any rights issued with respect to a share of Class A Common Stock, Class B Common Stock or Class C Common Stock pursuant to a "poison pill" or similar stockholder rights plan approved by the Corporate Board.

"***Credit Agreements***" means any promissory note, mortgage, loan agreement, indenture or similar instrument or agreement to which the Company or any of its Subsidiaries is or becomes a borrower, as such instruments or agreements may be amended, restated, supplemented or otherwise modified from time to time and including any one or more refinancing or replacements thereof, in whole or in part, with any other debt facility or debt obligation, for as long as the payee or creditor to whom the Company or any of its Subsidiaries owes such obligation is not an Affiliate of the Company.

"***Cynosure Related Parties***" means Cynosure Partners 2020, LP, a Delaware limited partnership, Cynosure Partners 2020 PV, LP, a Delaware limited partnership, Cynosure Partners 2020 Co-Investment, LLC, a Delaware limited liability company, Cynosure Partners III, LP, a Delaware limited partnership, and CP III BRC Holdings CV, LLC, a Delaware limited liability company.

"***Delaware Act***" means the Delaware Limited Liability Company Act, 6 Del. C. § 18-101, *et seq.*, as it may be amended from time to time, and any successor thereto.

"***Direct Exchange***" has the meaning set forth in Section 11.03(a).

"***Discount***" has the meaning set forth in Section 6.06.

"***Disinterested Majority***" means a majority of the directors of the Corporate Board who are disinterested, as determined by the Corporate Board in accordance with the TBOC and applicable common law, with respect to the matter being considered by the Corporate Board; *provided,* that to the extent a matter being considered by the Corporate Board is required to be considered by disinterested directors under the rules of the Stock Exchange or, if the Class A Common Stock is not listed or admitted to trading on the Stock Exchange, the principal national securities exchange on which the Class A Common Stock is listed or admitted to trading, the Securities Act or the Exchange Act, such rules with respect to the definition of disinterested director shall apply solely with respect to such matter. For purposes of any election to be made

by the Corporation between a Cash Settlement and a Share Settlement upon a Redemption of Common Units, the Disinterested Majority shall exclude any director who is (i) the beneficial owner of such Common Units; (ii) Affiliated with the beneficial owner of such Common Units; or (iii) serving on the Corporate Board as a nominee of the beneficial owner of such Common Units or its Affiliates.

"***Distributable Cash***" means, as of any relevant date on which a determination is being made by the Manager regarding a potential distribution pursuant to Section 4.01(a) or Section 4.01(b), the amount of cash that could be distributed by the Company for such purposes in accordance with any applicable Credit Agreements (and without otherwise violating any applicable provisions of any applicable Credit Agreements) and applicable Law.

"***Distribution***" (and, with a correlative meaning, "***Distribute***") means each distribution made by the Company to a Member with respect to such Member's Units, whether in cash, property or securities of the Company and whether by liquidating distribution or otherwise; *provided, however*, that none of the following shall be a Distribution: (a) any recapitalization or any exchange of securities of the Company, in each case, that does not result in the distribution of cash or property (other than securities of the Company) to Members, and any subdivision (by Unit split or otherwise) or any combination (by reverse Unit split or otherwise) of any outstanding Units or (b) any other payment made by the Company to a Member that is not properly treated as a "distribution" for purposes of Sections 731, 732, or 733 or other applicable provisions of the Code.

"***Distribution Tax Rate***" means a tax rate equal to the highest effective marginal combined U.S. federal, state and local income tax rate for a Taxable Year applicable to a corporate taxpayer or an individual taxpayer that reflects such highest rate applicable to any Member or any direct or indirect partner or member (that is tax resident in only the United States) of any Member for such Taxable Year, taking into account the character of the relevant items of income or gain (*e.g.*, ordinary or capital) and the estimated deductibility of state and local income taxes for U.S. federal income tax purposes (but only to the extent such taxes are deductible under the Code), as reasonably determined by the Manager; provided that, notwithstanding anything to the contrary, if such highest tax rate applies only to a Member that is or Members that are receiving an immaterial portion of the aggregate Tax Distributions paid to all Members pursuant to Section 4.01(b), the Company shall be permitted, in its sole discretion, to adjust the Distribution Tax Rate to minimize the amount of Tax Distributions in excess of each Member's Assumed Tax Liability. For the avoidance of doubt, there shall be a single Distribution Tax Rate for all Members.

"***Effective Date***" has the meaning set forth in the Preamble.

"***Election Notice***" has the meaning set forth in Section 11.01(b).

"***Equity Plan***" means any option, stock, unit, stock unit, appreciation right, phantom equity or other incentive equity or equity-based compensation plan or program, in each case, now or hereafter adopted by the Company or the Corporation, including the Corporate Incentive Award Plan.

"***Equity Securities***" means, with respect to any Person, (a) Units or other equity interests in such Person or any Subsidiary of such Person (including, with respect to the Company and its Subsidiaries, other classes or groups thereof having such relative rights, powers and duties as may from time to time be established by the Manager pursuant to the provisions of this Agreement, including rights, powers and/or duties senior to existing classes and groups of Units and other equity interests in the Company or any Subsidiary of the Company), (b) obligations, evidences of indebtedness or other securities or interests convertible or exchangeable into any equity interests in such Person or any Subsidiary of such Person, and (c) warrants, options or other rights to purchase or otherwise acquire any equity interests in such Person or any Subsidiary of such Person.

"***Estate Planning Vehicle***" means, with respect to any Member (or former Member) that is a natural person, (a) a trust which is at all times controlled by such Member (or former Member) under which a distribution of such Member's (or former Member's) Units may be made only to beneficiaries who are such Member (or former Member), his or her spouse, his or her parents or his or her lineal descendants, (b) a charitable remainder trust which is at all times controlled by such Member (or former Member), the income from which will be paid to such Member (or former Member) during his or her life, (c) a corporation, the sole assets of which are Equity Securities in the Company, and at all times the majority and controlling shareholder of which is only such Member (or former Member) and the remaining shareholders of which are either such Member (or former Member) or his or her spouse, his or her parents or his or her lineal descendants and (d) a partnership or limited liability company, the sole assets of which are Equity Securities in the Company, and at all times the general partner or managing or majority member of which is only such Member (or former Member), and the remaining partners or members of which are either such Member (or former Member) or his or her spouse, his or her parents or his or her lineal descendants.

"***Event of Withdrawal***" means the occurrence of any event that terminates the continued membership of a Member in the Company. "Event of Withdrawal" shall not include an event that (a) terminates the existence of a Member for income tax purposes (including, without limitation, (i) a change in entity classification of a Member under Treasury Regulations Section 301.7701-3, (ii) a sale of assets by, or liquidation of, a Member pursuant to an election under Code Sections 336 or 338, or (iii) merger, severance, or allocation within a trust or among sub-trusts of a trust that is a Member) but that (b) does not terminate the existence of such Member under applicable state law (or, in the case of a trust that is a Member, does not terminate the trusteeship of the fiduciaries under such trust with respect to all the Units of such trust that is a Member).

"***Exchange Act***" means the U.S. Securities Exchange Act of 1934, as amended, and any applicable rules and regulations promulgated thereunder, and any successor to such statute, rules or regulations.

"***Exchange Election Notice***" has the meaning set forth in Section 11.03(b).

"***Fair Market Value***" of a specific asset of the Company will mean the amount which the Company would receive in an all-cash sale of such asset in an arms-length transaction with a

willing unaffiliated third party, with neither party having any compulsion to buy or sell, consummated on the day immediately preceding the date on which the event occurred which necessitated the determination of the Fair Market Value (and after giving effect to any transfer taxes payable in connection with such sale), as such amount is determined by the Manager (or, if pursuant to Section 14.02, the Liquidators) in its good faith judgment using all factors, information and data it deems to be pertinent.

"***Fiscal Period***" means any interim accounting period within a Taxable Year established by the Manager and which is permitted or required by Section 706 of the Code.

"***Fiscal Year***" means the Company's annual accounting period established pursuant to Section 8.02.

"***Founder Fund Related Parties***" means Viking Cake BR, LLC, a Delaware limited liability company, Viking Cake Fuel, LLC, a Delaware limited liability company, Jeffrey R. Hernandez Revocable Trust, Jeffrey R. Hernandez 2021 Trust, Tiffany S. Hernandez 2021 Trust, Daniel and Tanya Brand Living Trust, Daniel J. Brand 2021 Trust, Tanya N. Brand 2021 Trust, Juliet A. Spellmeyer Revocable Trust, Jacob V. Spellmeyer 2021 Trust, Juliet A. Spellmeyer 2021 Trust, Nicole Pereboom, Bryan D. Pereboom 2021 Trust, and Nicole Pereboom 2021 Trust, and each of their Permitted Transferees, excluding, for the avoidance of doubt, the Corporation and any of its Subsidiaries.

"***Governmental Entity***" means (a) the United States of America, (b) any other sovereign nation, (c) any state, province, county, municipal, district, territory or other political subdivision of (a) or (b) of this definition, including, but not limited to, any county, municipal or other local subdivision of the foregoing, or (d) any agency, arbitrator or arbitral body (public or private), authority, board, body, bureau, commission, court, department, entity, instrumentality, organization (including any public international organization such as the United Nations) or tribunal exercising executive, legislative, judicial, quasi-judicial, regulatory or administrative functions of or pertaining to government on behalf of (a), (b) or (c) of this definition.

"***Indemnified Person***" has the meaning set forth in Section 7.04(a).

"***Internal Revenue Service***" means the U.S. Internal Revenue Service.

"***Investment Company Act***" means the U.S. Investment Company Act of 1940, as amended from time to time.

"***IPO***" means the initial underwritten public offering of the shares of the Corporation's Class A Common Stock.

"***IPO Common Unit Subscription***" has the meaning set forth in Section 3.03(b).

"***IPO Common Unit Subscription Agreement***" means that certain Subscription Agreement, dated as of the Effective Date, by and between the Corporation and the Company, relating to the subscription by the Corporation for Common Units.

"***IPO Net Proceeds***" has the meaning set forth in the Recitals.

"***Joinder***" means a joinder to this Agreement, in form and substance substantially similar to Exhibit A to this Agreement.

"***Law***" means all laws, statutes, acts, constitutions, treaties, principles of common law, codes, ordinances, rules and regulations of any Governmental Entity.

"***Liquidator***" has the meaning set forth in Section 14.02.

"***LLC Employee***" means an employee of, or other service provider (including, without limitation, any management member whether or not treated as an employee for the purposes of U.S. federal income tax) to, the Company or any of its Subsidiaries, in each case acting in such capacity.

"***Losses***" means items of loss or deduction of the Company determined according to Section 5.01(b).

"***Manager***" has the meaning set forth in Section 6.01.

"***Mandatory Redemption Notice***" has the meaning set forth in Section 11.07.

"***Mandatory Redemption Right***" has the meaning set forth in Section 11.07.

"***Member***" means, as of any date of determination, (a) each of the members named on the Schedule of Members and (b) any Person admitted to the Company as a Substituted Member or Additional Member in accordance with Article XII, but in each case only so long as such Person is shown on the Company's books and records as the owner of one or more Units, each in its capacity as a member of the Company.

"***Minimum Gain***" means "partnership minimum gain" determined pursuant to Treasury Regulations Section 1.704-2(d).

"***Net Loss***" means, with respect to a Taxable Year, the excess if any, of Losses for such Taxable Year over Profits for such Taxable Year (excluding Profits and Losses specially allocated pursuant to Section 5.03 and Section 5.04).

"***Net Profit***" means, with respect to a Taxable Year, the excess if any, of Profits for such Taxable Year over Losses for such Taxable Year (excluding Profits and Losses specially allocated pursuant to Section 5.03 and Section 5.04).

"***Non-Foreign Person Certificate***" has the meaning set forth in Section 11.06(a).

"***Officer***" has the meaning set forth in Section 6.01(b).

"***Original LLC Agreement***" has the meaning set forth in the Recitals.

"***Original Units***" means the Common Units, the Series A Preferred Units, Series A-1 Preferred Units, Series A-2 Preferred Units, Incentive Units (each as defined in Section 1.01 of the Original LLC Agreement) of the Company.

"***Other Agreements***" has the meaning set forth in Section 10.04.

"***Over-Allotment Option***" has the meaning set forth in the Recitals.

"***Over-Allotment Option Net Proceeds***" has the meaning set forth in the Recitals.

"***Partnership Representative***" has the meaning set forth in Section 9.03.

"***Percentage Interest***" means, with respect to a Member at a particular time, such Member's percentage interest in the Company determined by dividing the number of such Member's Units by the total number of Units of all Members at such time. The Percentage Interest of each Member shall be calculated to the fourth decimal place.

"***Permitted Transfer***" has the meaning set forth in Section 10.02.

"***Permitted Transferee***" has the meaning set forth in Section 10.02.

"***Person***" means an individual or any corporation, partnership, limited liability company, trust, unincorporated organization, association, joint venture or any other organization or entity, whether or not a legal entity.

"***Pre-IPO Members***" has the meaning set forth in the Recitals.

"***Pro rata***," "***pro rata portion***," "***according to their interests***," "***ratably***," "***proportionately***," "***proportional***," "***in proportion to***," "***based on the number of Units held***," "***based upon the percentage of Units held***," "***based upon the number of Units outstanding***," and other terms with similar meanings, when used in the context of a number of Units of the Company relative to other Units, means as amongst an individual class of Units, pro rata based upon the number of such Units within such class of Units.

"***Profits***" means items of income and gain of the Company determined according to Section 5.01(b).

"***Pubco Offer***" has the meaning set forth in Section 10.09(b).

"***Qualifying Offering***" means any public or private offering of shares of Class A Common Stock by the Corporation following the date hereof.

"***Quarterly Redemption Notice Period***" means, for each fiscal quarter, the period commencing on the second (2nd) full Trading Day after the day on which the Corporation releases its earnings for the prior fiscal quarter and ending five (5) Business Days thereafter. Notwithstanding the foregoing, the Corporation may change the definition of Quarterly Redemption Notice Period with respect to any Quarterly Redemption Notice Period scheduled to

occur in a calendar quarter subsequent to the then-current calendar quarter if (x) the revised definition provides for a Quarterly Redemption Notice Period occurring at least once in each calendar quarter, (y) the first Quarterly Redemption Notice Period pursuant to the revised definition will occur no less than 10 Business Days from the date written notice of such change is sent to each Member (other than the Corporation) and (z) the revised definition, does not materially adversely affect the ability of Members to exercise their Redemption rights pursuant to this Agreement.

"***Quarterly Tax Distribution***" has the meaning set forth in Section 4.01(b)(i).

"***Recapitalization***" has the meaning set forth in the Recitals.

"***Redeemed Units***" has the meaning set forth in Section 11.01(a).

"***Redeemed Units Equivalent***" means the product of (a) the applicable number of Redeemed Units to be redeemed by Cash Settlement, *multiplied by* (b) the Common Unit Redemption Price.

"***Redeeming Member***" has the meaning set forth in Section 11.01(a).

"***Redemption***" has the meaning set forth in Section 11.01(a).

"***Redemption Date***" has the meaning set forth in Section 11.01(a).

"***Redemption Notice***" has the meaning set forth in Section 11.01(a).

"***Redemption Right***" has the meaning set forth in Section 11.01(a).

"***Registration Rights Agreement***" means that certain Registration Rights Agreement, dated as of the date hereof, by and among the Corporation, certain of the Members as of the date hereof and certain other Persons whose signatures are affixed thereto (together with any joinder thereto from time to time by any successor or assign to any party to such agreement).

"***Regulatory Allocations***" has the meaning set forth in Section 5.03(f).

"***Retraction Notice***" has the meaning set forth in Section 11.01(c).

"***Revised Partnership Audit Provisions***" means Section 1101 of Title XI (Revenue Provisions Related to Tax Compliance) of the Bipartisan Budget Act of 2015, H.R. 1314, Public Law Number 114-74, as amended. Unless the context requires otherwise, any reference herein to a specific section of the Revised Partnership Audit Provisions shall be deemed to include any corresponding provisions of future Law as in effect for the relevant taxable period.

"***Schedule of Members***" has the meaning set forth in Section 3.01(b).

"***SEC***" means the U.S. Securities and Exchange Commission, including any governmental body or agency succeeding to the functions thereof.

"***Securities Act***" means the U.S. Securities Act of 1933, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Securities Act shall be deemed to include any corresponding provisions of future Law.

"***Share Settlement***" means a number of shares of Class A Common Stock (together with any Corresponding Rights) equal to the number of Redeemed Units.

"***Specified Members***" has the meaning set forth in Section 9.03.

"***Stock Exchange***" means The Nasdaq Stock Market.

"***Subsidiary***" means, with respect to any Person, any corporation, limited liability company, partnership, association, variable interest entity, or business entity of which (a) if a corporation, a majority of the total voting power of shares of stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (b) if a limited liability company, partnership, association, variable interest entity, or other business entity (other than a corporation), a majority of the voting interests thereof are at the time owned or controlled, directly or indirectly, by any Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, references to a "Subsidiary" of the Company shall be given effect only at such times that the Company has one or more Subsidiaries, and, unless otherwise indicated, the term "Subsidiary" refers to a Subsidiary of the Company. For the avoidance of doubt, the "Subsidiaries" of the Company shall include any and all of the Company's direct and indirect, greater than fifty percent (50%) owned joint ventures.

"***Substituted Member***" means a Person that is admitted as a Member to the Company pursuant to Section 12.01.

"***Tax Distributions***" has the meaning set forth in Section 4.01(b)(i).

"***Tax Receivable Agreement***" means that certain Tax Receivable Agreement, dated as of the date hereof, by and among the Corporation and the Company, on the one hand, and the TRA Parties (as such term is defined in the Tax Receivable Agreement) party thereto, on the other hand (together with any joinder thereto from time to time by any successor or assign to any party to such agreement) (as it may be amended from time to time in accordance with its terms).

"***Taxable Year***" means the Company's accounting period for U.S. federal income tax purposes determined pursuant to Section 9.02.

"***TBOC***" means the Texas Business Organizations Code, as it may be amended from time to time.

"***Trading Day***" means a day on which the Stock Exchange or such other principal United States securities exchange on which the Class A Common Stock is listed or admitted to trading is

open for the transaction of business (unless such trading shall have been suspended for the entire day).

"***Transfer***" (and, with a correlative meaning, "***Transferred***" and "***Transferring***") means any sale, transfer, assignment, redemption, pledge, encumbrance or other disposition of (whether directly or indirectly, whether with or without consideration and whether voluntarily or involuntarily or by operation of Law) (a) any interest (legal or beneficial) in any Equity Securities of the Company or (b) any equity or other interest (legal or beneficial) in any Member that is not an institutional investor if substantially all of the assets of such Member consist solely of Units.

"***Treasury Regulations***" means the final, temporary and (to the extent they can be relied upon) proposed regulations under the Code, as promulgated from time to time (including corresponding provisions and succeeding provisions) as in effect for the relevant taxable period.

"***Underwriting Agreement***" means the Underwriting Agreement, dated as of the date hereof, by and among the Corporation, J.P. Morgan Securities LLC, Jefferies LLC, Morgan Stanley & Co. LLC and Robert W. Baird & Co. Incorporated, as representatives of the several underwriters named therein.

"***Unit***" means a limited liability company interest in the Company representing the fractional interest of a Member in Profits, Losses and Distributions of the Company, and otherwise having the rights, powers and obligations specified with respect to "Units" in this Agreement; *provided, however*, that any class or group of Units issued shall have the relative rights, powers and duties set forth in this Agreement applicable to such class or group of Units.

"***Unvested Corporate Shares***" means shares of Class A Common Stock issuable pursuant to awards granted under an Equity Plan that are not Vested Corporate Shares.

"***Vested Corporate Shares***" means the shares of Class A Common Stock issued pursuant to awards granted under an Equity Plan that are vested pursuant to the terms thereof or any award or similar agreement relating thereto.

"***VWAP***" means with respect to shares of Class A Common Stock, the daily per share volume-weighted average price per share of Class A Common Stock, regular way, or if no such sale took place on such day, the average of the closing bid and asked prices per share of Class A Common Stock, regular way, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the Stock Exchange or, if the Class A Common Stock is not listed or admitted to trading on the Stock Exchange, as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which the Class A Common Stock is listed or admitted to trading or, if the Class A Common Stock is not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the National Association of Securities Dealers, Inc. Automated Quotation System or, if such system is no longer in use, the principal other automated quotation system that may then be in use or, if the Class A

Common Stock is not quoted by any such system, the average of the closing bid and asked prices as furnished by a professional market maker making a market in shares of Class A Common Stock selected by the Corporate Board or, in the event that no trading price is available for the shares of Class A Common Stock, the fair market value of a share of Class A Common Stock, as determined in good faith by the Corporate Board.

ARTICLE II. ORGANIZATIONAL MATTERS

Section 2.01 Formation of Company. The Company was formed on May 22, 2018, pursuant to the provisions of the Delaware Act.

Section 2.02 Amended and Restated Limited Liability Company Agreement. The Members hereby execute this Agreement for the purpose of amending, restating and superseding the Original LLC Agreement in its entirety and otherwise establishing the affairs of the Company and the conduct of its business in accordance with the provisions of the Delaware Act. The Members hereby agree that during the term of the Company set forth in Section 2.06 the rights and obligations of the Members with respect to the Company will be determined in accordance with the terms and conditions of this Agreement and the Delaware Act. No provision of this Agreement shall be in violation of the Delaware Act and to the extent any provision of this Agreement is in violation of the Delaware Act, such provision shall be void and of no effect to the extent of such violation without affecting the validity of the other provisions of this Agreement. Neither any Member nor the Manager nor any other Person shall have appraisal rights with respect to any Units. The Original LLC Agreement is hereby suspended and of no further force or effect.

Section 2.03 Name. The name of the Company is "Black Rock Coffee Holdings, LLC". The Manager in its sole discretion may change the name of the Company at any time and from time to time. Notification of any such change shall be given to all of the Members. The Company's business may be conducted under its name and/or any other name or names deemed advisable by the Manager.

Section 2.04 Purpose; Powers. The primary business and purpose of the Company shall be to engage in such activities as are permitted under the Delaware Act and determined from time to time by the Manager in accordance with the terms and conditions of this Agreement. The Company shall have the power and authority to take (directly or indirectly through its Subsidiaries) any and all actions and engage in any and all activities necessary, appropriate, desirable, advisable, ancillary or incidental to accomplish the foregoing purpose.

Section 2.05 Principal Office; Registered Office. The principal office of the Company shall be located at such place or places as the Manager may from time to time designate, each of which may be within or outside the State of Delaware. The address of the registered office of the Company in the State of Delaware shall be Cogency Global Inc., 850 New Burton Road Suite 201, Dover, Delaware 19904, County of Kent, and the registered agent for service of process on the Company in the State of Delaware at such registered office shall be National Registered Agents Inc. The Manager may from time to time change the Company's registered agent and registered office in the State of Delaware.

Section 2.06 Term. The Company shall continue in perpetuity unless dissolved in accordance with the provisions of Article XIV.

Section 2.07 No State-Law Partnership. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, and that no Member be a partner or joint venturer of any other Member by virtue of this Agreement, for any purposes other than as set forth in the last sentence of this Section 2.07, and neither this Agreement nor any other document entered into by the Company or any Member relating to the subject matter hereof shall be construed to suggest otherwise. The Members intend that the Company shall be treated as a partnership for U.S. federal and, if applicable, state or local income tax purposes, and that each Member and the Company shall file all tax returns and shall otherwise take all tax and financial reporting positions in a manner consistent with such treatment.

Section 2.08 Liability. Except as otherwise provided by the Delaware Act, the debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company, and no Member or Manager shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member or a Manager.

ARTICLE III.
MEMBERS; UNITS; CAPITALIZATION

Section 3.01 Members.

(a) In connection with the IPO, the Corporation was admitted as a Member and will acquire Common Units pursuant to the IPO Common Unit Subscription Agreement.

(b) The Company shall maintain a schedule setting forth: (i) the name and address of each Member and (ii) the aggregate number of outstanding Units and the number and class of Units held by each Member (such schedule, the "***Schedule of Members***"). The applicable Schedule of Members in effect as of the Effective Date and after giving effect to the Recapitalization, the IPO Common Unit Subscription Agreement and any Common Units to be purchased by the Corporation from the Members with the IPO Net Proceeds is set forth as Schedule 2 to this Agreement. The Company shall also maintain a record of (1) the Capital Account of each Member on the Effective Date; (2) the aggregate amount of cash Capital Contributions that has been made by the Members with respect to their Units; and (3) the Fair Market Value of any property other than cash contributed by the Members with respect to their Units (including, if applicable, a description and the amount of any liability assumed by the Company or to which contributed property is subject) in its books and records. The Schedule of Members may be updated by the Manager without the consent of any Member in the Company's books and records from time to time, and as so updated, it shall be the definitive record of ownership of each Unit of the Company and all relevant information with respect to each Member. The Company shall be entitled to recognize the exclusive right of a Person properly registered on its records as the owner of Units for all purposes and shall not be bound to recognize any equitable or other claim to or interest in Units on the part of any other Person,

whether or not it shall have express or other notice thereof, except as otherwise provided by the Delaware Act or other applicable Law.

(c) No Member shall be required, except for a Capital Contribution by the Corporation pursuant to Section 3.04(c) or Section 11.02, or, except as approved by the Manager pursuant to Section 6.01 and in accordance with the other provisions of this Agreement, or except for a loan by the Corporation pursuant to Section 3.04(c), permitted, to (i) loan any money or property to the Company, (ii) borrow any money or property from the Company or (iii) make any additional Capital Contributions.

Section 3.02 Units.

(a) Interests in the Company shall be represented by Units, or such other securities of the Company, in each case as the Manager may establish in its discretion in accordance with the terms and subject to the restrictions hereof. At the Effective Date, the Units will be comprised of a single class of Common Units.

(b) Subject to Section 3.04(a), the Manager, without the vote or consent of any Member or any other Person, may (i) issue additional Common Units at any time in its sole discretion and (ii) create and issue one or more classes or series of Units or preferred Units solely to the extent such new class or series of Units or preferred Units are substantially economically equivalent to a class or series of common or other stock of the Corporation or class or series of preferred stock of the Corporation, respectively; *provided,* that as long as there are any Members (other than the Corporation and its Subsidiaries) (x) no such new class or series of Units may deprive such Members of, or dilute or reduce, the allocations and distributions they would have received, and the other rights and benefits to which they would have been entitled, in respect of their Units if such new class or series of Units had not been created and (y) no such new class or series of Units may be issued, in each case, except to the extent (and solely to the extent) the Company actually receives cash in an aggregate amount, or other property with a Fair Market Value in an aggregate amount, equal to the aggregate distributions that would be made in respect of such new class or series of Units if the Company were liquidated immediately after the issuance of such new class or series of Units. When any such other Units or other Equity Securities are authorized and issued, the Schedule of Members and this Agreement shall be amended by the Manager without the consent of any Member or any other Person to reflect such additional issuances.

(c) Subject to Sections 15.03(b) and Section 15.03(c), the Manager may amend this Agreement, without the consent of any Member or any other Person, in connection with the creation and issuance of such classes or series of Units, pursuant to Sections 3.02(b), 3.04(b) or 3.11.

Section 3.03 Recapitalization; the Corporation's Capital Contribution; the Corporation's Purchase of Common Units.

(a) In order to effect the Recapitalization, the number of Original Units that were issued and outstanding and held by the Pre-IPO Members prior to the Effective Date as set forth

opposite the respective Pre-IPO Member's name in Schedule 1 are hereby recapitalized and converted, as of the Effective Date, and after giving effect to such recapitalization and conversion and the other transactions related to the Recapitalization, into the number of Common Units set forth opposite the name of the respective Pre-IPO Member's name on the Schedule of Members attached hereto as Schedule 2 (*provided*, for the avoidance of doubt, that the number of Common Units set forth on Schedule 2 includes the Common Units issued to the Corporation pursuant to the IPO Common Unit Subscription Agreement and reflects any Common Units to be purchased by the Corporation from the Members with a portion of the IPO Net Proceeds), and such Common Units are hereby issued and outstanding (or remain issued and outstanding with respect to any Common Units to be purchased by the Corporation from the Members with a portion of the IPO Net Proceeds) as of the Effective Date and the holders of such Common Units hereby continue as members of the Company (and, for the avoidance of doubt, are Members hereunder) and the Company is hereby continued without dissolution.

(b) Following the Recapitalization, (i) the Company shall issue to the Corporation, and the Corporation will acquire from the Company [●] newly issued Common Units in exchange for a portion of the IPO Net Proceeds payable to the Company upon consummation of the IPO pursuant to the IPO Common Unit Subscription Agreement with the Company (the "***IPO Common Unit Subscription***") and (ii) the Corporation will acquire (A) [●] Common Units from Rodd Booth and (B) [●] Common Units from the Cynosure Related Parties, with a portion of the IPO Net Proceeds payable to such selling Members upon consummation of the IPO, and, following the occurrence of (i) and (ii), the Corporation is hereby admitted as a Member. In addition, to the extent the underwriters in the IPO exercise the Over-Allotment Option in whole or in part, upon the exercise of the Over-Allotment Option, (x) the Company shall issue to the Corporation, and the Corporation will acquire from the Company [●] newly issued Common Units in exchange for a portion of the Over-Allotment Net Proceeds and (ii) the Corporation will acquire (A) [●] Common Units from certain of the Founder Fund Related Parties and (B) [●] Common Units from the Cynosure Related Parties, with the portion of Over-Allotment Option Net Proceeds payable to such selling Members upon exercise and consummation of the Over-Allotment Option. For the avoidance of doubt, the Corporation shall be automatically admitted as a Member with respect to all Common Units it holds from time to time.

Section 3.04 Authorization and Issuance of Additional Units.

(a) The Company, and the Corporation shall, notwithstanding any other provision of this Agreement, undertake all actions, including, without limitation, an issuance, reclassification, distribution, division, repurchase, redemption, cancellation or recapitalization, with respect to the Common Units, the Class A Common Stock, the Class B Common Stock or the Class C Common Stock, as applicable, to maintain at all times (i) a one-to-one ratio between the number of Common Units owned by the Corporation, directly or indirectly, and the number of outstanding shares of Class A Common Stock, (ii) a one-to-one ratio between the number of Common Units owned by Members (other than the Corporation and its Subsidiaries), directly or indirectly, and the number of outstanding shares of Class B Common Stock owned by such Members, directly or indirectly, and (iii) a one-to-one ratio between the number of Common Units owned by the Members (other than the Corporation and its Subsidiaries), directly or

indirectly, and the number of outstanding shares of Class C Common Stock owned by such Members, directly or indirectly, in each case disregarding, for purposes of maintaining the one-to-one ratio, (A) Unvested Corporate Shares, (B) treasury stock or (C) preferred stock or other debt or Equity Securities (including any Corresponding Rights) issued by the Corporation that are convertible into or exercisable or exchangeable for Class A Common Stock, Class B Common Stock or Class C Common Stock (except to the extent the net proceeds from such other securities, including any exercise or purchase price payable upon conversion, exercise or exchange thereof, has been contributed by the Corporation to the equity capital of the Company). In the event the Corporation issues, transfers or delivers from treasury stock or repurchases or redeems Class A Common Stock in a transaction not contemplated in this Agreement, the Manager, the Company and the Corporation shall, notwithstanding any other provision of this Agreement to the contrary, take all actions such that, after giving effect to all such issuances, transfers, deliveries, repurchases or redemptions, the number of outstanding Common Units owned, directly or indirectly, by the Corporation will equal on a one-for-one basis the number of outstanding shares of Class A Common Stock. In the event the Corporation issues, transfers or delivers from treasury stock or repurchases or redeems the Corporation's capital stock (other than the Class A Common Stock, Class B Common Stock or Class C Common Stock) or preferred stock in a transaction not contemplated in this Agreement, the Manager, the Company and the Corporation shall, notwithstanding any other provision of this Agreement to the contrary, take all actions such that, after giving effect to all such issuances, transfers, deliveries, repurchases or redemptions, the Corporation, directly or indirectly, holds (in the case of any issuance, transfer or delivery) or ceases to hold (in the case of any repurchase or redemption) Equity Securities issued by the Company which (in the good faith determination by the Manager) are in the aggregate substantially economically equivalent to the outstanding capital stock (other than the Class A Common Stock, Class B Common Stock or Class C Common Stock) or preferred stock of the Corporation so issued, transferred, delivered, repurchased or redeemed. In the event the Corporation issues, transfers or delivers from treasury stock or repurchases or redeems Class B Common Stock or Class C Common Stock in a transaction not contemplated in this Agreement, the Manager and the Company shall, notwithstanding any other provision of this Agreement to the contrary, take all actions such that, after giving effect to all such issuances, transfers, deliveries, repurchases or redemptions, the number of outstanding Common Units owned, directly or indirectly, by the Members (other than the Corporation and its Subsidiaries), directly or indirectly, will equal on a one-for-one basis the number of outstanding shares of Class B Common Stock and Class C Common Stock. The Company, the Manager and the Corporation shall not undertake any subdivision (by any Common Unit split, stock split, Common Unit distribution, stock distribution, reclassification, division, recapitalization or similar event) or combination (by reverse Common Unit split, reverse stock split, reclassification, division, recapitalization or similar event) of the Common Units or the Class A Common Stock, Class B Common Stock or Class C Common Stock, as applicable, that is not accompanied by an identical subdivision or combination of Class A Common Stock, Class B Common Stock or Class C Common Stock or Common Units respectively, to maintain at all times (x) a one-to-one ratio between the number of Common Units owned, directly or indirectly, by the Corporation and the number of outstanding shares of Class A Common Stock, (y) a one-to-one ratio between the number of Common Units owned by Members (other than the Corporation and its Subsidiaries), directly or indirectly, and the number of outstanding shares of Class B Common Stock or Class C

Common Stock, in each case, unless such action is necessary to maintain at all times a one-to-one ratio between each of (i) the number of Common Units owned, directly or indirectly, by the Corporation and the aggregate number of outstanding shares of Class A Common Stock, (ii) the number of Common Units owned by Members (other than the Corporation and its Subsidiaries), directly or indirectly, and the number of outstanding shares of Class B Common Stock or Class C Common Stock, in each case as contemplated by the first sentence of this Section 3.04(a).

(b) The Company shall only be permitted to issue additional Common Units, and/or establish other classes or series of Units or other Equity Securities in the Company to the Persons and on the terms and conditions provided for in Section 3.02, this Section 3.04, Section 3.11 and Section 3.12. Subject to the foregoing, the Manager may cause the Company to issue additional Common Units authorized under this Agreement and/or establish other classes or series of Units or other Equity Securities in the Company at such times and upon such terms as the Manager shall determine and the Manager shall amend this Agreement solely to the extent necessary in connection with the issuance of additional Common Units, to establish other classes or series of Units or other Equity Securities in the Company, or admission of additional Members under this Section 3.04, in each case without the requirement of any consent or acknowledgement of any other Member or any other Person and notwithstanding anything to the contrary herein, including Section 15.03. Without the prior written consent of the Members holding a majority of the Units then outstanding, at any other time (excluding for purposes of such calculation the Corporation and all Units held directly or indirectly by it), the Corporation agrees not to form or hold any interest in any Subsidiary other than (X) indirectly through the Company or (Y) a Subsidiary of the Corporation that holds no assets other than, directly or indirectly, Equity Securities of the Company.

(c) Notwithstanding anything to the contrary herein, except to the extent described in Section 3.04(a) and (b), from time to time at its sole discretion, (i) the Corporation may make loans to the Company and its Subsidiaries, and (ii) the Corporation may contribute property (including cash and/or the loans described in the foregoing clause (i)) to the Company. Upon each contribution described in the foregoing clause (ii), and after giving proper effect to all related transactions, the Company shall (x) issue to the Corporation such number of Common Units or Equity Securities of the Company as necessary to maintain the one-to-one ratios, if any, or the economic parity between one share of Class A Common Stock and one Common Unit and/or (y) cancel such number of Common Units or Equity Securities of the Company held by Members other than the Corporation on a pro rata basis (based on the number of Common Units held by each such Member) as necessary to maintain the one-to-one ratios or the economic parity between one share of Class A Common Stock and one Common Unit.

Section 3.05 Repurchase or Redemption of Shares of Class A Common Stock; Other Redemptions or Repurchases.

(a) If at any time, any shares of Class A Common Stock are repurchased or redeemed (whether by exercise of a put or call, automatically or by means of another arrangement) by the Corporation for cash, then the Manager shall cause the Company, immediately prior to such repurchase or redemption of Class A Common Stock, to redeem a corresponding number of

Common Units held (directly or indirectly) by the Corporation, at an aggregate redemption price equal to the aggregate purchase or redemption price of the shares of Class A Common Stock being repurchased or redeemed by the Corporation (plus any expenses related thereto) and upon such other terms as are the same for the shares of Class A Common Stock being repurchased or redeemed by the Corporation; *provided*, if the Corporation uses funds received from distributions from the Company or the net proceeds from an issuance of Class A Common Stock to fund such repurchase or redemption, then the Company shall cancel a corresponding number of Common Units held (directly or indirectly) by the Corporation for no consideration. The Corporation may not redeem, repurchase or otherwise acquire any other Equity Securities of the Corporation unless substantially simultaneously the Company redeems, repurchases or otherwise acquires (and the Company agrees to so redeem, repurchase or otherwise acquire) from the Corporation (and the Corporation agrees to deliver to the Company) an equal number of Equity Securities of the Company of a corresponding class or series with substantially the same rights to dividends and distributions (including distributions upon liquidation or dissolution) and other economic rights as those of such Equity Securities of the Corporation for the same price per security. Notwithstanding any provision to the contrary contained in this Agreement, neither the Company nor the Corporation shall make any repurchase, redemption or other acquisition if such repurchase, redemption or other acquisition, or the corresponding repurchase, redemption or other acquisition at the other of the Company or the Corporation, would violate any applicable Law.

(b) Notwithstanding anything to the contrary herein, the Corporation may repurchase shares of Class A Common Stock using proceeds received from any Tax Distribution, in which case the related Tax Distributions made to each Member shall be in redemption of Common Units, pro rata according to the number of Common Units held by each Member, such that the number of Common Units redeemed from the Corporation is equal to the number of shares of Class A Common Stock to be repurchased, and at the price per Common Unit equal to the price that is actually paid per share of Class A Common Stock in such repurchase(s). In such event, the Corporation shall, in addition, take such other action as is necessary to preserve a one-to-one ratio between the number of Common Units owned by the Corporation, directly or indirectly, and the number of outstanding shares of Class A Common Stock as well as the one-to-one ratio between the number of shares of Class B Common Stock and/or Class C Common Stock (as applicable) and the number of outstanding Common Units held by each Member (other than the Corporation).

Section 3.06 Certificates Representing Units; Lost, Stolen or Destroyed Certificates; Registration and Transfer of Units.

(a) Units shall not be certificated unless otherwise determined by the Manager. If the Manager determines that one or more Units shall be certificated, each such certificate shall be signed by or in the name of the Company, by the Chief Executive Officer, Chief Financial Officer, Chief Legal Officer, Secretary or any other officer designated by the Manager, representing the number and classes of Units held by such holder. Such certificate shall, subject to Section 10.03, be in such form (and shall contain such legends) as the Manager may determine. Any or all of such signatures on any certificate representing one or more Units may

be a facsimile, engraved or printed, to the extent permitted by applicable Law. Unless otherwise determined by the Manager, no Units shall be treated as a "security" within the meaning of Article 8 of the Uniform Commercial Code unless all Units then outstanding are certificated; notwithstanding anything to the contrary herein, including Section 15.03, the Manager is authorized to amend this Agreement in order for the Company to opt-in to the provisions of Article 8 of the Uniform Commercial Code without the consent or approval of any Member or any other Person.

(b) If Units are certificated, the Manager may direct that a new certificate representing one or more Units be issued in place of any certificate theretofore issued by the Company alleged to have been lost, stolen or destroyed, upon delivery to the Manager of an affidavit of the owner or owners of such certificate, setting forth such allegation. The Manager may require the owner of such lost, stolen or destroyed certificate, or such owner's legal representative, to give the Company a bond sufficient to indemnify it against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of any such new certificate.

(c) To the extent Units are certificated, upon surrender to the Company or the transfer agent of the Company, if any, of a certificate for one or more Units, duly endorsed or accompanied by appropriate evidence of succession, assignment or authority to transfer, in compliance with the provisions hereof, the Company shall issue a new certificate representing one or more Units to the Person entitled thereto, cancel the old certificate and record the transaction upon its books. Subject to the provisions of this Agreement, the Manager may prescribe such additional rules and regulations as it may deem appropriate relating to the issue, Transfer and registration of Units.

Section 3.07 Negative Capital Accounts. No Member shall be required to pay to any other Member or the Company any deficit or negative balance which may exist from time to time in such Member's Capital Account (including upon and after dissolution of the Company).

Section 3.08 No Withdrawal. No Person shall be entitled to withdraw any part of such Person's Capital Contribution or Capital Account or to receive any Distribution from the Company, except as expressly provided in this Agreement.

Section 3.09 Loans From Members. Loans by Members to the Company shall not be considered Capital Contributions. Subject to the provisions of Section 3.01(c) and/or Section 3.04(c), the amount of any such loans shall be a debt of the Company to such Member and shall be payable or collectible in accordance with the terms and conditions upon which such loans are made.

Section 3.10 Equity Plans. Nothing in this Agreement shall be construed or applied to preclude or restrain the Corporation from adopting, modifying or terminating an Equity Plan or from issuing shares of Class A Common Stock pursuant to any such plans. The Corporation may implement such Equity Plans and any actions taken under such Equity Plans (such as the grant or exercise of options to acquire shares of Class A Common Stock, or the issuance of Unvested Corporate Shares), whether taken with respect to or by an employee or other service provider of

the Corporation, the Company or its Subsidiaries, in a manner determined by the Corporation, in accordance with the Policy Regarding Certain Equity Issuances attached to this Agreement as Exhibit C, which may be amended by the Corporation from time to time without the consent or approval of any Member or any other Person. The Manager may, without the consent of any Member or any other Person and notwithstanding Section 15.03, amend this Agreement (including Exhibit C) as necessary or advisable in its sole discretion to adopt, implement, modify or terminate an Equity Plan. In the event of such an amendment by the Manager, the Company shall provide notice of such amendment to the Members. The Company is expressly authorized to issue Units (i) in accordance with the terms of any such Equity Plan, or (ii) in an amount equal to the number of shares of Class A Common stock issued pursuant to any such Equity Plan, without any further act, approval or vote of any Member or any other Persons.

Section 3.11 Dividend Reinvestment Plan, Cash Option Purchase Plan, Stock Incentive Plan or Other Plan. Except as may otherwise be provided in this Article III, all amounts received or deemed received by the Corporation in respect of any dividend reinvestment plan, cash option purchase plan, stock incentive or other stock or subscription plan or agreement, either (a) shall be utilized by the Corporation to effect open market purchases of a like number of shares of Class A Common Stock, or (b) if the Corporation elects instead to issue new shares of Class A Common Stock with respect to such amounts, shall be contributed by the Corporation to the Company in exchange for a like number of additional Common Units. Upon such contribution, the Company will issue to the Corporation a number of Common Units equal to the number of new shares of Class A Common Stock so issued.

ARTICLE IV.
DISTRIBUTIONS

Section 4.01 Distributions.

(a) *Distributable Cash; Other Distributions.*

(i) To the extent permitted by applicable Law and hereunder, Distributions to Members may be declared by the Manager out of Distributable Cash or other funds or property legally available therefor in such amounts, at such time and on such terms (including the payment dates of such Distributions) as the Manager in its sole discretion shall determine using such record date as the Manager may designate. All Distributions made under this Section 4.01 shall be made to the Members holding Common Units as of the close of business on such record date on a *pro rata* basis in accordance with each Member's Percentage Interest (other than, for the avoidance of doubt, any distributions made pursuant to Section 4.01(b)(iv)) as of the close of business on such record date; *provided, however*, that the Manager shall have the obligation to make Distributions as set forth in Sections 4.01(b) and 14.02; *provided*, *further*, that notwithstanding any other provision herein to the contrary, no distributions shall be made to any Member to the extent such distribution would render the Company insolvent or violate the Delaware Act or other applicable law. For purposes of the foregoing sentence, "insolvent" means the inability of the Company to meet its payment obligations when due. In furtherance of the foregoing, it is intended that the Manager shall, to the extent permitted by applicable Law

and hereunder, have the right in its sole discretion to cause the Company to make Distributions of Distributable Cash to the Members pursuant to this Section 4.01(a) in such amounts as shall enable the Corporation to meet its obligations, including its obligations pursuant to the Tax Receivable Agreement (to the extent such obligations are not otherwise able to be satisfied as a result of Tax Distributions required to be made pursuant to Section 4.01(b)).

(ii) Notwithstanding anything to the contrary in Section 4.01(a)(i), (i) the Company shall not make a distribution (other than Tax Distributions under Section 4.01(b)) to any Member in respect of any Common Units which remain subject to vesting conditions in accordance with any applicable equity plan or individual award agreement and (ii) with respect to any amounts that would otherwise have been distributed to a Member but for the preceding clause (i), such amount shall be held in trust by the Company for the benefit of such Member unless and until such time as such Common Units have vested or been forfeited in accordance with the applicable equity plan or individual award agreement, and within five (5) Business Days of such time, the Company shall distribute such amounts to such Member; provided, that, if any condition to the vesting of such unvested Common Units becomes incapable of being satisfied, then any amounts that have not been distributed with respect to such unvested Common Units may be distributed to all other Members in accordance with Section 4.01(a)(i) as if such distribution were a new distribution pursuant to Section 4.01(a)(i).

(b) *Tax Distributions*.

(i) With respect to each Taxable Year, the Company shall, to the extent it has Distributable Cash and is permitted by applicable Law, make cash distributions ("***Tax Distributions***") to each Member in accordance with this Section 4.01(b) and such Member's Assumed Tax Liability. Tax Distributions pursuant to this Section 4.01(b)(i) shall be estimated by the Company on a quarterly basis and, to the extent feasible, shall be distributed to the Members (together with a statement showing the calculation of such Tax Distribution and an estimate of the Company's net taxable income allocable to each Member for such period) on a quarterly basis on April 15th, June 15th, September 15th and December 15th (or such other dates for which corporations or individuals are required to make quarterly estimated tax payments for U.S. federal income tax purposes, whichever is earlier) (each, a "***Quarterly Tax Distribution***"); *provided*, that the foregoing shall not restrict the Company from making a Tax Distribution on any other date as the Company determines is necessary to enable the Members to timely make estimated income tax payments. Quarterly Tax Distributions shall take into account the estimated taxable income or loss of the Company for the Taxable Year through the end of the relevant quarterly period. A final accounting for Tax Distributions shall be made for each Taxable Year after the allocation of the Company's actual net taxable income or loss has been determined and any shortfall in the amount of Tax Distributions a Member received for such Taxable Year based on such final accounting shall promptly be distributed to such Member. For the avoidance of doubt, any excess Tax Distributions a Member receives with respect to any Taxable Year shall reduce future Tax Distributions otherwise required

to be made to such Member with respect to any subsequent Taxable Year. For the avoidance of doubt, Tax Distributions shall not be treated as an advance on any Distributions pursuant to Section 4.01(a). Notwithstanding anything to the contrary in this Agreement, the Manager shall make, in its reasonable discretion, equitable adjustments (downward (but not below zero) or upward) to the Members' Tax Distributions to take into account increases or decreases in the number of Common Units held by each Member during the relevant taxable period or portion thereof; provided that any such equitable adjustments are made in a manner that results in Tax Distributions being made pro rata in proportion to the Members' respective Percentage Interests for any relevant taxable period or portion thereof.

(ii) To the extent a Member otherwise would be entitled to receive less than its Percentage Interest of the aggregate Tax Distributions to be paid pursuant to this Section 4.01(b) (other than any distributions made pursuant to the last sentence of this Section 4.01(b)(ii) in respect of a shortfall, or pursuant to the last sentence of Section 4.01(b)(iv)) on any given date, the Tax Distributions to such Member shall be increased to ensure that all Tax Distributions made pursuant to this Section 4.01(b) are made *pro rata* in accordance with the Members' respective Percentage Interests; provided that, notwithstanding anything to the contrary, to the extent an immaterial portion of any Tax Distribution to any Member determined in accordance with this Section 4.01(b) would have the effect of resulting in a material amount of excess Tax Distributions to the Corporation, in each case, as determined by the Manager in its sole discretion, the Company shall be permitted to adjust Tax Distributions to minimize such excess Tax Distributions to the Corporation. If, on the date of a Tax Distribution, there are insufficient funds on hand to distribute to the Members the full amount of the Tax Distributions to which such Members are otherwise entitled, Tax Distributions pursuant to this Section 4.01(b) shall be made to the Members to the extent of available funds in accordance with their Percentage Interests and the Company shall make future Tax Distributions in accordance with the Members' Percentage Interests at the time of such shortfalls as soon as sufficient funds become available to pay the remaining portion of the Tax Distributions to which such Members are otherwise entitled.

(iii) In the event of any audit by, or similar event with, a Governmental Entity that affects the calculation of any Member's Assumed Tax Liability for any Taxable Year, or in the event the Company files an amended tax return or administrative adjustment request, each Member's Assumed Tax Liability with respect to such year shall be recalculated by giving effect to such event (for the avoidance of doubt, taking into account interest or penalties). Any shortfall in the amount of Tax Distributions the Members and former Members received for the relevant Taxable Years based on such recalculated Assumed Tax Liability promptly shall be distributed to such Members and the successors of such former Members in accordance with the applicable Members' and former Members' Percentage Interests at the time of such shortfalls, except, for the avoidance of doubt, to the extent Distributions were made to such Members and former Members pursuant to Section 4.01(a) and this Section 4.01(b) in the relevant Taxable Years sufficient to cover such shortfall.

(iv) Notwithstanding the foregoing and anything to the contrary in this Agreement, a final accounting for distributions under Section 7.04 of the Original LLC Agreement in respect of the taxable income of the Company for the portion of the Taxable Year of the Company that ends on the Effective Date shall be made by the Company following the closing date of the IPO and, based on such final accounting, the Company shall make a distribution to the Pre-IPO Members (or in the case of any Pre-IPO Member that no longer exists, the successor of such Pre-IPO Member) to the extent of the excess of the amount of distributions the Pre-IPO Members would have been entitled to receive pursuant to such subsections (without regard to the amendment and restatement of such Original LLC Agreement as of the Effective Date) over the amount of distributions the Pre-IPO Members received prior to the Effective Date under Section 7.04 of the Original LLC Agreement with respect to taxable income of the Company for such portion of such Taxable Year that will be allocated to the Pre-IPO Members (determined pursuant to Section 706 of the Code). For the avoidance of doubt, the amount of distributions to be made pursuant to this Section 4.01(b)(iv) shall be calculated pursuant to the methodology set forth in Section 7.04 of the Original LLC Agreement.

ARTICLE V.
CAPITAL ACCOUNTS; ALLOCATIONS; TAX MATTERS

Section 5.01 Capital Accounts.

(a) The Company shall maintain a separate Capital Account for each Member according to the rules of Treasury Regulations Section 1.704-1(b)(2)(iv). For this purpose, the Company may (in the discretion of the Manager), upon the occurrence of the events specified in Treasury Regulations Section 1.704-1(b)(2)(iv)(f), and shall, in connection with the execution of this Agreement, the IPO Common Unit Subscription and other transactions taking place in connection therewith, increase or decrease the Capital Accounts in accordance with the rules of such Treasury Regulations and Treasury Regulations Section 1.704-1(b)(2)(iv)(g) to reflect a revaluation of the Company's property.

(b) For purposes of computing the amount of any item of income, gain, loss or deduction with respect to the Company to be allocated pursuant to this Article V and to be reflected in the Capital Accounts of the Members, the determination, recognition and classification of any such item shall be the same as its determination, recognition and classification for U.S. federal income tax purposes (including any method of depreciation, cost recovery or amortization used for this purpose); *provided, however*, that:

(i) the computation of all items of income, gain, loss and deduction shall include those items described in Code Section 705(a)(l)(B) or Code Section 705(a)(2)(B) and Treasury Regulations Section 1.704-1(b)(2)(iv)(i), without regard to the fact that such items are not includable in gross income or are not deductible for U.S. federal income tax purposes;

(ii) if the Book Value of any property of the Company is adjusted pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(e) or (f), the amount of such adjustment shall be taken into account as gain or loss from the disposition of such property;

(iii) items of income, gain, loss or deduction attributable to the disposition of property of the Company having a Book Value that differs from its adjusted basis for tax purposes shall be computed by reference to the Book Value of such property;

(iv) items of depreciation, amortization and other cost recovery deductions with respect to property of the Company having a Book Value that differs from its adjusted basis for tax purposes shall be computed by reference to the property's Book Value in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g); and

(v) to the extent an adjustment to the adjusted tax basis of any asset of the Company pursuant to Code Sections 732(d), 734(b) or 743(b) is required, pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis).

Section 5.02 Allocations. Except as otherwise provided in Section 5.03 and Section 5.04, Net Profits and Net Losses for any Taxable Year or Fiscal Period shall be allocated among the Capital Accounts of the Members *pro rata* in accordance with their respective Percentage Interests, assuming that any Common Units which are subject to vesting conditions in accordance with any applicable Equity Plan or individual award agreement are fully vested.

Section 5.03 Regulatory Allocations.

(a) Losses attributable to partner nonrecourse debt (as defined in Treasury Regulations Section 1.704-2(b)(4)) shall be allocated in the manner required by Treasury Regulations Section 1.704-2(i). Except as otherwise provided for in Section 5.03(b), if there is a net decrease during a Taxable Year in partner nonrecourse debt minimum gain (as defined in Treasury Regulations Section 1.704-2(i)(3)), Profits for such Taxable Year (and, if necessary, for subsequent Taxable Years) shall be allocated to the Members in the amounts and of such character as determined according to Treasury Regulations Section 1.704-2(i)(4).

(b) Nonrecourse deductions (as determined according to Treasury Regulations Section 1.704-2(b)(1)) for any Taxable Year shall be allocated pro rata among the Members in accordance with their Percentage Interests. If there is a net decrease in the Minimum Gain during any Taxable Year, each Member shall be allocated Profits for such Taxable Year (and, if necessary, for subsequent Taxable Years) in the amounts and of such character as determined according to Treasury Regulations Section 1.704-2(f). This Section 5.03(b) is intended to be a minimum gain chargeback provision that complies with the requirements of Treasury Regulations Section 1.704-2(f), and shall be interpreted in a manner consistent therewith.

(c) If any Member that unexpectedly receives an adjustment, allocation or Distribution described in Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5) and (6) has an Adjusted Capital Account Deficit as of the end of any Taxable Year, after all other allocations pursuant to Sections 5.02, 5.03, 5.04 and 5.05 have been tentatively made as if this Section 5.03(c) were not in this Agreement, then Profits for such Taxable Year shall be allocated to such Member in proportion to, and to the extent of, such Adjusted Capital Account Deficit. This Section 5.03(c) is intended to be a qualified income offset provision as described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted in a manner consistent therewith.

(d) If the allocation of Net Losses (or items of Losses) to a Member as provided in Section 5.02 would create or increase an Adjusted Capital Account Deficit, there shall be allocated to such Member only that amount of Losses as will not create or increase an Adjusted Capital Account Deficit. The Net Losses that would, absent the application of the preceding sentence, otherwise be allocated to such Member shall be allocated to the other Members in accordance with their relative Percentage Interests, subject to this Section 5.03(d).

(e) Profits and Losses described in Section 5.01(b)(v) shall be allocated in a manner consistent with the manner that the adjustments to the Capital Accounts are required to be made pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(j) and (m).

(f) The allocations set forth in Section 5.03(a) through and including Section 5.03(e) (the "***Regulatory Allocations***") are intended to comply with certain requirements of Sections 1.704-1(b) and 1.704-2 of the Treasury Regulations. The Regulatory Allocations may not be consistent with the manner in which the Members intend to allocate Net Profit and Net Loss of the Company or make Distributions. Accordingly, notwithstanding the other provisions of this Article V, but subject to the Regulatory Allocations, income, gain, deduction and loss with respect to the Company shall be reallocated among the Members so as to eliminate the effect of the Regulatory Allocations and thereby cause the respective Capital Accounts of the Members to be in the amounts (or as close thereto as possible) they would have been if Net Profit and Net Loss (and such other items of income, gain, deduction and loss) had been allocated without reference to the Regulatory Allocations. In general, the Members anticipate that this will be accomplished by specially allocating other Profit and Loss (and such other items of income, gain, deduction and loss) among the Members so that the net amount of the Regulatory Allocations and such special allocations to each such Member is zero. In addition, if in any Taxable Year or Fiscal Period there is a decrease in partnership minimum gain, or in partner nonrecourse debt minimum gain, and application of the minimum gain chargeback requirements set forth in Section 5.03(a) or Section 5.03(b) would cause a distortion in the economic arrangement among the Members, the Manager may, if it does not expect that the Company will have sufficient other income to correct such distortion, request the Internal Revenue Service to waive either or both of such minimum gain chargeback requirements pursuant to Treasury Regulations Section 1.704-2(f)(4). If such request is granted, this Agreement shall be applied in such instance as if it did not contain such minimum gain chargeback requirement.

Section 5.04 Final Allocations.

(a) Notwithstanding any contrary provision in this Agreement except Section 5.03, the Manager shall make appropriate adjustments to allocations of Net Profits and Net Losses to (or, if necessary, allocate items of gross income, gain, loss or deduction of the Company among) the Members upon the liquidation of the Company (within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations), upon the transfer of substantially all the Units (whether by sale or exchange or merger), upon the sale of all or substantially all the assets of the Company or at any other time reasonably determined by the Manager, such that, to the maximum extent possible, the Capital Accounts of the Members are proportionate to their Percentage Interests. In each case, such adjustments or allocations shall occur, to the maximum extent possible, in the Taxable Year of the event requiring such adjustments or allocations.

(b) If any holder of Common Units which are subject to vesting conditions forfeits (or the Company has repurchased at less than fair market value) all or a portion of such holder's unvested Common Units, the Company shall make forfeiture allocations in respect of such unvested Common Units in the manner and to the extent required by Proposed Treasury Regulations Section 1.704-1(b)(4)(xii) (as such Proposed Treasury Regulations may be amended or modified, including upon the issuance of temporary or final Treasury Regulations).

Section 5.05 Tax Allocations.

(a) The income, gains, losses, deductions and credits of the Company will be allocated, for federal, state and local income tax purposes, among the Members in accordance with the allocation of such income, gains, losses, deductions and credits among the Members for computing their Capital Accounts; *provided* that if any such allocation is not permitted by the Code or other applicable Law, the Company's subsequent income, gains, losses, deductions and credits will be allocated among the Members so as to reflect as nearly as possible the allocation set forth herein in computing their Capital Accounts.

(b) Items of taxable income, gain, loss and deduction of the Company with respect to any property contributed to the capital of the Company shall be allocated among the Members in accordance with Code Section 704(c) so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its Book Value using the traditional method set forth in Treasury Regulations Section 1.704-3(b).

(c) If the Book Value of any asset of the Company is adjusted pursuant to Section 5.01(b), including adjustments to the Book Value of any asset of the Company in connection with the execution of this Agreement, subsequent allocations of items of taxable income, gain, loss and deduction with respect to such asset shall take account of any variation between the adjusted basis of such asset for federal income tax purposes and its Book Value using the traditional method set forth in Treasury Regulations Section 1.704-3(b).

(d) Allocations of tax credits, tax credit recapture, and any items related thereto shall be allocated to the Members as determined by the Manager taking into account the principles of Treasury Regulations Section 1.704-1(b)(4)(ii).

(e) For purposes of determining a Member's share of the Company's "excess nonrecourse liabilities" within the meaning of Treasury Regulations Section 1.752-3(a)(3), each Member's interest in income and gain shall be determined pursuant to any proper method, as reasonably determined by the Manager; *provided*, that each year the Manager shall use its reasonable best efforts (using in all instances any proper method permitted under applicable Law, including without limitation the "additional method" described in Treasury Regulations Section 1.752-3(a)(3)) to allocate a sufficient amount of the excess nonrecourse liabilities to those Members who would have at the end of the applicable Taxable Year, but for such allocation, taxable income due to the deemed distribution of money to such Member pursuant to Section 752(b) of the Code that is in excess of such Member's adjusted tax basis in its Units.

(f) In the event any Common Units issued pursuant to Section 1(b) of the Policy Regarding Certain Equity Issuances attached to this Agreement as Exhibit C are subsequently forfeited, the Company may make forfeiture allocations with respect to such Common Units in the Taxable Year of such forfeiture in accordance with the principles of proposed Treasury Regulations Section 1.704-1(b)(4)(xii)(c), taking into account any amendments thereto and any temporary or final Treasury Regulations issued pursuant thereto.

(g) Allocations pursuant to this Section 5.05 are solely for purposes of federal, state and local income taxes and shall not affect, or in any way be taken into account in computing, any Member's Capital Account or share of Profits, Losses, Distributions or other items of the Company pursuant to any provision of this Agreement.

Section 5.06 Indemnification and Reimbursement for Payments on Behalf of a Member. The Company is authorized at all times to make payments with respect to each Member in amounts required to discharge any obligation of the Company (as determined by the Manager) to withhold or make payments to any Governmental Entity with respect to any distribution or allocation by the Company of income or gain to such Member and to withhold the same from distributions to such Member. Except as otherwise determined by the Manager, if the Company or any other Person in which the Company holds an interest is obligated to pay any amount to a Governmental Entity (or otherwise makes a payment to a Governmental Entity) that is specifically attributable to a Member or a Member's status as such (including federal income taxes, additions to tax, interest and penalties as a result of obligations of the Company pursuant to the Revised Partnership Audit Provisions, federal withholding taxes, state personal property taxes and state unincorporated business taxes, but excluding payments such as payroll taxes, withholding taxes, benefits or professional association fees and the like required to be made or made voluntarily by the Company on behalf of any Member based upon such Member's status as an employee of the Company), then such Member shall indemnify the Company in full for the entire amount paid (including interest, penalties and related expenses). The Manager may offset Distributions to which a Member is otherwise entitled under this Agreement against such Member's obligation to indemnify the Company under this Section 5.06. In addition, notwithstanding anything to the contrary, each Member agrees that any Cash Settlement such Member is entitled to receive pursuant to Article XI may be offset by an amount equal to such Member's obligation to indemnify the Company under this Section 5.06 and that such Member shall be treated as receiving the full amount of such Cash Settlement and paying to the Company

an amount equal to such obligation. A Member's obligation to make payments to the Company under this Section 5.06 shall survive the transfer or termination of any Member's interest in any Units of the Company, the termination of this Agreement and the dissolution, liquidation, winding up and termination of the Company. In the event that the Company has been terminated prior to the date such payment is due, such Member shall make such payment to the Manager (or its designee), which shall distribute such funds in accordance with this Agreement. The Company may pursue and enforce all rights and remedies it may have against each Member under this Section 5.06, including instituting a lawsuit to collect such contribution with interest calculated at a rate per annum equal to the sum of the Base Rate plus 300 basis points (but not in excess of the highest rate per annum permitted by Law). Each Member hereby agrees to furnish to the Company such information and forms as reasonably requested by the Company in order to comply with any Laws and regulations governing withholding of tax or in order to claim any reduced rate of, or exemption from, withholding to which the Member is legally entitled. The Company may withhold any amount that it determines is required to be withheld from any amount otherwise payable to any Member hereunder, and any such withheld amount shall be deemed to have been paid to such Member for all purposes of this Agreement, unless otherwise reimbursed by such Member under this Section 5.06. For the avoidance of doubt, any income taxes, penalties, additions to tax and interest payable by the Company or any fiscally transparent entity in which the Company owns an interest that are attributable to income or gain that is (or otherwise would be) passed through to the Members under applicable Law shall be treated as specifically attributable to the Members and shall be allocated among the Members such that the burden of (or any diminution in distributable proceeds resulting from) any such amounts is borne by those Members to whom such amounts are specifically attributable, in each case as reasonably determined by the Manager.

ARTICLE VI.
MANAGEMENT

Section 6.01 Authority of Manager; Officer Delegation.

(a) Except for situations in which the approval of any Member(s) is specifically required by this Agreement, (i) all management powers over the business and affairs of the Company shall be exclusively vested in the Corporation, as the sole managing member of the Company (the Corporation, in such capacity, the "***Manager***"), (ii) the Manager shall conduct, direct and exercise full control over all activities of the Company and (iii) no other Member shall have any right, authority or power to vote, consent or approve any matter, whether under the Delaware Act, this Agreement or otherwise. The Manager shall be the "manager" of the Company for the purposes of the Delaware Act. Except as otherwise expressly provided for herein and subject to the other provisions of this Agreement, the Members hereby consent to the exercise by the Manager of all such powers and rights conferred on the members of a limited liability company by the Delaware Act with respect to the management and control of the Company. Any vacancies in the position of Manager shall be filled in accordance with Section 6.04.

(b) Without limiting the authority of the Manager to act on behalf of the Company, the day-to-day business and operations of the Company shall be overseen and implemented by officers of the Company (each, an "***Officer***" and collectively, the "***Officers***"), subject to the limitations imposed by the Manager. An Officer may, but need not, be a Member. Each Officer shall be appointed by the Manager and shall hold office until his or her successor shall be duly designated and shall qualify or until his or her death or until he or she shall resign or shall have been removed in the manner hereinafter provided. Any one Person may hold more than one office. Subject to the other provisions of this Agreement (including in Section 6.07), the salaries or other compensation, if any, of the Officers of the Company shall be fixed from time to time by the Manager. The authority and responsibility of the Officers shall be limited to such duties as the Manager may, from time to time, delegate to them. Unless the Manager decides otherwise, if the title is one commonly used for officers of a business corporation formed under the General Corporation Law of the State of Delaware, the assignment of such title shall constitute the delegation to such person of the authorities and duties that are normally associated with that office. All Officers shall be, and shall be deemed to be, officers and employees of the Company. An Officer may also perform one or more roles as an officer of the Manager. Any Officer may be removed at any time, with or without cause, by the Manager.

(c) Subject to the other provisions of this Agreement, the Manager shall have the power and authority to effectuate the sale, lease, transfer, exchange or other disposition of any, all or substantially all of the assets of the Company (including the exercise or grant of any conversion, option, privilege or subscription right or any other right available in connection with any assets at any time held by the Company) or the merger, consolidation, conversion, division, reorganization or other combination of the Company with or into another entity, for the avoidance of doubt, without the prior consent of any Member or any other Person being required.

Section 6.02 Actions of the Manager. All rights, obligations, decisions, determinations, votes or approvals of the Corporation as the Manager under this Agreement (as amended or amended and restated from time to time) or under the Delaware Act shall be exercised by the Corporate Board or its designee.

Section 6.03 Resignation; No Removal. The Manager may resign at any time by giving written notice to the Members; provided, however, that any such resignation shall be subject to the appointment of a new Manager in accordance with Section 6.04. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the Members (subject to the appointment of a new Manager in accordance with Section 6.04), and the acceptance of the resignation shall not be necessary to make it effective. For the avoidance of doubt, the Members have no right under this Agreement to remove or replace the Manager. Notwithstanding anything to the contrary herein, no replacement of the Corporation as the Manager shall be effective unless proper provision is made, in compliance with this Agreement, so that the obligations of the Corporation, its successor or assign (if applicable), and any new Manager and the rights of all Members under this Agreement and applicable Law remain in full force and effect. No appointment of a Person other than the Corporation (or its successor or assign, as applicable) as the Manager shall be effective unless the Corporation (or its successor or assign, as applicable) and the new Manager (as applicable) provide all other Members with contractual

rights, directly enforceable by such other Members against the Corporation (or its successor, as applicable) and the new Manager (as applicable), to cause (a) the Corporation to comply with all of the Corporation's obligations under this Agreement (in its capacity as a Member) and (b) the new Manager to comply with all of the Manager's obligations under this Agreement.

Section 6.04 Vacancies. Vacancies in the position of Manager occurring for any reason shall be filled by the Corporation (or, if the Corporation has ceased to exist without any successor or assign, then by the holders of a majority in interest of the voting capital stock of the Corporation immediately prior to such cessation). For the avoidance of doubt, the Members (other than the Corporation) have no right under this Agreement to fill any vacancy in the position of Manager.

Section 6.05 Transactions Between the Company and the Manager. The Manager may cause the Company to contract and deal with the Manager, or any Affiliate of the Manager, *provided*, that such contracts and dealings (other than contracts and dealings between the Company and its Subsidiaries) are (i) on terms comparable to and competitive with those available to the Company from others dealing at arm's length, (ii) de minimis in nature (it being understood that any transaction or series of related transactions that involves goods, services, property or other consideration valued at or in excess of $120,000 will not be deemed to be de minimis), (iii) approved by the disinterested Members (other than the Manager in its capacity as a Member) holding a majority of the Percentage Interests of the disinterested Members (other than the Manager in its capacity as a Member) or (iv) approved by the Disinterested Majority, and in each case, otherwise are permitted by the Credit Agreements; *provided* that the foregoing shall in no way limit the Manager's rights under Sections 3.02, 3.04, 3.05 or 3.10. The Members hereby approve each of the contracts or agreements between or among the Manager or its Affiliates (other than the Company and its Subsidiaries), on the one hand, and the Company or its Affiliates (other than the Manager and any of the Company's Subsidiaries), on the other hand, entered into on or prior to the date of this Agreement in accordance with the limited liability company agreement governing the Company at such time or that the board of managers of the Company or the Corporate Board has approved in connection with the Recapitalization or the IPO as of the date of this Agreement, including, but not limited to, the IPO Common Unit Subscription Agreement and the Tax Receivable Agreement.

Section 6.06 Reimbursement for Expenses. The Manager shall not be compensated for its services as Manager of the Company except as expressly provided in this Agreement. The Members acknowledge and agree that, upon consummation of the IPO, the Manager's Class A Common Stock will be publicly traded and, therefore, the Manager will have access to the public capital markets and that such status and the services performed by the Manager will inure to the benefit of the Company and all Members; therefore, the Manager shall be reimbursed by the Company for any reasonable out-of-pocket expenses incurred on behalf of the Company, including, without limitation, all fees, expenses and costs associated with the IPO and all fees, expenses and costs of being a public company (including, without limitation, public reporting obligations, proxy statements, stockholder meetings, Stock Exchange fees, transfer agent fees, legal fees, SEC and FINRA filing fees and offering expenses) and maintaining its corporate existence. In the event that shares of Class A Common Stock are sold to underwriters in the IPO

(or in any Qualifying Offering) at a price per share that is lower than the price per share for which such shares of Class A Common Stock are sold to the public in the IPO (or in such Qualifying Offering), after taking into account underwriters' discounts or commissions and brokers' fees or commissions (such difference, the "***Discount***") (i) the Manager shall be deemed to have contributed to the Company in exchange for newly issued Common Units the full amount for which such shares of Class A Common Stock were sold to the public and (ii) the Company shall be deemed to have paid the Discount as an expense. To the extent practicable, expenses incurred by the Manager on behalf of or for the benefit of the Company shall be billed directly to and paid by the Company and, if and to the extent any reimbursements to the Manager or any of its Affiliates by the Company pursuant to this Section 6.06 constitute gross income to such Person (as opposed to the repayment of advances made by such Person on behalf of the Company), such amounts shall be treated as "guaranteed payments" within the meaning of Code Section 707(c) (unless otherwise required by the Code and Treasury Regulations) and shall not be treated as distributions for purposes of computing the Members' Capital Accounts. Notwithstanding the foregoing, the Company shall not bear any obligations with respect to income tax of the Manager or any payments made pursuant to the Tax Receivable Agreement other than in a manner that is expressly contemplated under this Agreement or the Tax Receivable Agreement.

Section 6.07 Delegation of Authority. The Manager (a) may, from time to time, delegate to one or more Persons such authority and duties as the Manager may deem advisable, and (b) may assign titles (including, without limitation, chief executive officer, president, chief financial officer, chief operating officer, general counsel, senior vice president, vice president, secretary, assistant secretary, treasurer or assistant treasurer) and delegate certain authority and duties to such Persons, which may be amended, restated or otherwise modified from time to time. Any number of titles may be held by the same individual. The salaries or other compensation, if any, of such agents of the Company shall be fixed from time to time by the Manager, subject to the other provisions in this Agreement.

Section 6.08 Limitation of Liability of Manager.

(a) Except as otherwise provided herein or in an agreement entered into by such Person and the Company, neither the Manager nor any of the Manager's Affiliates or Manager's officers, directors, employees or other agents (collectively "***Manager's Representatives***") shall be liable to the Company, to any Member that is not the Manager or to any other Person (other than the Manager) bound by this Agreement for any act or omission performed or omitted by the Manager or such Manager's Representative in its capacity as the managing member of the Company or as an Affiliate, officer, director, employee or agent of the Manager, as applicable, pursuant to authority granted to the Manager by this Agreement; *provided, however*, that, except as otherwise provided herein, such limitation of liability shall not apply to the extent the act or omission was attributable to the Manager's or a Manager's Representative's fraud, willful misconduct or knowing violation of Law or for any present or future material breaches of any representations, warranties or covenants by the Manager or any Manager's Representative contained herein or in the Other Agreements with the Company; *provided, further*, that the foregoing shall not limit the exculpation of the Manager and the Manager's Representatives in

respect of the performance of its or their duties to the fullest extent permitted by Law. The Manager may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its agents, and shall not be responsible for any misconduct or negligence on the part of any such agent (so long as such agent was selected in good faith and with reasonable care). The Manager and each Manager's Representative shall be entitled to rely upon the advice of legal counsel, independent public accountants and other experts, including financial advisors, as to matters the Manager or such Manager's Representative reasonably believes are within such other Person's professional or expert competence and any act of or failure to act by the Manager or such Manager's Representative in good faith reliance on such advice shall in no event subject the Manager or any Manager's Representative to liability to the Company or any Member that is not the Manager or any other Person (other than the Manager) bound by this Agreement.

(b) To the fullest extent permitted by applicable Law, whenever this Agreement or any other agreement contemplated herein provides that the Manager shall act in its reasonable discretion or in a manner which is, or provide terms which are, "fair and reasonable" to the Company or any Member that is not the Manager, the Manager shall determine such appropriate action or provide such terms considering, in each case, the relative interests of each party to such agreement, transaction or situation and the benefits and burdens relating to such interests, any customary or accepted industry practices, and any applicable United States generally accepted accounting practices or principles, notwithstanding any other provision of this Agreement or in any agreement contemplated herein or applicable provisions of Law or equity or otherwise.

Section 6.09 Investment Company Act. The Manager shall use its best efforts to ensure that the Company shall not be subject to registration as an investment company pursuant to the Investment Company Act.

ARTICLE VII.
RIGHTS AND OBLIGATIONS OF MEMBERS AND MANAGER

Section 7.01 Limitation of Liability and Duties of Members.

(a) Notwithstanding anything contained herein to the contrary, to the fullest extent permitted by applicable Law, the failure of the Company to observe any formalities or requirements relating to the exercise of its powers or management of its business and affairs under this Agreement or the Delaware Act shall not be grounds for imposing personal liability on the Members or the Manager for liabilities of the Company.

(b) In accordance with the Delaware Act and the laws of the State of Delaware, a Member may, under certain circumstances, be required to return amounts previously distributed to such Member. It is the intent of the Members that no Distribution to any Member pursuant to Articles IV or XIV shall be deemed a return of money or other property paid or distributed in violation of the Delaware Act. The payment of any such money or Distribution of any such property to a Member shall be deemed to be a compromise within the meaning of Section 18-502(b) of the Delaware Act, and, to the fullest extent permitted by Law, any Member receiving any such money or property shall not be required to return any such money or property

to the Company or any other Person, unless such distribution was made by the Company to its Members in clerical error. However, if any court of competent jurisdiction holds that, notwithstanding the provisions of this Agreement, any Member is obligated to make any such payment, such obligation shall be the obligation of such Member and not of any other Member.

(c) To the fullest extent permitted by applicable Law, including Section 18-1101(c) of the Delaware Act, and notwithstanding any other provision of this Agreement or in any agreement contemplated herein or applicable provisions of Law or equity or otherwise, the parties hereto hereby agree that to the extent that any Member in its capacity as such (other than, for the avoidance of doubt, the Manager in its capacity as such) (or any Member's Affiliate or any manager, managing member, general partner, director, officer, employee, agent, fiduciary or trustee of any Member or of any Affiliate of a Member) has duties (including fiduciary duties) to the Company, to the Manager, to another Member, to any Person who acquires an interest in a Unit or to any other Person bound by this Agreement, all such duties (including fiduciary duties) are hereby eliminated, to the fullest extent permitted by Law, and replaced with the duties or standards expressly set forth herein, if any; provided, however, that the foregoing shall not eliminate the implied contractual covenant of good faith and fair dealing. The elimination of duties (including fiduciary duties) to the Company, the Manager, each of the Members, each other Person who acquires an interest in a Unit and each other Person bound by this Agreement and replacement thereof with the duties or standards expressly set forth herein, if any, are approved by the Company, the Manager, each of the Members, each other Person who acquires an interest in a Unit and each other Person bound by this Agreement. Any exculpation or indemnification standards contained in this Agreement shall not restore or create, whether in contract or otherwise, any duties otherwise restricted or eliminated by this Agreement.

Section 7.02 Lack of Authority. No Member, other than the Manager or a duly appointed Officer or other agent of the Company, in each case in its capacity as such, has the authority or power to act for or on behalf of the Company, to do any act that would be binding on the Company or to make any expenditure on behalf of the Company. The Members hereby consent to the exercise by the Manager of the powers conferred on them by Law and this Agreement.

Section 7.03 No Right of Partition. No Member, other than the Manager, shall have the right to seek or obtain partition by court decree or operation of Law of any property of the Company, or the right to own or use particular or individual assets of the Company.

Section 7.04 Indemnification.

(a) Subject to Section 5.06, the Company hereby agrees to indemnify and hold harmless any Person (each an "***Indemnified Person***") to the fullest extent permitted under applicable Law, as the same now exists or may hereafter be amended, substituted or replaced (but, to the fullest extent permitted by applicable Law, in the case of any such amendment, substitution or replacement only to the extent that such amendment, substitution or replacement permits the Company to provide broader indemnification rights than the Company is providing immediately prior to such amendment, substitution or replacement), against all expenses, liabilities and losses (including attorneys' fees, judgments, fines, excise taxes or penalties)

reasonably incurred or suffered by such Person (or one or more of such Person's Affiliates) by reason of the fact that such Person is or was a Member or an Affiliate thereof (other than solely as a result of an ownership interest in the Corporation) or is or was serving as the Manager or a director, officer, employee or other agent of the Manager, the Partnership Representative, or a director, manager, Officer, employee or other agent of the Company or is or was serving at the request of the Company as a manager, officer, director, principal, member, employee or agent of another Person; *provided, however*, that no Indemnified Person shall be indemnified for any expenses, liabilities and losses suffered that are attributable to such Indemnified Person's or its Affiliates' fraud, willful misconduct or knowing violation of Law or for any present or future material breaches of any representations, warranties or covenants by such Indemnified Person or its Affiliates contained herein or in Other Agreements with the Company; *provided*, that the foregoing shall not limit the Company's ability to provide indemnification to the Manager and its officers in respect of the performance of its or their duties to the fullest extent permitted by Law. Reasonable expenses, including out-of-pocket attorneys' fees, incurred by any such Indemnified Person in defending a proceeding shall be paid by the Company in advance of the final disposition of such proceeding, including any appeal therefrom, upon receipt of an undertaking by or on behalf of such Indemnified Person to repay such amount if it shall ultimately be determined that such Indemnified Person is not entitled to be indemnified by the Company.

(b) The right to indemnification and the advancement of expenses conferred in this Section 7.04 shall not be exclusive of any other right which any Person may have or hereafter acquire under any statute, agreement, bylaw, action by the Manager or otherwise.

(c) The Company shall maintain directors' and officers' liability insurance, or substantially equivalent insurance, at its expense, to protect any Indemnified Person against any expense, liability or loss described in Section 7.04(a) whether or not the Company would have the power to indemnify such Indemnified Person against such expense, liability or loss under the provisions of this Section 7.04. The Company shall use its commercially reasonable efforts to purchase and maintain property, casualty and liability insurance in types and at levels customary for companies of similar size engaged in similar lines of business, as determined in good faith by the Manager, and the Company shall use its commercially reasonable efforts to purchase directors' and officers' liability insurance (including employment practices coverage) with a carrier and in an amount determined necessary or desirable as determined in good faith by the Manager.

(d) The indemnification and advancement of expenses provided for in this Section 7.04 shall be provided out of and to the extent of Company assets only. No Member (unless such Member otherwise agrees in writing or is found in a non-appealable decision by a Governmental Entity of competent jurisdiction to have personal liability on account thereof) shall have personal liability on account thereof or shall be required to make additional Capital Contributions to help satisfy such indemnity of the Company. The Company (i) shall be the primary indemnitor of first resort for such Indemnified Person pursuant to this Section 7.04 and (ii) shall be fully responsible for the advancement of all expenses and the payment of all damages or liabilities with respect to such Indemnified Person which are addressed by this Section 7.04.

(e) If this Section 7.04 or any portion hereof shall be invalidated on any ground by any Governmental Entity of competent jurisdiction, then the Company shall nevertheless indemnify and hold harmless each Indemnified Person pursuant to this Section 7.04 to the fullest extent permitted by any applicable portion of this Section 7.04 that shall not have been invalidated and to the fullest extent permitted by applicable Law.

(f) Except as otherwise provided herein or in an agreement entered into by such Person and the Company, no Indemnified Person shall be liable to the Company, to any Member or to any other Person bound by this Agreement for any act or omission performed or omitted by such Indemnified Person; *provided, however*, that, except as otherwise provided herein, such limitation of liability shall not apply to the extent the act or omission was attributable to such Indemnified Person's fraud, willful misconduct or knowing violation of Law. Notwithstanding the foregoing, the exculpation rights in this Section 7.04(f) shall not apply to the Manager or any Manager's Representative, whose exculpation rights shall be governed by Section 6.08.

ARTICLE VIII.
BOOKS, RECORDS, ACCOUNTING AND REPORTS, AFFIRMATIVE COVENANTS

Section 8.01 Records and Accounting. The Company shall keep, or cause to be kept, appropriate books and records with respect to the Company's business, including all books and records necessary to provide any information, lists and copies of documents required pursuant to applicable Laws. All matters concerning (a) the determination of the relative amount of allocations and Distributions among the Members pursuant to Articles IV and V and (b) accounting procedures and determinations, and other determinations not specifically and expressly provided for by the terms of this Agreement, shall be determined by the Manager in a fair and reasonable manner, whose determination shall be final and conclusive as to all of the Members absent manifest clerical error or common law fraud.

Section 8.02 Fiscal Year. The Fiscal Year of the Company shall end on December 31 of each year or such other date as may be established by the Manager.

Section 8.03 Inspection Rights. The Company shall permit each Member and each of its designated representatives, at such Member's sole cost and expense, to examine the books and records of the Company or any of its Subsidiaries at the principal office of the Company or such other location as the Manager shall reasonably approve during normal business hours and upon reasonable notice for any purpose reasonably related to such Member's interest as a member of the Company; *provided*, that the Manager has a right to keep confidential from the Members certain information in accordance with Section 18-305 of the Delaware Act.

ARTICLE IX.
TAX MATTERS

Section 9.01 Preparation of Tax Returns. The Manager shall arrange for the preparation and timely filing of all tax returns required to be filed by the Company. The Manager shall use reasonable efforts (taking into account applicable extensions of time to file tax returns) to furnish, no later than July 15, to each Member a completed IRS Schedule K-1 (and

any comparable state and local income tax form) and such other information as is reasonably requested by such Member relating to the Company that is necessary for such Member to comply with its tax reporting obligations. Subject to the terms and conditions of this Agreement and except as otherwise provided in this Agreement, in its capacity as Manager, the Corporation shall have the authority to prepare the tax returns of the Company using such permissible methods and elections as it determines in its reasonable discretion, including without limitation the use of any permissible method under Section 706 of the Code for purposes of determining the varying Units of its Members.

Section 9.02 Tax Elections. The Taxable Year shall be the Fiscal Year set forth in Section 8.02, unless otherwise required by Section 706 of the Code. The Manager shall cause the Company and each of its Subsidiaries that is treated as a partnership for U.S. federal income tax purposes to have in effect an election pursuant to Section 754 of the Code (or any similar provisions of applicable state, local or foreign tax Law) for the Taxable Year that includes the Effective Date and each subsequent Taxable Year, and the Manager shall take commercially reasonable efforts to cause each Person in which the Company owns a direct or indirect equity interest (other than a Subsidiary) that is so treated as a partnership to have in effect any such election for such Taxable Years. Each Member will upon request supply any information reasonably necessary to give proper effect to any such elections.

Section 9.03 Tax Controversies. The Manager shall cause the Company to take all necessary actions required by Law to designate the Corporation as the "tax matters partner" of the Company within the meaning of Section 6231 of the Code (as in effect prior to repeal of such section pursuant to the Revised Partnership Audit Provisions) with respect any Taxable Year beginning on or before December 31, 2017. The Manager shall further cause the Company to take all necessary actions required by Law to designate the Corporation as the "partnership representative" of the Company as provided in Section 6223(a) of the Code with respect to any Taxable Year of the Company beginning after December 31, 2017, and the Corporation is hereby authorized to designate an individual to be the sole individual through which such entity "partnership representative" will act (in such capacities, including in similar capacities under analogous provisions of state or local Law, collectively, the "***Partnership Representative***"). The Company and the Members shall cooperate fully with each other and shall use reasonable best efforts to cause the Corporation (or its designated individual, as applicable) to become the Partnership Representative with respect to any taxable period of the Company with respect to which the statute of limitations has not yet expired (and causing any tax matters partner, partnership representative or designated individual designated prior to the Effective Date to resign, be revoked or replaced, as applicable), including (as applicable) by filing certifications pursuant to Treasury Regulations Section 301.6231(a)(7)-1(d) and completing IRS Form 8979 or any other form or certificate required pursuant to Treasury Regulations Section 301.6223-1(e)(1). The Partnership Representative shall have the right and obligation to take all actions authorized and required, by the Code and Treasury Regulations (and analogous provisions of state or local Law) for the Partnership Representative and is authorized and required to represent the Company (at the Company's expense) in connection with all examinations of the Company's affairs by tax authorities, including any resulting administrative and judicial proceedings, and to expend Company funds for professional services reasonably incurred in connection therewith. Each

Member agrees to cooperate with the Company and the Partnership Representative and to do or refrain from doing any or all things reasonably requested by the Company or the Partnership Representative with respect to the conduct of such proceedings. Without limiting the generality of the foregoing, with respect to any audit or other proceeding, the Partnership Representative shall be entitled to cause the Company (and any of its Subsidiaries) to make any available elections pursuant to Section 6226 of the Code (and similar provisions of state, local and other Law), and the Members shall cooperate to the extent reasonably requested by the Company in connection therewith. The Company shall reimburse the Partnership Representative for all reasonable out-of-pocket expenses incurred by the Partnership Representative, including reasonable fees of any professional attorneys, in carrying out its duties as the Partnership Representative. The provisions of this Section 9.03 shall survive the transfer or termination of any Member's interest in any Units of the Company, the termination of this Agreement and the termination of the Company, and shall remain binding on each Member for the period of time necessary to resolve all tax matters relating to the Company, and shall be subject to the provisions of the Tax Receivable Agreement, as applicable. The Partnership Representative will, within ten (10) days of the receipt of any notice from the Internal Revenue Service or any other taxing authority of any audit, investigation or other proceeding relating to any flow-through income tax matters, mail or email a copy of such notice to each Member. The Partnership Representative shall: (i) keep the Founder Fund Related Parties and the Cynosure Related Parties (the "***Specified Members***") reasonably informed of the material developments and status of any such audit or proceeding; (ii) permit the Specified Members (or their designees) to participate (including using separate counsel) in, in each case at the relevant Specified Members' sole cost and expense, but not control, any such audit or proceeding, and (iii) promptly notify the Specified Members of receipt of a notice of a final partnership adjustment (or equivalent under applicable laws) or a final decision of a court or IRS Appeals panel (or equivalent body under applicable laws) with respect to any such audit or proceeding. The Partnership Representative and the Company shall use reasonable efforts to promptly provide the Specified Members with copies of all material correspondence between the Partnership Representative or the Company (as applicable) and any governmental authority in connection with such audit or proceeding and to give the Specified Members a reasonable opportunity to review and comment on any material correspondence, submission (including settlement or compromise offers) or filing in connection with any such audit or proceeding. Additionally, the Partnership Representative shall not (and the Company shall not (and shall not authorize the Partnership Representative to)) settle, compromise or abandon any audit in a manner that could reasonably be expected to have a disproportionate (as compared to the Corporation) and material adverse effect on the relevant Specified Members without such Specified Members' prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned).

ARTICLE X.
RESTRICTIONS ON TRANSFER OF UNITS; CERTAIN TRANSACTIONS

Section 10.01 Transfers by Members. No holder of Units shall Transfer any interest in any Units, except Transfers (a) pursuant to and in accordance with Sections 10.02 and 10.09 or (b) approved in advance and in writing by the disinterested Members of the Corporate Board, in the case of Transfers by any Member other than the Manager, or (c) in the case of Transfers by

the Manager, to any Person who succeeds to the Manager in accordance with Section 6.04. Notwithstanding the foregoing, "Transfer" shall not include (i) an event that terminates the existence of a Member for income tax purposes (including, without limitation, a change in entity classification of a Member under Treasury Regulations Section 301.7701-3, a sale of assets by, or liquidation of, a Member pursuant to an election under Code Sections 336 or 338, or merger, severance, or allocation within a trust or among sub-trusts of a trust that is a Member), but that does not terminate the existence of such Member under applicable state Law (or, in the case of a trust that is a Member, does not terminate the trusteeship of the fiduciaries under such trust with respect to all the Units of such trust that is a Member) or (ii) any indirect Transfer of Units held by the Manager by virtue of any Transfer of Equity Securities in the Corporation.

Section 10.02 Permitted Transfers. The restrictions contained in Section 10.01 shall not apply to any of the following Transfers (each, a "***Permitted Transfer***" and each transferee, a "***Permitted Transferee***"): (i)(A) a Transfer pursuant to a Redemption or Direct Exchange in accordance with Article XI hereof or that are necessary or desirable to comply with Sections 3.04 or 3.05 as determined by the Manager, or (B) a Transfer by a Member to the Corporation or any of its Subsidiaries, (ii) a Transfer to an Affiliate of such Member, (iii) a Transfer by a Member that is a natural person for estate-planning purposes of such Member to an Estate Planning Vehicle of such Member, or (iv) a Transfer by a Member to another Member; *provided, however*, that (x) the restrictions contained in this Agreement will continue to apply to Units after any Permitted Transfer of such Units, and (y) in the case of the foregoing clauses (ii), (iii) or (iv), the Permitted Transferees of the Units so Transferred shall at the time of the Permitted Transfer agree in writing to be bound by the provisions of this Agreement and the Other Agreements pursuant to Section 10.04, and prior to such Transfer the transferor will deliver a written notice to the Company and the Members, which notice will disclose in reasonable detail the identity of the proposed Permitted Transferee. If a Permitted Transfer pursuant to clauses (ii) or (iii) of the immediately preceding sentence would result in a Change of Control, such Member must provide the Manager with written notice of such proposed Permitted Transfer at least sixty (60) calendar days prior to the consummation of such Permitted Transfer. In the case of a Permitted Transfer of any Common Units by any Member holding Class B Common Stock to a Permitted Transferee in accordance with this Section 10.02, such Member shall also transfer a number of shares of Class B Common Stock equal to the number of Common Units that were transferred by such Member in the transaction to such Permitted Transferee. In the case of a Permitted Transfer of any Common Units by any Member holding Class C Common Stock to a Permitted Transferee in accordance with this Section 10.02, such Member shall also transfer a number of shares of Class C Common Stock equal to the number of Common Units that were transferred by such Member in the transaction to such Permitted Transferee. All Permitted Transfers are subject to the additional limitations set forth in Section 10.07(b).

Section 10.03 Restricted Units Legend. The Units have not been registered under the Securities Act and, therefore, in addition to the other restrictions on Transfer contained in this Agreement, cannot be sold unless subsequently registered under the Securities Act or if an exemption from such registration is then available with respect to such sale. To the extent such Units have been certificated, each certificate evidencing Units and each certificate issued in

exchange for or upon the Transfer of any Units shall be stamped or otherwise imprinted with a legend in substantially the following form:

"THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), AND MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE ACT OR AN EXEMPTION FROM REGISTRATION THEREUNDER. THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE ALSO SUBJECT TO ADDITIONAL RESTRICTIONS ON TRANSFER SPECIFIED IN THE SEVENTH AMENDED AND RESTATED LIMITED LIABILITY COMPANY AGREEMENT OF BLACK ROCK COFFEE HOLDINGS, LLC, AS IT MAY BE AMENDED, RESTATED, AMENDED AND RESTATED, OR OTHERWISE MODIFIED FROM TIME TO TIME, AND BLACK ROCK COFFEE HOLDINGS, LLC RESERVES THE RIGHT TO REFUSE THE TRANSFER OF SUCH SECURITIES UNTIL SUCH CONDITIONS HAVE BEEN FULFILLED WITH RESPECT TO ANY TRANSFER. A COPY OF SUCH CONDITIONS SHALL BE FURNISHED BY BLACK ROCK COFFEE HOLDINGS, LLC TO THE HOLDER HEREOF UPON WRITTEN REQUEST AND WITHOUT CHARGE."

The Company shall imprint such legend on certificates (if any) evidencing Units. The legend set forth above shall be removed from the certificates (if any) evidencing any Units which cease to be Units in accordance with the definition thereof.

Section 10.04 Transfer. Prior to Transferring any Units (other than in connection with Redemption or Direct Exchange in accordance with Article XI), the Transferring holder of Units shall cause the prospective Permitted Transferee to be bound by this Agreement and any other agreements executed by the holders of Units and relating to such Units in the aggregate to which the Transferring Member was a party (collectively, the "***Other Agreements***") by executing and delivering to the Company counterparts of this Agreement and any applicable Other Agreements.

Section 10.05 Assignee's Rights.

(a) The Transfer of a Unit in accordance with this Agreement shall be effective as of the date of such Transfer (assuming compliance with all of the conditions to such Transfer set forth herein), and such Transfer shall be shown on the books and records of the Company. Profits, Losses and other items of the Company shall be allocated between the transferor and the transferee according to Code Section 706, using any permissible method as determined in the reasonable discretion of the Manager. Distributions made before the effective date of such Transfer shall be paid to the transferor, and Distributions made on or after such date shall be paid to the Assignee.

(b) Unless and until an Assignee becomes a Member pursuant to Article XII, the Assignee shall not be entitled to any of the rights granted to a Member hereunder or under applicable Law, other than the rights granted specifically to Assignees pursuant to this Agreement; *provided, however*, that, without relieving the Transferring Member from any such limitations or obligations as more fully described in Section 10.06, such Assignee shall be bound

by any limitations and obligations of a Member contained herein by which a Member would be bound on account of the Assignee's Units (including the obligation to make Capital Contributions on account of such Units).

Section 10.06 Assignor's Rights and Obligations. Any Member who shall Transfer any Unit in a manner in accordance with this Agreement shall cease to be a Member with respect to such Units and shall no longer have any rights or privileges, or, except as set forth in Section 5.06, Section 9.03 or this Section 10.06, duties, liabilities or obligations, of a Member with respect to such Units (it being understood, however, that the applicable provisions of Sections 6.08 and 7.04 shall continue to inure to such Person's benefit), except that unless and until the Assignee (if not already a Member) is admitted as a Substituted Member in accordance with the provisions of Article XII (the "***Admission Date***"), (i) such Transferring Member shall retain all of the duties, liabilities and obligations of a Member with respect to such Units, and (ii) the Manager may, in its sole discretion, reinstate all or any portion of the rights and privileges of such Member with respect to such Units for any period of time prior to the Admission Date. Nothing contained herein shall relieve any Member who Transfers any Units in the Company from any liability of such Member to the Company with respect to such Units that may exist as of the Admission Date or that is otherwise specified in the Delaware Act or for any liability to the Company or any other Person for any materially false statement made by such Member (in its capacity as such) or for any present or future breaches of any representations, warranties or covenants by such Member (in its capacity as such) contained herein or in the Other Agreements with the Company or as otherwise expressly set forth in Section 5.06 or Section 9.03 of this Agreement.

Section 10.07 Overriding Provisions.

(a) Any Transfer or attempted Transfer of any Units in violation of this Agreement (including any prohibited indirect Transfers) shall be, to the fullest extent permitted by applicable Law, null and void *ab initio*, and the provisions of Sections 10.05 and 10.06 shall not apply to any such Transfers. For the avoidance of doubt, any Person to whom a Transfer is made or attempted in violation of this Agreement shall not become a Member and shall not have any other rights in or with respect to any rights of a Member of the Company with respect to the applicable Units. The approval of any Transfer in any one or more instances shall not limit or waive the requirement for such approval in any other or future instance. The Manager shall promptly amend the Schedule of Members without the consent or approval of any Member or any other Person to reflect any Permitted Transfer pursuant to this Article X.

(b) Notwithstanding anything contained herein to the contrary (including, for the avoidance of doubt, the provisions of Section 10.01 and Article XI and Article XII), in no event shall any Member Transfer any Units to the extent such Transfer would:

(i) result in the violation of the Securities Act, or any other applicable federal, state or foreign Laws;

(ii) cause an assignment under the Investment Company Act;

(iii) be a Transfer to a Person who is not legally competent or who has not achieved his or her majority of age under applicable Law (excluding trusts for the benefit of minors);

(iv) cause the Company to be treated as a "publicly traded partnership" or to be taxed as a corporation pursuant to Section 7704 of the Code or any successor provision thereto under the Code; or

(v) result in the Company having more than one hundred (100) partners, within the meaning of Treasury Regulations Section 1.7704-1(h)(1) (determined pursuant to the rules of Treasury Regulations Section 1.7704-1(h)(3)).

(c) Notwithstanding anything contained herein to the contrary, in no event shall any Member that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code Transfer any Units (including, for the avoidance of doubt, in connection with a Redemption or a Direct Exchange), unless such Member and the transferee have delivered to the Company, in respect of the relevant Transfer (or Redemption or Direct Exchange, as applicable), written evidence that all required withholding under Section 1446(f) of the Code will have been done and duly remitted to the applicable Governmental Entity or duly executed certifications (prepared in accordance with the applicable Treasury Regulations or other authorities) of an exemption from such withholding; *provided*, that the Company shall cooperate in the manner set forth in Section 11.06(a) with any reasonable requests from such Member for certifications or other information from the Company in connection with satisfying this Section 10.07(c) prior to the relevant Transfer (or Redemption or Direct Exchange, as applicable).

Section 10.08 Spousal Consent. In connection with the execution and delivery of this Agreement, any Member who is a natural person will deliver to the Company an executed consent from such Member's spouse (if any) in the form of Exhibit B-1 attached hereto or a Member's spouse confirmation of separate property in the form of Exhibit B-2 attached hereto. If, at any time subsequent to the date of this Agreement such Member becomes legally married (whether in the first instance or to a different spouse), such Member shall cause his or her spouse to execute and deliver to the Company a consent in the form of Exhibit B-1 or Exhibit B-2 attached hereto. Such Member's non-delivery to the Company of an executed consent in the form of Exhibit B-1 or Exhibit B-2 at any time shall constitute such Member's continuing representation and warranty that such Member is not legally married as of such date.

Section 10.09 Certain Transactions with respect to the Corporation.

(a) In connection with a Change of Control Transaction, the Manager shall have the right, in its sole discretion, to require (y) each Member (other than the Founder Fund Related Parties and the Corporation and its Subsidiaries) to effect a Redemption of all or a portion of such Member's Units together with an equal number of shares of Class B Common Stock, pursuant to which such Units and such shares of Class B Common Stock will be exchanged for shares of Class A Common Stock (or to the extent being received by or offered to other stockholders of the Corporation economically equivalent cash or securities of a successor entity (or an offer thereof)), provided, however, that in the event of a Change of Control Transaction

pursuant to which the Members (other than the Corporation) would be required to exchange Units for securities, without the written consent of such Members, such Members shall not be required to exchange Units pursuant to this Section 10.09 unless the Members receive at least thirty percent (30%) of the total amount realized (as computed for U.S. federal income tax purposes) in such Redemption or the Change in Control Transaction in the form of cash or such Members otherwise have the ability to sell an amount of the securities they receive in such Redemption or the Change of Control Transaction for such amount of cash within six (6) months following such Redemption or the Change of Control Transaction and (z) each Founder Fund Related Party to effect a Redemption of all or a portion of such Member's Units together with an equal number of shares of Class C Common Stock, pursuant to which such Units and such shares of Class C Common Stock will be exchanged for shares of Class A Common Stock (or to the extent being received by or offered to other stockholders of the Corporation economically equivalent cash or securities of a successor entity (or an offer thereof)); provided, however, that in the event of a Change of Control Transaction pursuant to which the Members (other than the Corporation) would be required to exchange Units for securities, without the written consent of such Members, such Members shall not be required to exchange Units pursuant to this Section 10.09 unless, the Members receive at least thirty percent (30%) of the total amount realized (as computed for U.S. federal income tax purposes) in such Redemption or the Change in Control Transaction in the form of cash or such Members otherwise have the ability to sell the securities they receive in such Redemption or the Change of Control Transaction for such amount of cash within six (6) months following such Redemption or Change in Control Transaction. Any such Redemption pursuant to this Section 10.09(a) shall be effective immediately prior to the consummation of such Change of Control Transaction (and, for the avoidance of doubt, shall be contingent upon the consummation of such Change of Control Transaction and shall not be effective if such Change of Control Transaction is not consummated) (the date of such Redemption pursuant to this Section 10.09(a), the "***Change of Control Date***"). From and after the Change of Control Date, (i) the Units and any shares of Class B Common Stock or Class C Common Stock, as applicable, subject to such Redemption shall be deemed to be transferred to the Company and the Corporation, as applicable, on the Change of Control Date and (ii) each such Member shall cease to have any rights with respect to the Units and any shares of Class B Common Stock or Class C Common Stock, as applicable, subject to such Redemption (other than the right to receive shares of Class A Common Stock (or economically equivalent cash or Equity Securities in a successor entity) pursuant to such Redemption). In the event the Manager desires to initiate the provisions of this Section 10.09, the Manager shall provide written notice of an expected Change of Control Transaction to all Members no later than the earlier of (x) five (5) Business Days following the execution of a definitive agreement with respect to such Change of Control Transaction and (y) ten (10) Business Days before the proposed date upon which the contemplated Change of Control Transaction is to be effected, including in such notice such information as may reasonably describe the Change of Control Transaction, subject to applicable Law, including the date of execution of such definitive agreement or such proposed effective date, as applicable, the amount and types of consideration to be paid for shares of Class A Common Stock in the Change of Control Transaction and any election with respect to types of consideration that a holder of shares of Class A Common Stock, as applicable, shall be entitled to make in connection with a Change of Control Transaction (which election shall be available to each Member on the same terms as holders of shares of Class A Common Stock). Following

delivery of such notice and on or prior to the Change of Control Date, the Members shall take all actions necessary to effect such Redemption, including taking any action and delivering any document required pursuant to this Section 10.09(a) to effect such Redemption.

(b) In the event that a tender offer, share exchange offer, issuer bid, take-over bid, recapitalization, or similar transaction with respect to Class A Common Stock (a "***Pubco Offer***") is proposed by the Corporation or is proposed to the Corporation or its stockholders and approved by the Corporate Board or is otherwise effected or to be effected with the consent or approval of the Corporate Board, the Manager shall provide written notice of the Pubco Offer to all Members no later than the earlier of (i) five (5) Business Days following the execution of a definitive agreement (if applicable) with respect to, or the commencement of (if applicable), such Pubco Offer and (ii) ten (10) Business Days before the proposed date upon which the Pubco Offer is to be effected, including in such notice such information as may reasonably describe the Pubco Offer, subject to applicable Law, including the date of execution of such definitive agreement (if applicable) or of such commencement (if applicable), the material terms of such Pubco Offer, including the amount and types of consideration to be received by holders of shares of Class A Common Stock in the Pubco Offer, any election with respect to types of consideration that a holder of shares of Class A Common Stock, as applicable, shall be entitled to make in connection with such Pubco Offer, and the number of Units (and the corresponding shares of Class B Common Stock or Class C Common Stock) held by such Member that is applicable to such Pubco Offer. The Members (other than the Corporation and its Subsidiaries) shall be permitted to participate in such Pubco Offer by delivering a written notice of participation that is effective immediately prior to the consummation of such Pubco Offer (and that is contingent upon consummation of such offer and shall not be effective if such Pubco Offer is not consummated), and shall include such information necessary for consummation of such offer as requested by the Corporation. In the case of any Pubco Offer that was initially proposed by the Corporation, the Corporation shall use reasonable best efforts to enable and permit the Members (other than the Corporation and its Subsidiaries) to participate in such transaction to the same extent or on an economically equivalent basis as the holders of shares of Class A Common Stock, and to enable such Members to participate in such transaction without being required to exchange Units or shares of Class B Common Stock or Class C Common Stock, as applicable, prior to the consummation of such transaction. For the avoidance of doubt, in no event shall the Members be entitled to receive in such Pubco Offer aggregate consideration for each Common Unit that is less or greater than the consideration payable in respect of each share of Class A Common Stock in connection with a Pubco Offer (it being understood that payments under or in respect of the Tax Receivable Agreement shall not be considered part of any such consideration).

(c) In the event that a transaction or proposed transaction constitutes both a Change of Control Transaction and a Pubco Offer, the provisions of Section 10.09(b) shall take precedence over the provisions of Section 10.09(a) with respect to such transaction, and the provisions of Section 10.09(a) shall be subordinate to provisions of Section 10.09(b).

ARTICLE XI.
REDEMPTION AND DIRECT EXCHANGE RIGHTS

Section 11.01 Redemption Right of a Member.

(a) Each Member (other than the Corporation and its Subsidiaries), from and after the expiration of any contractual lockup period relating to the shares of the Corporation that may be applicable to such Members, shall be entitled to cause the Company to redeem (a "***Redemption***") all or a portion of its Common Units (excluding, for the avoidance of doubt, any Common Units that are subject to vesting conditions or the Transfer of which is prohibited pursuant to Section 10.07(b) or Section 10.07(c) of this Agreement) in whole or in part (the "***Redemption Right***"); *provided,* that (x) each Member may only exercise its Redemption Right once per calendar quarter during the Quarterly Redemption Notice Period and (y) each Redemption must consist of at least 500 Common Units or all Common Units then held by such Member. A Member desiring to exercise its Redemption Right (each, a "***Redeeming Member***") shall exercise such right by giving written notice (the "***Redemption Notice***") to the Company with a copy to the Corporation. The Redemption Notice shall specify the number of Common Units (the "***Redeemed Units***") that the Redeeming Member intends to have the Company redeem and a date, not less than five (5) Business Days after delivery of such Redemption Notice (unless and to the extent that the Manager in its sole discretion agrees in writing to waive such time period), on which exercise of the Redemption Right shall be completed (the "***Redemption Date***"), and may specify that the Redemption is to be contingent (including as to timing) upon the consummation of a purchase by or exchange with another Person (whether in a tender offer, an underwritten offering, a block sale or otherwise) of shares of Class A Common Stock issuable upon Redemption of the Units and the transfer of the Class B Common Stock, Class C Common Stock, or contingent (including as to timing) upon the closing of an announced merger, consolidation or other transaction or event in which the Class A Common Stock would be exchanged or converted or become exchangeable for or convertible into cash or other securities or property or upon the closing or occurrence of any other event, in which case the Redemption shall be consummated immediately prior to and contingent upon such closing or occurrence, and in any such case specify the amount of cash or amount and type of property to be received by the Redeeming Member therein; *provided*, *however*, that, the Redeeming Member, by written notice at least one (1) Business Day prior to the previously specified Redemption Date, or the Company, the Corporation and the Redeeming Member, by mutual agreement signed in writing by each of them, may change the number of Redeemed Units and/or the Redemption Date specified in such Redemption Notice to another number and/or date; *provided, further,* that in the event the Corporation elects a Share Settlement, the Redemption may be conditioned (including as to timing) by the Redeeming Member on the closing of an underwritten distribution of the shares of Class A Common Stock that may be issued in connection with such proposed Redemption. Subject to Section 11.03 and unless the Redeeming Member timely has delivered a Retraction Notice as provided in Section 11.01(c) or has revoked or delayed a Redemption as provided in Section 11.01(d), on the

Redemption Date (to be effective immediately prior to the close of business on the Redemption Date):

(i) the Redeeming Member shall Transfer and surrender, free and clear of all liens and encumbrances (x) the Redeemed Units to the Company (including any certificates representing the Redeemed Units if they are certificated), and (y) a number of shares of Class B Common Stock or Class C Common Stock, as applicable (together with any Corresponding Rights), equal to the number of Redeemed Units to the Corporation, to the extent applicable;

(ii) the Company shall (x) cancel the Redeemed Units, (y) transfer to the Redeeming Member the consideration to which the Redeeming Member is entitled under Section 11.01(b), and (z) if the Common Units are certificated, issue to the Redeeming Member a certificate for a number of Common Units equal to the difference (if any) between the number of Common Units evidenced by the certificate surrendered by the Redeeming Member pursuant to clause (i) of this Section 11.01(a) and the Redeemed Units; and

(iii) the Corporation shall (x) cancel and retire for no consideration the shares of Class B Common Stock or Class C Common Stock, as applicable (together with any Corresponding Rights), that were Transferred to the Corporation pursuant to Section 11.01(a)(i)(y) above and (y) to the extent the Member holds certificated Class B Common Stock or Class C Common Stock, issue to the Redeeming Member a certificate for a number of shares of Class B Common Stock or Class C Common Stock, as applicable, equal to the difference (if any) between the number of shares of Class B Common Stock or Class C Common Stock, as applicable, evidenced by the certificate surrendered by the Redeeming Member pursuant to clause (i) of this Section 11.01(a) and the Redeemed Units.

(b) The Corporation shall have the option (as determined solely by the Disinterested Majority) as provided in Section 11.02 to elect to have the Redeemed Units be redeemed in consideration for either a Share Settlement or a Cash Settlement; *provided*, for the avoidance of doubt, that the Corporation may elect to have the Redeemed Units be redeemed in consideration for a Cash Settlement only to the extent that the Corporation has cash available in an amount equal to at least the Redeemed Units Equivalent, which cash was received from a Qualifying Offering. The Corporation shall give written notice (the "***Election Notice***") to the Company (with a copy to the Redeeming Member) of such election on the earlier of (i) three (3) Business Days of receiving the Redemption Notice and (ii) the Redemption Date specified in the Redemption Notice; *provided*, that if the Corporation does not timely deliver an Election Notice, the Corporation shall be deemed to have elected the Share Settlement method. Notwithstanding anything to the contrary in this Agreement, neither the Corporation (acting through the Disinterested Majority) nor the Company shall effectuate a Cash Settlement unless the Corporation (acting through the Disinterested Majority) has authorized and consummated a Qualifying Offering by no later than the Redemption Date for the purpose of satisfying such Cash Settlement. If for any reason the Corporation is unable to complete such Qualifying

Offering by the Redemption Date, then the applicable Redeemed Units shall instead be redeemed by Share Settlement, notwithstanding that the Corporation (acting through the Disinterested Majority) may have initially elected a Cash Settlement of such Redeemed Units.

(c) In the event the Corporation elects the Cash Settlement in connection with a Redemption, the Redeeming Member may retract its Redemption Notice with respect to such Redemption by giving written notice (the "***Retraction Notice***") to the Company (with a copy to the Corporation) on or before the earlier of (i) the Redemption Date specified in the Redemption Notice and (ii) three (3) Business Days after delivery of the Election Notice. The timely delivery of a Retraction Notice shall terminate all of the Redeeming Member's, the Company's and the Corporation's rights and obligations under this Section 11.01 arising from the related Redemption Notice.

(d) In the event the Corporation elects a Share Settlement in connection with a Redemption, a Redeeming Member shall be entitled to revoke its Redemption Notice or delay the consummation of a Redemption if any of the following conditions exists:

(i) any registration statement pursuant to which the resale of the Class A Common Stock to be registered for such Redeeming Member at or immediately following the consummation of the Redemption shall have ceased to be effective pursuant to any action or inaction by the SEC or no such resale registration statement has yet become effective;

(ii) the Corporation shall have failed to cause any related prospectus to be supplemented by any required prospectus supplement necessary to effect such Redemption or resale of the Class A Common Stock;

(iii) the Corporation shall have exercised its right to defer, delay or suspend the filing or effectiveness of a registration statement and such deferral, delay or suspension shall affect the ability of such Redeeming Member to have its Class A Common Stock registered at or immediately following the consummation of the Redemption or to have its Class A Common Stock resold;

(iv) the Redeeming Member is in possession of any material non-public information concerning the Corporation, the receipt of which results in such Redeeming Member being prohibited or restricted from selling Class A Common Stock at or immediately following the Redemption or resale of its Class A Common Stock without disclosure of such information (and the Corporation does not permit disclosure of such information);

(v) any stop order relating to the registration statement pursuant to which the Class A Common Stock was to be registered by such Redeeming Member at or immediately following the Redemption shall have been issued by the SEC;

(vi) there shall have occurred a material disruption in the securities markets generally or in the market or markets in which the Class A Common Stock is then traded;

(vii) there shall be in effect an injunction, a restraining order or a decree of any nature of any Governmental Entity that restrains or prohibits the Redemption;

(viii) the Corporation shall have failed to comply in all material respects with its obligations under the Registration Rights Agreement, and such failure shall have affected the ability of such Redeeming Member to consummate the resale of Class A Common Stock to be received upon such Redemption pursuant to an effective registration statement;

(ix) the Redemption Date would occur during a Black-Out Period; or

(x) the Redeeming Member so elects by written notice to the Company no later than three (3) Business Days prior to the scheduled Redemption Date.

If a Redeeming Member delays the consummation of a Redemption pursuant to this Section 11.01(d)(i)-(ix), the Redemption Date shall occur on the fifth (5^{th}) Business Day following the date on which the condition(s) giving rise to such delay cease to exist (or such earlier day as the Corporation, the Company and such Redeeming Member may agree in writing) or, pursuant to Section 11.01(d)(x), the Redemption Date shall occur on the fourth (4^{th}) Business Day following the date on which the condition(s) giving rise to such delay cease to exist (or such earlier day as the Corporation, the Company and such Redeeming Member may agree in writing).

Subject to the last two sentences of this paragraph, if, in the case of a Redemption, the Common Unit Redemption Price on a date (determined treating such date as Redemption Date) decreases by more than 10% following the delivery of a Redemption Notice by a Redeeming Member, such Redeeming Member may revoke its Redemption Notice by delivering a Retraction Notice to the Company (with a copy to the Corporation) no later than three (3) Business Days prior to the Redemption Date. The timely delivery of a Retraction Notice under this paragraph shall terminate all of the Redeeming Member's, Company's and the Corporation's rights and obligations arising from the Redemption Notice. A Redeeming Member may only revoke a Redemption under this paragraph once in every twelve (12)-month period (and any additional Retraction Notice delivered by a Redeeming Member within such twelve-month period shall be deemed null and void ab initio and ineffective with respect to the revocation of the Redemption specified therein).

(e) The number of shares of Class A Common Stock (or Redeemed Units Equivalent, if applicable) (together with any Corresponding Rights) applicable to any Share Settlement or Cash Settlement shall not be adjusted on account of any Distributions previously made with respect to the Redeemed Units or dividends previously paid with respect to Class A Common Stock; *provided, however*, that if a Redeeming Member causes the Company to redeem Redeemed Units and the Redemption Date occurs subsequent to the record date for any Distribution with respect to the Redeemed Units but prior to payment of such Distribution, the Redeeming Member shall be entitled to receive such Distribution with respect to the Redeemed Units on the date that it is made notwithstanding that the Redeeming Member Transferred and surrendered the Redeemed Units to the Company prior to such date; *provided*, *further*, *however*,

that a Redeeming Member shall be entitled to receive any and all Tax Distributions that such Redeeming Member otherwise would have received in respect of income allocated to such Member for the portion of any Fiscal Year irrespective of whether such Tax Distribution(s) are declared or made after the Redemption Date.

(f) In the case of a Share Settlement, in the event a reclassification or other similar transaction occurs following delivery of a Redemption Notice, but prior to the Redemption Date, as a result of which shares of Class A Common Stock are converted into another security, then a Redeeming Member shall be entitled to receive the amount of such other security (and, if applicable, any Corresponding Rights) that the Redeeming Member would have received if such Redemption Right had been exercised and the Redemption Date had occurred immediately prior to the record date of such reclassification or other similar transaction.

(g) Notwithstanding anything to the contrary contained herein, neither the Company nor the Corporation shall be obligated to effectuate a Redemption if such Redemption could (as determined in the sole discretion of the Manager) cause the Company to be treated as a "publicly traded partnership" or to be taxed as a corporation pursuant to Section 7704 of the Code or successor provisions of the Code.

Section 11.02 Election and Contribution of the Corporation. Unless the Redeeming Member has timely delivered a Retraction Notice as provided in Section 11.01(c), or has revoked or delayed a Redemption as provided in Sections 11.01(d), subject to Section 11.03, on the Redemption Date (to be effective immediately prior to the close of business on the Redemption Date) (i) the Corporation shall make a Capital Contribution to the Company (in the form of the Share Settlement or the Cash Settlement, as determined by the Corporation in accordance with Section 11.01(b)), and (ii) the Company shall issue to the Corporation a number of Common Units equal to (A) in the case of a Share Settlement, the number of Redeemed Units surrendered by the Redeeming Member and (B) in the case of a Cash Settlement the number of shares of Class A Common Stock issued (or to be issued) by the Corporation in the IPO or Qualifying Offering that provided the funds to effect the Cash Settlement in accordance with the proviso in the definition of "Cash Settlement". Notwithstanding any other provisions of this Agreement to the contrary, but subject to Section 11.03, in the event that the Corporation elects (through the Disinterested Majority) a Cash Settlement, the Corporation shall only be obligated to contribute to the Company an amount in respect of such Cash Settlement equal to the Redeemed Units Equivalent with respect to such Cash Settlement, which in no event shall exceed the amount actually paid by the Company to the Redeeming Member as the Cash Settlement. The timely delivery of a Retraction Notice shall terminate all of the Company's and the Corporation's rights and obligations under this Section 11.02 arising from the Redemption Notice.

Section 11.03 Direct Exchange Right of the Corporation.

(a) Notwithstanding anything to the contrary in this Article XI (save for the limitations set forth in Section 11.01(b) regarding the Corporation's option to select the Share Settlement or the Cash Settlement, and without limitation to the rights of the Members under Section 11.01, including the right to revoke a Redemption Notice or otherwise alter or delay the consummation of a Redemption), the Corporation may, in its sole and absolute discretion (as

determined solely by the Disinterested Majority) (subject to the limitations set forth on such discretion in Section 11.01(b)), elect to effect on the Redemption Date the exchange of Redeemed Units for the Share Settlement or the Cash Settlement, as the case may be, through a direct exchange of such Redeemed Units and the Share Settlement or the Cash Settlement, as applicable, between the Redeeming Member and the Corporation (a "***Direct Exchange***") (rather than contributing the Share Settlement or the Cash Settlement, as the case may be, to the Company in accordance with Section 11.02 for purposes of the Company redeeming the Redeemed Units from the Redeeming Member in consideration of the Share Settlement or the Cash Settlement, as applicable). Upon such Direct Exchange pursuant to this Section 11.03, the Corporation shall acquire the Redeemed Units and shall be treated for all purposes of this Agreement as the owner of such Units. In connection with any Direct Exchange, the Company is hereby authorized to execute, deliver and perform, and the Manager or any officer of the Company on behalf of the Company is hereby authorized to execute and deliver, any unit and share transfer and cancellation agreement (or similar document) and any documents contemplated thereby or related thereto and any amendments thereto, without any further act, vote or approval of any Person, including any Member, notwithstanding any other provision of this Agreement.

(b) The Corporation may, at any time prior to a Redemption Date (including after delivery of an Election Notice pursuant to Section 11.01(b)), deliver written notice (an "***Exchange Election Notice***") to the Company and the Redeeming Member setting forth its election to exercise its right to consummate a Direct Exchange; *provided*, that such election is subject to the limitations set forth in Section 11.01(b) and does not unreasonably prejudice the ability of the parties to consummate a Redemption or Direct Exchange on the Redemption Date. An Exchange Election Notice may be revoked by the Corporation at any time; *provided*, that any such revocation does not unreasonably prejudice the ability of the parties to consummate a Redemption or Direct Exchange on the Redemption Date. The right to consummate a Direct Exchange in all events shall be exercisable for all of the Redeemed Units that would have otherwise been subject to a Redemption.

(c) Except as otherwise provided by this Section 11.03, a Direct Exchange shall be consummated pursuant to the same timeframe as the relevant Redemption would have been consummated if the Corporation had not delivered an Exchange Election Notice and as follows:

(i) the Redeeming Member shall transfer, assign and surrender, as applicable, free and clear of all liens and encumbrances (x) the Redeemed Units and (y) a number of shares of Class B Common Stock or Class C Common Stock, as applicable (together with any Corresponding Rights), equal to the number of Redeemed Units, to the extent applicable, in each case, to the Corporation;

(ii) the Corporation shall (x) pay to the Redeeming Member the Share Settlement or the Cash Settlement, as applicable, (y) cancel and retire for no consideration the shares of Class B Common Stock or Class C Common Stock, as applicable (together with any Corresponding Rights), that were Transferred to the Corporation pursuant to Section 11.03(c)(i)(y) above, and (z) to the extent the Redeeming

Member holds certificated Class B Common Stock or Class C Common Stock, issue to the Redeeming Member a certificate for a number of shares of Class B Common Stock or Class C Common Stock, as applicable, equal to the difference (if any) between the number of shares of Class B Common Stock or Class C Common Stock, as applicable, evidenced by the certificate surrendered by the Redeeming Member and the Redeemed Units; and

(iii) the Company shall (x) register the Corporation as the owner of the Redeemed Units and (y) if the Common Units are certificated, issue to the Redeeming Member a certificate for a number of Units equal to the difference (if any) between the number of Common Units evidenced by the certificate surrendered by the Redeeming Member pursuant to Section 11.03(c)(i)(x) and the Redeemed Units, and issue to the Corporation a certificate for the number of Redeemed Units.

Section 11.04 Reservation of Shares of Class A Common Stock; Listing; Certificate of the Corporation. At all times the Corporation shall reserve and keep available out of its authorized but unissued Class A Common Stock, solely for the purpose of issuance upon a Share Settlement in connection with a Redemption or Direct Exchange, such number of shares of Class A Common Stock as shall be issuable upon any such Share Settlement pursuant to a Redemption or Direct Exchange; *provided* that nothing contained herein shall be construed to preclude the Corporation from satisfying its obligations in respect of any such Share Settlement pursuant to a Redemption or Direct Exchange by delivery of purchased Class A Common Stock (which may or may not be held in the treasury of the Corporation), or by way of Cash Settlement. The Corporation shall deliver Class A Common Stock that has been registered under the Securities Act with respect to any Share Settlement pursuant to a Redemption or Direct Exchange to the extent a registration statement is effective and available with respect to such shares. The Corporation shall use its commercially reasonable efforts to list the Class A Common Stock required to be delivered upon any such Share Settlement pursuant to a Redemption or Direct Exchange prior to such delivery upon each national securities exchange upon which the outstanding shares of Class A Common Stock are listed at the time of such Share Settlement pursuant to a Redemption or Direct Exchange (it being understood that any such shares may be subject to transfer restrictions under applicable securities Laws). The Corporation covenants that all shares of Class A Common Stock issued in connection with a Share Settlement pursuant to a Redemption or Direct Exchange will, upon issuance, be validly issued, fully paid and non-assessable. The provisions of this Article XI shall be interpreted and applied in a manner consistent with any corresponding provisions of the Corporation's certificate of incorporation (if any).

Section 11.05 Effect of Exercise of Redemption or Direct Exchange. This Agreement shall continue notwithstanding the consummation of a Redemption or Direct Exchange by a Member and all rights set forth herein shall continue in effect with respect to the remaining Members and, to the extent the Redeeming Member has any remaining Units following such Redemption or Direct Exchange, the Redeeming Member. No Redemption or Direct Exchange shall relieve a Redeeming Member of any prior breach of this Agreement by such Redeeming Member.

Section 11.06 Tax Treatment.

(a) In connection with any Redemption or Direct Exchange, the Redeeming Member shall, to the extent it is legally entitled to deliver such form, deliver to the Manager or the Company, as applicable, a certificate, dated as of the Redemption Date, in a form reasonably acceptable to the Manager or the Company, as applicable, certifying as to such Redeeming Member's taxpayer identification number and that such Redeeming Member is a not a foreign person for purposes of Section 1445 and Section 1446(f) of the Code (which certificate may be an IRS Form W-9 if then sufficient for such purposes under applicable Law) (such certificate a "***Non-Foreign Person Certificate***"). If a Redeeming Member is unable to provide a Non-Foreign Person Certificate in connection with a Redemption or a Direct Exchange, then (i) such Redeeming Member and the Company shall use commercially reasonable efforts to cooperate to provide any other certification or determination described in Treasury Regulations Sections 1.1446(f)-2(b) and 1.1446(f)-2(c) to the extent permitted under applicable Law at the time of such Redemption or Direct Exchange, and the Corporation, the Manager or the Company, as applicable, shall be permitted to withhold on the amount realized by such Redeeming Member in respect of such Redemption or Direct Exchange to the extent required under in Section 1446(f) of the Code and Treasury Regulations thereunder after taking into account the certificate or other determination provided pursuant this sentence and (ii) upon request and to the extent permitted under applicable Law, the Company shall deliver a certificate pursuant to Treasury Regulations Section 1.1445-11T(d)(2) certifying that fifty percent (50%) or more of the value of the gross assets of the Company does not consist of "U.S. real property interests" (as used in Treasury Regulations Section 1.1445-11T), or that ninety percent (90%) or more of the value of the gross assets of the Company does not consist of "U.S. real property interests" plus "cash or cash equivalents" (as used in Treasury Regulations Section 1.1445-11T); *provided*, that if the Company is not legally entitled to provide the certificate described in clause (ii), the Corporation, the Manager or the Company, as applicable, shall be permitted to withhold on the amount realized by such Redeeming Member in respect of such Redemption or Direct Exchange to the extent required under in Section 1445 of the Code and Treasury Regulations.

(b) Unless otherwise required by applicable Law, the parties hereto acknowledge and agree that a Redemption or a Direct Exchange, as the case may be, shall be treated as a direct exchange of a Share Settlement or a Cash Settlement, as applicable, on the one hand, and the Redeemed Units, on the other hand, between the Corporation and the Redeeming Member for U.S. federal and applicable state and local income tax purposes, which the parties intend to treat as an exchange for which the Corporation will be eligible to receive a special basis adjustment pursuant to Section 743(b) of the Code.

Section 11.07 Exchange and Redemption Right of the Corporation. At the sole discretion of the Corporation, if the Members (other than the Corporation and its Subsidiaries) hold less than 2.5% of the then-outstanding Common Units, then all Members (other than the Corporation and its Subsidiaries) will be required to redeem all outstanding Common Units then held by the Members (the "***Mandatory Redemption Right***").

The Corporation shall exercise the Mandatory Redemption Right by delivering written notice to each Member subject of the Redemption (the "***Mandatory Redemption Notice***") not later than one (1) year prior to the proposed Redemption Date, which notice shall specify the Redemption Date and whether the redemption shall be effected through a Cash Settlement, a Share Settlement or a Direct Exchange. The Member whose Common Units are the subject of the Mandatory Redemption Notice shall not have the right to deliver a Retraction Notice or otherwise cancel or reverse the Company's decision to proceed with the Redemption. Except as otherwise provided in this Section 11.07, the Mandatory Redemption Right shall be settled in accordance with the provisions of this Article XI. Notwithstanding anything in this Article XI, the Company's right to cause a Redemption and/or Exchange under this Section 11.07 shall apply to any and all Common Units (including those Common Units that are subject to vesting conditions held by a Member and its Affiliates), and any Shares received in exchange or redemption of any such Common Units which are subject to vesting conditions shall be subject to the same vesting conditions and in the same proportions as such Common Units.

ARTICLE XII.
ADMISSION OF MEMBERS

Section 12.01 Substituted Members. Subject to the provisions of Article X hereof, in connection with the Permitted Transfer of a Unit hereunder, the Permitted Transferee shall become a Substituted Member on the effective date of such Transfer, which effective date shall not be earlier than the date of compliance with the conditions to such Transfer, and such admission shall be shown on the books and records of the Company, including the Schedule of Members.

Section 12.02 Additional Members. Subject to the provisions of Article X hereof, any Person that is not a Member as of the Effective Date may be admitted to the Company as an additional Member (any such Person, an "***Additional Member***") only upon furnishing to the Manager (a) duly executed Joinder and counterparts to any applicable Other Agreements and (b) such other documents or instruments as may be reasonably necessary or appropriate to effect such Person's admission as a Member (including entering into such documents as may reasonably be requested by the Manager). Such admission shall become effective on the date on which the Manager determines in its sole discretion that such conditions have been satisfied and when any such admission is shown on the books and records of the Company, including the Schedule of Members.

ARTICLE XIII.
WITHDRAWAL AND RESIGNATION; TERMINATION OF RIGHTS

Section 13.01 Withdrawal and Resignation of Members. Except in the event of Transfers pursuant to Section 10.06 or redemptions pursuant to Section 3.05 or Article XI and the Manager's right to resign pursuant to Section 6.03, no Member shall have the power or right to withdraw or otherwise resign as a Member from the Company prior to the dissolution and winding up of the Company pursuant to Article XIV. Any Member, however, that attempts to withdraw or otherwise resign as a Member from the Company without the prior written consent of the Manager upon or following the dissolution and winding up of the Company pursuant to

Article XIV, but prior to such Member receiving the full amount of Distributions from the Company to which such Member is entitled pursuant to Article XIV, shall be liable to the Company for all damages (including all lost profits and special, indirect and consequential damages) directly or indirectly caused by the withdrawal or resignation of such Member. Upon a Transfer of all of a Member's Units in a Transfer or a redemption of all of a Member's Units, in each case as permitted by this Agreement, subject to the provisions of Section 10.06, such Member shall cease to be a Member.

ARTICLE XIV.
DISSOLUTION AND LIQUIDATION

Section 14.01 Dissolution. The Company shall not be dissolved solely by the admission of Additional Members or Substituted Members or the attempted resignation, removal, dissolution, bankruptcy or resignation of a Member. The Company shall dissolve, and its affairs shall be wound up, upon:

(a) the decision of the Manager together with the written approval of the Members holding a majority of the Units then outstanding to dissolve the Company (excluding for purposes of such calculation the Corporation and all Units held directly or indirectly by it);

(b) a dissolution of the Company under Section 18-801(a)(4) of the Delaware Act, unless the Company is continued without dissolution pursuant thereto; or

(c) the entry of a decree of judicial dissolution of the Company under Section 18-802 of the Delaware Act.

Except as otherwise set forth in this Article XIV, the Company is intended to have perpetual existence. An Event of Withdrawal shall not in and of itself cause a dissolution of the Company and the Company shall, to the fullest extent permitted by Law, continue in existence without dissolution subject to the terms and conditions of this Agreement.

Section 14.02 Winding Up. Subject to Section 14.05, on dissolution of the Company, the Manager shall act as liquidating trustee or may appoint one or more Persons as liquidating trustee (each such Person, a "***Liquidator***"). The Liquidators shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Delaware Act. The costs of liquidation shall be borne as an expense of the Company. Until final distribution, the Liquidators shall, to the fullest extent permitted by applicable Law, continue to operate the properties of the Company with all of the power and authority of the Manager. The steps to be accomplished by the Liquidators are as follows:

(a) as promptly as possible after dissolution and again after final liquidation, the Liquidators shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable;

(b) the Liquidators shall pay, satisfy or discharge from the Company's funds, or otherwise make adequate provision for payment and discharge thereof (including, without limitation, the establishment of a cash fund for contingent, conditional and unmatured liabilities in such amount and for such term as the Liquidators may reasonably determine) the following: first, all of the debts, liabilities and obligations of the Company owed to creditors other than the Members, including all expenses incurred in connection with the liquidation and winding up of the Company; and second, all of the debts, liabilities and obligations of the Company owed to the Members (other than any payments or distributions owed to such Members in their capacity as Members pursuant to this Agreement); and

(c) following satisfaction of the Company's debts, liabilities and obligations pursuant to the foregoing Section 14.02(b), all remaining assets of the Company shall be distributed to the Members in accordance with Section 4.01(a)(i) by the end of the Taxable Year during which the liquidation of the Company occurs (or, if later, by ninety (90) days after the date of the liquidation).

The distribution of cash and/or property to the Members in accordance with the provisions of this Section 14.02 and Section 14.03 below shall constitute a complete return to the Members of their Capital Contributions, a complete distribution to the Members of their interest in the Company and all of the Company's property and shall constitute a compromise to which all Members have consented within the meaning of the Delaware Act. To the extent that a Member returns funds to the Company, it has no claim against any other Member for those funds.

Section 14.03 Deferment; Distribution in Kind. Notwithstanding the provisions of Section 14.02, but subject to the order of priorities set forth therein, if upon dissolution of the Company the Liquidators determine that an immediate sale of part or all of the Company's assets would be impractical or would cause undue loss (or would otherwise not be beneficial) to the Members, the Liquidators may, in their sole discretion and to the fullest extent permitted by applicable Law, defer for a reasonable time the liquidation of any assets except those necessary to satisfy the Company's liabilities (other than loans to the Company by any Member(s)) and reserves. Subject to the order of priorities set forth in Section 14.02, the Liquidators may, with the written approval of (i) both the Founder Fund Related Parties and the Cynosure Related Parties that are Members, at any time that the Cynosure Related Parties and the Founder Fund Related Parties that are Members continue to collectively hold a majority of the Units then outstanding (excluding in each case for purposes of such calculations the Corporation and all Units held directly or indirectly by it), and (ii) the Members holding a majority of the Units then outstanding, at any other time (excluding for purposes of such calculation the Corporation and all Units held directly or indirectly by it), distribute to the Members, in lieu of cash, either (a) all or any portion of such remaining assets in-kind of the Company in accordance with the provisions of Section 14.02(c), (b) as tenants in common and in accordance with the provisions of Section 14.02(c), undivided interests in all or any portion of such assets of the Company or (c) a combination of the foregoing. Any such Distributions in-kind shall be subject to (y) such conditions relating to the disposition and management of such assets as the Liquidators deem reasonable and equitable and (z) the terms and conditions of any agreements governing such

assets (or the operation thereof or the holders thereof) at such time. Any assets of the Company distributed in kind will first be written up or down to their Fair Market Value, thus creating Profit or Loss (if any), which shall be allocated in accordance with Article V. The Liquidators shall determine the Fair Market Value of any property distributed.

Section 14.04 Cancellation of Certificate. On completion of the winding up of the Company as provided herein, the Manager (or such other Person or Persons as the Delaware Act may require or permit) shall file a certificate of cancellation of the Certificate of Formation with the Secretary of State of Delaware, cancel any other filings made pursuant to this Agreement that should be canceled and take such other actions as may be necessary to terminate the existence of the Company. The Company shall continue in existence for all purposes of this Agreement until it is terminated pursuant to this Section 14.04.

Section 14.05 Reasonable Time for Winding Up . A reasonable time shall be allowed for the orderly winding up of the business and affairs of the Company and the liquidation of its assets pursuant to Sections 14.02 and 14.03 in order to minimize any losses otherwise attendant upon such winding up.

Section 14.06 Return of Capital. The Liquidators shall not be personally liable for the return of Capital Contributions or any portion thereof to the Members (it being understood that any such return shall be made solely from assets of the Company).

ARTICLE XV.
GENERAL PROVISIONS

Section 15.01 Power of Attorney.

(a) Each Member hereby constitutes and appoints the Manager (or the Liquidator, if applicable) with full power of substitution, as his or her true and lawful agent and attorney-in-fact, with full power and authority in his, her or its name, place and stead, to:

(i) execute, swear to, acknowledge, deliver, file and record in the appropriate public offices (A) this Agreement, all certificates and other instruments and all amendments thereof which the Manager deems appropriate or necessary to form, qualify, or continue the qualification of, the Company as a limited liability company in the State of Delaware and in all other jurisdictions in which the Company may conduct business or own property; (B) all conveyances and other instruments or documents which the Manager deems appropriate or necessary to reflect the dissolution, winding up and termination of the Company pursuant to the terms of this Agreement, including a certificate of cancellation; and (C) all instruments relating to the admission, substitution or resignation of any Member pursuant to Article XII or XIII; and

(ii) sign, execute, swear to and acknowledge all ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the reasonable judgment of the Manager, to evidence, confirm or ratify any vote, consent, approval, agreement or other action which is made or given by the Members hereunder.

(b) The foregoing power of attorney coupled with an interest and, to the fullest extent permitted by Law, is irrevocable, and shall survive the death, disability, incapacity, dissolution, bankruptcy, insolvency or termination of any Member and the transfer of all or any portion of his, her or its Units and shall extend to such Member's heirs, successors, assigns and personal representatives.

Section 15.02 Confidentiality.

(a) Each of the Members (other than the Corporation) agrees to hold the Company's Confidential Information in confidence and may not disclose or use such information except as otherwise authorized separately in writing by the Manager. "***Confidential Information***" as used herein includes all information concerning the Corporation, the Company or their Subsidiaries, in whatever form, whether written, electronic or oral, including, but not limited to, ideas, financial product structuring, business strategies, innovations and materials, all aspects of the Corporation's and/or the Company's business plan, proposed operation and products, corporate structure, financial and organizational information, analyses, proposed partners, software code and system and product designs, employees and their identities, equity ownership, the methods and means by which either the Corporation or the Company plans to conduct its business, all trade secrets, trademarks, tradenames and all intellectual property associated with the Corporation's and/or Company's business. With respect to each Member, Confidential Information does not include information or material that: (a) is, or becomes, generally available to the public other than as a direct or indirect result of a disclosure by such Member or its Affiliates or representatives; (b) is, or becomes, available to such Member from a source other than the Corporation, the Company or their representatives, provided that such source is not, and was not, known to such Member to be bound by a confidentiality agreement with, or any other contractual, fiduciary or other legal obligation of confidentiality to, the Corporation, the Company or any of their Affiliates or representatives; (c) is approved for release by written authorization of the Chief Executive Officer, Chief Financial Officer or Chief Legal Officer of the Company or of the Corporation, or any other officer designated by the Manager; or (d) is or becomes independently developed by such Member or its respective representatives without use of or reference to the Confidential Information.

(b) Solely to the extent it is reasonably necessary or appropriate to fulfill its obligations or to exercise its rights under this Agreement, any Other Agreement or any other agreement to which such Member is party with the Corporation, the Company or any of its Subsidiaries, each of the Members may disclose Confidential Information to its Subsidiaries, Affiliates, partners, members, directors, officers, employees, counsel, advisers, consultants, outside contractors and other agents, on the condition that such Persons keep the Confidential Information confidential to the same extent as such Member is required to keep the Confidential Information confidential; *provided*, that such Member shall remain liable with respect to any breach of this Section 15.02 by any such Subsidiaries, Affiliates, partners, directors, officers, employees, counsel, advisers, consultants, outside contractors and other agents (as if such Persons were party to this Agreement for purposes of this Section 15.02).

(c) Notwithstanding Section 15.02(a) or Section 15.02(b), each of the Members may disclose Confidential Information (i) to the extent that such Member is required by Law (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information or to regulatory authorities requesting information from such Member, (ii) for purposes of reporting to its stockholders and direct and indirect equity holders (each of whom are bound by customary confidentiality obligations) the performance of the Company and its Subsidiaries and for purposes of including applicable information in its financial statements to the extent required by applicable Law or applicable accounting standards, or (iii) to any *bona fide* prospective purchaser of the equity or assets of a Member, or the Units held by such Member, or a prospective merger partner of such Member (*provided*, that (i) such Persons will be informed by such Member of the confidential nature of such information and shall agree in writing to keep such information confidential in accordance with the contents of this Agreement and (ii) each Member will be liable for any breaches of this Section 15.02 by any such Persons (as if such Persons were party to this Agreement for purposes of this Section 15.02)). Notwithstanding any of the foregoing, nothing in this Section 15.02 will restrict in any manner the ability of the Corporation to comply with its disclosure obligations under Law, and the extent to which any Confidential Information is necessary or desirable to disclose.

Section 15.03 Amendments. Except as otherwise contemplated by this Agreement, this Agreement may be amended or modified upon the prior written consent of the Manager, together with the prior written consent of the holders of a majority of the Units then outstanding (excluding all Units held directly or indirectly by the Corporation). Notwithstanding the foregoing, no amendment or modification:

(a) to this Section 15.03 that would adversely affect the Members may be made without the prior written consent of the Manager and each of the Members;

(b) to any of the terms and conditions of this Agreement, which terms and conditions expressly require the approval or action of certain Persons, may be made without obtaining the consent of the requisite number or specified percentage of such Persons who are entitled to approve or take action on such matter; and

(c) to any of the terms and conditions of this Agreement which would (A) reduce the amounts distributable to a Member pursuant to Articles IV and XIV in a manner that is not *pro rata* with respect to all Members, (B) increase the liabilities of such Member hereunder, (C) otherwise adversely affect in any material respect a holder of Units in a manner materially disproportionate to any other holder of Units (other than amendments, modifications and waivers necessary to implement the provisions of Article XII) or (D) adversely affect in any material respect the rights of any Member underSection 7.01 or Article XI, shall be effective against such affected Member or holder of Units, as the case may be, without the prior written consent of such Member or holder of Units, as the case may be.

Notwithstanding any of the foregoing, the Manager may make any amendment to this Agreement (i) of an administrative nature that is necessary in order to implement the substantive provisions hereof, without the consent of any other Member; *provided*, that any such amendment

does not adversely change the rights of the Members hereunder in any respect, or (ii) to reflect any changes to the Class A Common Stock, Class B Common Stock or Class C Common Stock or the issuance of any other capital stock of the Corporation without the consent of any Member or any other Person. The Manager shall deliver a copy of any amendment or modification to this Agreement that does not receive the consent of all Members promptly (but in any event within 30 days) after the effectiveness thereof to all Members that did not consent to such amendment or modification.

Section 15.04 Title to Company Assets. Company assets shall be owned by the Company as an entity, and no Member, individually or collectively, shall have any ownership interest in such assets of the Company or any portion thereof. The Company shall hold title to all of its property in the name of the Company and not in the name of any Member. All assets of the Company shall be recorded as the property of the Company on its books and records, irrespective of the name in which legal title to such assets is held. The Company's credit and assets shall be used solely for the benefit of the Company, and no asset of the Company shall be transferred or encumbered for, or in payment of, any individual obligation of any Member.

Section 15.05 Addresses and Notices. All notices and other communications to be given to any party hereunder shall be sufficiently given for all purposes hereunder if in writing and delivered by hand, courier or overnight delivery service, or when received in the form of an electronic transmission (receipt confirmation requested), and shall be directed to the address set forth, or at such address or to the attention of such other person as the recipient party has specified by prior written notice to the Company or the sending party.

To the Company:

Black Rock Coffee Holdings, LLC
9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260

Attention: Sam Seiberling, Chief Legal Officer
Email:

with a copy (which copy shall not constitute notice) to:

Latham & Watkins LLP
1271 Avenue of the Americas
New York, New York 10020
Attn: Ian Schuman, Stelios Saffos, Alex Kassai and Scott Westhoff

E-mail:

To the Corporation:

Black Rock Coffee Bar, Inc.
9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260

Attention: Sam Seiberling, Chief Legal Officer
Email:

with a copy (which copy shall not constitute notice) to:

Latham & Watkins LLP
1271 Avenue of the Americas
New York, New York 10020
Attn: Ian Schuman, Stelios Saffos, Alex Kassai and Scott Westhoff

E-mail:

To the Members, as set forth on Schedule 2.

Section 15.06 Binding Effect; Intended Beneficiaries. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 15.07 Creditors. None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Company (other than Indemnified Persons) or any of its Affiliates, and no creditor who makes a loan to the Company or any of its Affiliates may have or acquire (except pursuant to the terms of a separate agreement executed by the Company in favor of such creditor) at any time as a result of making the loan any direct or indirect interest in Profits, Losses, Distributions, capital or property of the Company other than as a secured creditor.

Section 15.08 Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, duty, agreement or condition.

Section 15.09 Counterparts. This Agreement may be executed in separate counterparts, each of which will be an original and all of which together shall constitute one and the same agreement binding on all the parties hereto.

Section 15.10 Applicable Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. Any suit, dispute, action or proceeding seeking to enforce any provision of, or based on any

matter arising out of or in connection with, this Agreement shall be heard in the state or federal courts of the State of Delaware, and the parties hereby consent to the exclusive jurisdiction of such court (and of the appropriate appellate courts) in any such suit, action or proceeding and waives any objection to venue laid therein. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, PROCESS IN ANY SUCH SUIT, ACTION OR PROCEEDING MAY BE SERVED ON ANY PARTY ANYWHERE IN THE WORLD, WHETHER WITHIN OR WITHOUT THE JURISDICTION OF ANY SUCH COURT (INCLUDING BY PREPAID CERTIFIED MAIL WITH A VALIDATED PROOF OF MAILING RECEIPT) AND SHALL HAVE THE SAME LEGAL FORCE AND EFFECT AS IF SERVED UPON SUCH PARTY PERSONALLY WITHIN THE STATE OF DELAWARE. WITHOUT LIMITING THE FOREGOING, TO THE FULLEST EXTENT PERMITTED BY LAW, THE PARTIES AGREE THAT SERVICE OF PROCESS UPON SUCH PARTY AT THE ADDRESS REFERRED TO IN SECTION 15.05 (INCLUDING BY PREPAID CERTIFIED MAIL WITH A VALIDATED PROOF OF MAILING RECEIPT), TOGETHER WITH WRITTEN NOTICE OF SUCH SERVICE TO SUCH PARTY, SHALL BE DEEMED EFFECTIVE SERVICE OF PROCESS UPON SUCH PARTY.

Section 15.11 Severability. Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable Law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or the effectiveness or validity of any provision in any other jurisdiction, and this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

Section 15.12 Further Action. The parties shall execute and deliver all documents, provide all information and take or refrain from taking such actions as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 15.13 Execution and Delivery by Electronic Signature and Electronic Transmission. This Agreement and any signed agreement or instrument entered into in connection with this Agreement or contemplated hereby or entered into by the Company in accordance herewith, and any amendments hereto or thereto, to the extent signed and delivered by means of an electronic signature and/or electronic transmission, including by a facsimile machine or via email, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of electronic signature or electronic transmission to execute and/or deliver a document or the fact that any signature or agreement or instrument was transmitted or communicated through such electronic transmission as a defense to the formation of a contract and each such party forever waives any such defense.

Section 15.14 Right of Offset. Whenever the Company or the Corporation is to pay any sum (other than pursuant to Article IV) to any Member, any amounts that such Member owes to the Company or the Corporation which are not the subject of a good faith dispute may be deducted from that sum before payment. For the avoidance of doubt, the distribution of Units to the Corporation shall not be subject to this Section 15.14.

Section 15.15 Entire Agreement. This Agreement, those documents expressly referred to herein (including the Registration Rights Agreement and the Tax Receivable Agreement), any indemnity agreements entered into in connection with the limited liability company agreement governing the Company prior to the Effective Date with any member of the board of directors, board of managers or other management body at that time and other documents of even date herewith embody the complete agreement and understanding among the parties and supersede and preempt any prior understandings, agreements or representations by or among the parties, written or oral, which may have related to the subject matter hereof in any way. For the avoidance of doubt, the Original LLC Agreement is superseded in its entirety by this Agreement as of the Effective Date and shall be of no further force and effect thereafter, except to the extent reference thereto is contemplated in this Agreement, and only for such limited purposes as stated herein.

Section 15.16 Remedies. Each Member shall have all rights and remedies set forth in this Agreement and all rights and remedies which such Person has been granted at any time under any other agreement or contract and all of the rights which such Person has under any Law. Any Person having any rights under any provision of this Agreement or any other agreements contemplated hereby shall be entitled to enforce such rights specifically (without posting a bond or other security), to recover damages by reason of any breach of any provision of this Agreement and to exercise all other rights granted by Law.

Section 15.17 Descriptive Headings; Interpretation. The descriptive headings of this Agreement are inserted for convenience only and do not constitute a substantive part of this Agreement. Whenever required by the context, any pronoun used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa. The use of the word "including" in this Agreement shall be by way of example rather than by limitation. Reference to any agreement, document or instrument means such agreement, document or instrument as amended or otherwise modified from time to time in accordance with the terms thereof, and if applicable hereof. Without limiting the generality of the immediately preceding sentence, no amendment or other modification to any agreement, document or instrument that requires the consent of any Person pursuant to the terms of this Agreement or any other agreement will be given effect hereunder unless such Person has consented in writing to such amendment or modification. Wherever required by the context, references to a Fiscal Year shall refer to a portion thereof. The use of the words "or," "either" and "any" shall not be exclusive. Each of the parties hereto agrees that they have been represented by independent counsel of its own choice during the negotiation and execution of this Agreement and the parties hereto and their counsel have participated jointly in the negotiation and drafting of this Agreement. To the fullest extent permitted by Law, in the event an ambiguity or question of intent or interpretation arises, this

Agreement shall be construed as if drafted jointly by the parties hereto, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Seventh Amended and Restated Limited Liability Company Agreement as of the date first written above.

COMPANY:

BLACK ROCK COFFEE HOLDINGS, LLC

By: _____
Name: Sam Seiberling
Title: Chief Legal Officer

MANAGER:

BLACK ROCK COFFEE BAR, INC.

By: _____
Name: Sam Seiberling
Title: Chief Legal Officer

MEMBERS:

BLACK ROCK COFFEE BAR, INC.

By: _____
Name: Sam Seiberling
Title: Chief Legal Officer

VIKING CAKE BR, LLC

By: Vahalda LLC
Its: Manager

By: _____
Name: Jake Spellmeyer
Title: Manager

[Signature Page to Seventh Amended and Restated Limited Liability Company Agreement]

VIKING CAKE FUEL, LLC

By: Viking Cake BR, LLC
Its: Member

By: _____
Name: Jeffrey Hernandez
Title: Manager

JEFFREY R. HERNANDEZ REVOCABLE TRUST

By: _____
Name: Jeffrey R. Hernandez
Title: Trustee

JEFFREY R. HERNANDEZ 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

TIFFANY S. HERNANDEZ 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

DANIEL AND TANYA BRAND LIVING TRUST

By: _____
Name: Daniel J. Brand
Title: Trustee

By: _____
Name: Tanya N. Brand
Title: Trustee

DANIEL J. BRAND 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

TANYA N. BRAND 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

JULIET A. SPELLMEYER REVOCABLE TRUST

By: _____
Name: Juliet A. Spellmeyer
Title: Trustee

By: _____
Name: Jacob V. Spellmeyer
Title: Trustee

JACOB V. SPELLMEYER 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

JULIET A. SPELLMEYER 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

_____
NICOLE PEREBOOM

BRYAN D. PEREBOOM 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

NICOLE R. PEREBOOM 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

MARK DAVIS 2025 GIFTING TRUST

By: _____
Name: Mark Davis
Title: Trustee

JENNIFER DAVIS 2025 GIFTING TRUST

By: _____
Name: Mark Davis
Title: Trustee

_____
RODD BOOTH

_____
ROBERT KAUFMANN

_____
CLAY GEYER

_____
JESSICA WEGNER

_____
RICHARD FEDERICO

_____
SARAH GROVER

_____
SAM SEIBERLING

_____
WILL MACINTOSH

CYNOSURE PARTNERS 2020, LP,
a Delaware limited partnership

By: Cynosure Partners 2020 GP, LLC, its general Partner

By: Cynosure Management, LLC, its manager

By: _____
Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS 2020 PV, LP,
a Delaware limited partnership, in respect of the Primary Commitments

By: Cynosure Partners 2020 GP, LLC, its general Partner

By: Cynosure Management, LLC, its manager

By: _____
Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS 2020 PV, LP,
a Delaware limited partnership, in respect of the Co-Investment Commitments thereto

By: Cynosure Partners 2020 GP, LLC, its general Partner

By: Cynosure Management, LLC, its manager

By: _____
Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS 2020
CO-INVESTMENT, LLC,
a Delaware limited liability company, for and on behalf of the Series A members

By: Cynosure Partners 2020 GP, LLC, its general Partner

By: Cynosure Management, LLC, its manager

By: _____
Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS 2020 CO-INVESTMENT, LLC,
a Delaware limited liability company, for and on behalf of the Series B members

By: Cynosure Partners 2020 GP, LLC, its general Partner

By: Cynosure Management, LLC, its manager

By: _____
Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS III, LP
a Delaware limited partnership

By: Cynosure Partners 2020 GP, LLC, its general Partner

By: Cynosure Management, LLC, its manager

By: _____
Name: Andrew Braithwaite
Title: Managing Director

RIVERSIDE CREDIT SOLUTIONS FUND I, L.P.

By: RCS I Associates, L.P.
Its: General Partner

By: RCS I GP, LLC
Its: General Partner

By: _____
Name: Béla R. Schwartz
Title: Vice President and Secretary

RCS I BLOCKER I, LLC

By: _____
Name: Béla R. Schwartz
Title: Vice President and Secretary

SCHEDULE 1

SCHEDULE OF PRE-IPO MEMBERS

Member	Common Units	Series A Preferred Units	Series A-1 Preferred Units	Series A-2 Preferred Units	PIUs
Viking Cake BR, LLC					
Jeffrey R. Hernandez Revocable Trust					
Jeffrey R. Hernandez 2021 Trust					
Tiffany S. Hernandez 2021 Trust					
Daniel and Tanya Brand Living Trust					
Daniel J. Brand 2021 Trust					
Tanya N. Brand 2021 Trust					
Juliet A. Spellmeyer Revocable Trust					
Jacob V. Spellmeyer 2021 Trust					
Juliet A. Spellmeyer 2021 Trust					
Bobby Kaufman (RWK Ventures LLC)					
Nicole Pereboom					
Bryan D. Pereboom 2021 Trust					
Nicole R. Pereboom 2021 Trust					
Justin Lesher (Lesher Family Trust)					
Switz Investments, LLC (Tyson Switzenberg)					
Chris Empio					
Tony Pallotta					
Trevor Atkinson					
Cynosure Partners 2020, LP					

Member	Common Units	Series A Preferred Units	Series A-1 Preferred Units	Series A-2 Preferred Units	PIUs
Cynosure Partners 2020 PV, LP (Primary Commitments)					
Cynosure Partners 2020 PV, LP (Co-Investment Commitments)					
Cynosure Partners 2020 Co-investment, LLC- Series A					
Cynosure Partners 2020 Co-investment, LLC- Series B					
Cynosure Partners III, LP					
CP III BRC Holdings CV, LLC					
Riverside Credit Solutions Fund I, LP					
RCS I Blocker I, LLC					
Mark Davis 2025 Gifting Trust					
Jennifer Davis 2025 Gifting Trust					
Rodd Booth					
Robert Kaufmann					
Clay Geyer					
Derek Tonn					
Jessica Wegner					
Rick Federico					
Sarah Grover					
Sam Seiberling					
Will MacIntosh					

SCHEDULE 2*

SCHEDULE OF MEMBERS

[✧], 2025

Member	Common Units (Vested)	Common Units (Unvested)	Contact Information for Notice
1. Black Rock Coffee Bar, Inc.			
2. Viking Cake BR, LLC			
3. Jeffrey R. Hernandez Revocable Trust			
4. Jeffrey R. Hernandez 2021 Trust			
5. Tiffany S. Hernandez 2021 Trust			
6. Daniel and Tanya Brand Living Trust			
7. Daniel J. Brand 2021 Trust			
8. Tanya N. Brand 2021 Trust			
9. Juliet A. Spellmeyer Revocable Trust			
10. Jacob V. Spellmeyer 2021 Trust			
11. Juliet A. Spellmeyer 2021 Trust			
12. Bobby Kaufman (RWK Ventures LLC)			
13. Nicole Pereboom			
14. Bryan D. Pereboom 2021 Trust			
15. Nicole R. Pereboom 2021 Trust			

16. Justin Lesher (Lesher Family Trust)			
17. Switz Investments, LLC (Tyson Switzenberg)			
18. Chris Empio			
19. Tony Pallotta			
20. Trevor Atkinson			
21. Cynosure Partners 2020, LP			
22. Cynosure Partners 2020 PV, LP (Primary Commitments)			
23. Cynosure Partners 2020 PV, LP (Co-Investment Commitments)			
24. Cynosure Partners 2020 Co-investment, LLC-Series A			
25. Cynosure Partners 2020 Co-investment, LLC-Series B			
26. Cynosure Partners III, LP			
27. CP III BRC Holdings CV, LLC			
28. Riverside Credit Solutions Fund I, LP			

29. RCS I Blocker I, LLC			
30. Mark Davis 2025 Gifting Trust			
31. Jennifer Davis 2025 Gifting Trust			
32. Rodd Booth			
33. Robert Kaufmann			
34. Clay Geyer			
35. Derek Tonn			
36. Jessica Wegner			
37. Rick Federico			
38. Sarah Grover			
39. Sam Seiberling			
40. Will MacIntosh			

* This Schedule of Members shall be updated from time to time in accordance with this Agreement, including to reflect any adjustment with respect to any subdivision (by Unit split or otherwise) or any combination (by reverse Unit split or otherwise) of any outstanding Units, or to reflect any additional issuances of Units pursuant to this Agreement.

Exhibit A

FORM OF JOINDER AGREEMENT

This JOINDER AGREEMENT, dated as of _____, 20___ (this "Joinder"), is delivered pursuant to that certain Seventh Amended and Restated Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC, a Delaware limited liability company (the "Company"), dated as of [✦], 2025 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "LLC Agreement") by and among the Company, Black Rock Coffee Bar, Inc., a Texas corporation and the sole managing member of the Company (the "Corporation"), and each of the Members from time to time party thereto. Capitalized terms used but not otherwise defined herein have the respective meanings set forth in the LLC Agreement.

1. Joinder to the LLC Agreement. Upon the execution of this Joinder by the undersigned and delivery hereof to the Corporation, the undersigned hereby is and hereafter will be a Member under the LLC Agreement and a party thereto, with all the rights, privileges and responsibilities of a Member thereunder. The undersigned hereby agrees that it shall comply with and be fully bound by the terms of the LLC Agreement as if it had been a signatory thereto as of the date thereof. The undersigned hereby acknowledges, agrees and confirms that it has received a copy of the LLC Agreement and has reviewed the same and understands its contents.

2. Incorporation by Reference. All terms and conditions of the LLC Agreement are hereby incorporated by reference in this Joinder as if set forth herein in full.

3. Address. All notices under the LLC Agreement to the undersigned shall be direct to:

[Name]
[Address]
[City, State, Zip Code]
Attn:
Facsimile:
E-mail:

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Joinder as of the day and year first above written.

[NAME OF NEW MEMBER]

By:_____
Name:
Title:

Acknowledged and agreed
as of the date first set forth above:

BLACK ROCK COFFEE HOLDINGS, LLC

By: BLACK ROCK COFFEE BAR, INC., its Managing Member

By:_____
Name:
Title:

Exhibit B-1

FORM OF AGREEMENT AND CONSENT OF SPOUSE

The undersigned spouse of _____ (the "Member"), a party to that certain Seventh Amended and Restated Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC, a Delaware limited liability company (the "Company"), dated as of [✧], 2025 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Agreement") by and among the Company, Black Rock Coffee Bar, Inc., a Texas corporation and the sole managing member of the Company, and each of the Members from time to time party thereto (capitalized terms used but not otherwise defined herein have the respective meanings set forth in the Agreement), acknowledges on his or her own behalf that:

I have read the Agreement and understand its contents. I acknowledge and understand that under the Agreement, any interest I may have, community property or otherwise, in the Units owned by the Member is subject to the terms of the Agreement, which include certain restrictions on Transfer.

I hereby consent to and approve the Agreement. I agree that said Units and any interest I may have, community property or otherwise, in such Units are subject to the provisions of the Agreement and that I will take no action at any time to hinder operation of the Agreement on said Units or any interest I may have, community property or otherwise, in said Units.

I hereby acknowledge that the meaning and legal consequences of the Agreement have been explained fully to me and are understood by me, and that I am signing this Agreement and consent without any duress and of free will.

Dated: _____

[NAME OF SPOUSE]

By:_____
Name:

Exhibit B-2

FORM OF SPOUSE'S CONFIRMATION OF SEPARATE PROPERTY

I, the undersigned, the spouse of _____ (the "Member"), who is a party to that certain Seventh Amended and Restated Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC, a Delaware limited liability company (the "Company"), dated as of [✦], 2025 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Agreement") by and among the Company, Black Rock Coffee Bar, Inc., a Texas corporation and the sole managing member of the Company, and each of the Members from time to time party thereto (capitalized terms used but not otherwise defined herein have the respective meanings set forth in the Agreement), acknowledge and confirm that the Units owned by said Member are the sole and separate property of said Member, and I hereby disclaim any interest in same.

I hereby acknowledge that the meaning and legal consequences of this Member's spouse's confirmation of separate property have been fully explained to me and are understood by me, and that I am signing this Member's spouse's confirmation of separate property without any duress and of free will.

Dated: _____

[NAME OF SPOUSE]

By:_____
Name:

Exhibit C

POLICY REGARDING CERTAIN EQUITY ISSUANCES

[*see attached*]

BLACK ROCK COFFEE BAR, INC.

Policy Regarding Certain Equity Issuances

All capitalized terms used herein without definition shall have the meanings ascribed to such terms in the 2025 Incentive Award Plan (the " ***Plan***").

Pursuant to Sections 3.1 and 10.17 of the Plan, this Policy Regarding Certain Equity Issuances (this " ***Policy***"), effective as of [✦], 2025, is established to provide for the method by which shares of Common Stock or other securities and/or payment therefor may be exchanged or contributed between Black Rock Coffee Bar, Inc. (the "***Corporation***") and Black Rock Coffee Holdings, LLC (the "***Operating Company***"), or any of their respective Subsidiaries, or may be returned to the Corporation upon any forfeiture of such shares of Common Stock or other securities by the Participant, for the purpose of (i) ensuring that the relationship between the Corporation, the Operating Company and their respective Subsidiaries remains at arm's-length, and (ii) maintaining economic parity between one share of Class A Common Stock and one Common Unit (as defined in the Operating Agreement) by preserving the one-to-one ratio between (x) the aggregate number of outstanding shares of Class A Common Stock, Class B Common Stock and Class C Common Stock and (y) the number of Common Units held by the Corporation.

In the event of any conflict between the Amended and Restated Limited Liability Company Agreement of Black Rock Coffee Holdings, LLC, dated as of [✦], 2025 (the "***Operating Agreement***") or the Plan and this Policy, the Operating Agreement or the Plan, as applicable, will control. In the event of any conflict between the Operating Agreement and the Plan, unless explicitly stated otherwise, the Operating Agreement will control. This Policy may be modified, supplemented or terminated at any time and from time to time in the Corporation's discretion.

For purposes of this Policy, where this Policy refers to a Service Provider who is an Operating Company Service Provider (as defined below) or is an employee or service provider to a Subsidiary of the Operating Company, all such references shall be deemed to include a former employee of or service provider to the Operating Company or any of its Subsidiaries, as applicable, who at the time of grant of the relevant award was then an employee or service provider of such entity.

1. Restricted Stock Awards

   a. Transfers of Restricted Stock to Corporation Employees, Corporation Consultants or Corporation Directors. The following shall apply to Restricted Stock granted under the Plan to Employees and Consultants of the Corporation and Directors (collectively, "***Corporation Service Providers***") in consideration for services performed by such Corporation Service Providers for the Corporation (but not for the Operating Company or its Subsidiaries):

      i. Issuance of Restricted Stock.

         A. The Corporation shall issue such number of shares of Restricted Stock as are to be issued to the Corporation Service Provider in accordance with the terms of the Plan.

         B. Concurrently with or prior to such issuance, a Corporation Service Provider shall pay the purchase price (if any) of the Restricted Stock to the Corporation in exchange for the issuance of the Restricted Stock.

C. Prior to the Vesting Date (as defined below), the Corporation shall pay dividends to the holder of the Restricted Stock and make any other payments to the Corporation Service Provider (less any applicable withholding and other payroll taxes) as the terms of the Restricted Stock Award Agreement provide for. The Corporation and the Operating Company shall treat such payments as having been made by the Corporation, and the Corporation shall report such payments as compensation to the Corporation Service Provider for all purposes. Prior to the Vesting Date (as defined below), the Operating Company shall pay to, or with respect to, the Corporation the amount of any such payments that the Corporation is required to pay to or with respect to the Corporation Service Provider as a reimbursement of Corporation expenses pursuant to Section 6.06 of the Operating Agreement.

ii. Vesting of Restricted Stock. On the date when the value of any share of Restricted Stock is includible in the taxable income (with respect to each such share, the "***Vesting Date***") of the Corporation Service Provider, the following events shall occur or be deemed to have occurred:

A. If required by Section 6.06 of the Operating Agreement, the Operating Company shall be deemed to or actually reimburse the Corporation for the compensation expense equal to, or with respect to, the amount includible in the taxable income of the Corporation Service Provider.

B. The Operating Company shall issue to the Corporation on the Vesting Date a number of Common Units (as defined in the Operating Agreement) equal to the number of such shares of Restricted Stock (or portion thereof) that are includible in the taxable income of the Corporation Service Provider as of the applicable Vesting Date and any Restricted Stock (or portion thereof) purchased by the Corporation Service Provider in consideration for a deemed or actual Capital Contribution (as defined in the Operating Agreement) from the Corporation in an amount equal to the number of Common Units issued in accordance with this section, multiplied by the per-Common Unit Fair Market Value (as defined in the Operating Agreement).

b. Transfers of Restricted Stock to Employees and other Service Providers of the Operating Company. The following shall apply to Restricted Stock granted under the Plan to Employees and other Service Providers of the Operating Company or its Subsidiaries (each, "***Operating Company Service Providers***") in consideration for services performed by such Operating Company Service Providers for the Operating Company or its Subsidiaries:

i. Issuance of Restricted Stock.

A. The Corporation shall issue such number of shares of Restricted Stock as are to be issued to the Operating Company Service Provider in accordance with the terms of the Plan.

B. Concurrently with or prior to such issuance, an Operating Company Service Provider shall pay the purchase price (if any) of the Restricted Stock to the Corporation in exchange for the issuance of the Restricted Stock.

C. The Corporation shall transfer any such purchase price to the Operating Company (and, if the Operating Company Service Provider is an Employee or other Service

Provider of a Subsidiary of the Operating Company, the Operating Company shall transfer such purchase price to such Subsidiary of the Operating Company). For tax purposes, any such purchase price shall be treated as paid by the Operating Company Service Provider to the Operating Company (or an applicable Subsidiary) as the employer of the Employee or the recipient of the Consultant's services (*i.e.*, not a capital contribution).

D. Prior to the Vesting Date, the Corporation shall pay dividends to the holder of the Restricted Stock and make any other payments to the Operating Company Service Provider (less any applicable withholding and other payroll taxes) as provided by the terms of the Restricted Stock Award Agreement, provided that the Operating Company (or, if the Operating Company Service Provider is an Employee or other Service Providers of a Subsidiary of the Operating Company, the Subsidiary of the Operating Company) shall reimburse the Corporation for such amounts, handle any applicable withholding and deduct such amounts as compensation. In order to effectuate the foregoing, in addition to the Operating Company's distributions to the Corporation with respect to the Common Units held by the Corporation, the Operating Company (or the applicable Subsidiary) shall make an additional payment to the Corporation in the amount of this reimbursement, which shall not be treated as a partnership distribution. Such dividend or other payments shall be treated as having been made by the Operating Company (or the applicable Subsidiary), and not by the Corporation, to such Operating Company Service Provider, and the Operating Company (or the applicable Subsidiary) shall report such payments as compensation to the Operating Company Service Provider for all purposes.

ii. Vesting of Restricted Stock. On the Vesting Date of any shares of Restricted Stock of the Operating Company Service Provider, the following events shall occur or be deemed to have occurred:

A. The Corporation shall be deemed to sell to the Operating Company (or, if the Operating Company Service Provider is an Employee or other Service Provider of a Subsidiary of the Operating Company, to such Subsidiary of the Operating Company), and the Operating Company (or such Subsidiary of the Operating Company) shall be deemed to purchase from the Corporation, such shares of Restricted Stock (or portion thereof) that are includible in the taxable income of the Operating Company Service Provider on such Vesting Date (the "***Operating Company Purchased Restricted Stock***"), which shall not include any Restricted Stock (or portion thereof) purchased by the Operating Company Service Provider. The deemed price paid by the Operating Company (or a Subsidiary of the Operating Company) to the Corporation for Operating Company Purchased Restricted Stock shall be an amount equal to the product of (x) the number of shares of Operating Company Purchased Restricted Stock and (y) the Fair Market Value of a share of Common Stock on the Vesting Date.

B. The Operating Company (or any Subsidiary of the Operating Company) shall be deemed to transfer Operating Company Purchased Restricted Stock to the Participant at no additional cost, as additional compensation.

C. The Operating Company shall issue to the Corporation on the Vesting Date a number of Common Units equal to (i) the number of shares of Operating Company Purchased Restricted Stock in consideration for a deemed Capital Contribution from the Corporation in an amount equal to the number of Common Units issued in accordance with this section, multiplied by the per-Common Unit Fair Market Value and (ii) the number of shares of Restricted Stock (or portion thereof) purchased by the Operating Company Service Provider in consideration for the Capital Contribution from the Corporation of any purchase price paid by the Operating Company Service Provider for the applicable Restricted Stock (or portion thereof) to the Corporation. In the case where an Operating Company Service Provider is an employee or service provider to a Subsidiary of the Operating Company, then the Operating Company shall be deemed to have contributed such amount to the capital of such Subsidiary of the Operating Company.

2. Restricted Stock Unit and Other Stock or Cash Based Awards. The following shall apply to all Restricted Stock Units and Other Stock or Cash Based Awards (other than cash awards) granted under the Plan and settled in shares of Common Stock:

a. Transfers of Common Stock to Corporation Service Providers. The Corporation shall issue such number of shares of Common Stock as are to be issued to the Corporation Service Provider in accordance with the terms of the Plan and any Restricted Stock Unit or applicable Other Stock or Cash Based Award to a Corporation Service Provider in accordance with Section 6.3 or Article VII of the Plan. As soon as reasonably practicable after such Award is settled, with respect to each such settlement:

i. If required by Section 6.06 of the Operating Agreement, the Operating Company shall be deemed to or actually reimburse the Corporation for the compensation expense equal to, or with respect to, the amount includible in the taxable income of the Corporation Service Provider with respect to such Award.

ii. The Operating Company shall issue to the Corporation on the date of settlement a number of Common Units equal to the number of shares of Common Stock issued in settlement of the Restricted Stock Unit or applicable Other Stock or Cash Based Award in consideration for a deemed Capital Contribution from the Corporation in an amount equal to the number of Common Units issued in accordance with this section, multiplied by the per-Common Unit Fair Market Value.

b. Transfer of Common Stock to Operating Company Service Providers. The Corporation shall issue such number of shares of Common Stock as are to be issued to an Operating Company Service Provider in accordance with the terms of the Plan and any Restricted Stock Unit or applicable Other Stock or Cash Based Award to an Operating Company Service Provider in accordance with Section 6.3 or Article VII of the Plan. As soon as reasonably practicable after such Award is settled, with respect to each such settlement:

i. The Corporation shall be deemed to sell to the Operating Company (or, if the Operating Company Service Provider is an Employee or other Service Provider of a Subsidiary of the Operating Company, to such Subsidiary of the Operating Company), and the Operating Company (or such Subsidiary of the Operating Company) shall be deemed to purchase from the Corporation, the number of shares of Common Stock (the "***Operating***

Company Purchased RSU/Other Award Shares") equal to the number issued in settlement of the Restricted Stock Units or Other Stock or Cash Based Awards. The deemed price paid by the Operating Company (or Subsidiary of the Operating Company) to the Corporation for Operating Company Purchased RSU/Other Award Shares shall be an amount equal to the product of (x) the number of Operating Company Purchased RSU/Other Award Shares and (y) the Fair Market Value of a share of Common Stock at the time of settlement.

ii. The Operating Company (or Subsidiary of the Operating Company) shall be deemed to transfer such shares of Common Stock to the Participant at no additional cost, as additional compensation.

iii. The Operating Company shall issue to the Corporation on the date of settlement a number of Common Units equal to the number of Operating Company Purchased RSU/Other Award Shares in consideration for a deemed Capital Contribution from the Corporation in an amount equal to the number of Common Units issued in accordance with this section, multiplied by the per-Common Unit Fair Market Value. In the case where an Operating Company Service Provider is an employee or service provider to a Subsidiary of the Operating Company, the Operating Company shall be deemed to have contributed such amount to the capital of such Subsidiary of the Operating Company.

c. Other Full-Value Awards. To the extent the Corporation grants full-value Awards (other than Restricted Stock, Restricted Stock Units and Other Stock and Cash Based Awards), the provisions of this Section 2 shall apply *mutatis mutandis* with respect to such full-value Awards, to the extent applicable (as determined by the Administrator).

3. Stock Options. The following shall apply to Options granted under the Plan:

a. Transfer of Common Stock to Corporation Service Providers. As soon as reasonably practicable after receipt by the Corporation, pursuant to Section 5.5 of the Plan, of payment for the shares of Common Stock with respect to which an Option (which in the case of a Corporation Service Provider was issued to and is held by such Participant in such capacity), or portion thereof, is exercised by a Participant who is a Corporation Service Provider:

i. The Corporation shall transfer to the holder of such Option the number of shares of Common Stock equal to the number of shares of Common Stock subject to the Option (or portion thereof) that is exercised subject to the terms of the Plan.

ii. The Corporation, shall, as soon as practicable after such exercise, make a Capital Contribution to the Operating Company in an amount equal to the exercise price paid to the Corporation by such Participant in connection with the exercise of the Option. If required by Section 6.06 of the Operating Agreement, the Operating Company shall reimburse the Corporation for the compensation expense equal to the Fair Market Value of a share of Common Stock as of the date of exercise multiplied by the number of shares of Common Stock then being issued in connection with the exercise of such Option, less the exercise price paid to the Corporation by such Participant in connection with the exercise of the Option. Notwithstanding the amount of the Capital Contribution actually made pursuant to this Section 3(a)(ii), the Corporation shall be deemed to have contributed in the aggregate to the Operating Company as a Capital Contribution,

inclusive of any Capital Contribution actually made, an amount equal to the Fair Market Value of a share of Common Stock as of the date of exercise multiplied by the number of shares of Common Stock then being issued in connection with the exercise of such Option.

iii. The Operating Company shall issue to the Corporation, on the date of the issuance of any Common Stock described in Section 3(a)(i) hereof, a number of Common Units equal to the number of issued shares of Common Stock pursuant to Section 3(a)(i) hereof, in consideration for the Capital Contributions described in Section 3(a)(ii) hereof.

b. Transfer of Common Stock to Operating Company Service Providers. As soon as reasonably practicable after receipt by the Corporation, pursuant to Section 5.5 of the Plan, of payment for the shares of Common Stock with respect to which an Option (which was issued to and is held by an Operating Company Service Provider in such capacity), or portion thereof, is exercised by a Participant who is an Operating Company Service Provider:

i. The Corporation shall transfer to the Participant the total number of shares of Common Stock with respect to which the Option was exercised subject to the terms of the Plan (the "***Total Purchased Shares***"). Of the Total Purchased Shares, the number of shares of Common Stock that shall be deemed to be transferred directly to the Participant shall be equal to (A) the amount of the exercise price paid by the Participant to the Corporation pursuant to Section 5.5 of the Plan (the "***Exercise Price Paid***") divided by (B) the Fair Market Value of a share of Common Stock at the time of exercise (the " ***Operating Company Holder Purchased Shares***").

ii. The Corporation shall be deemed to sell to the Operating Company (or, if the Operating Company Service Provider is an Employee or other Service Provider of a Subsidiary of the Operating Company, to such Subsidiary of the Operating Company), and the Operating Company (or such Subsidiary of the Operating Company) shall be deemed to purchase from the Corporation, the number of shares of Common Stock (the "***Operating Company Purchased Option Shares***") equal to the excess of (A) the number of Total Purchased Shares, over (B) the number of Operating Company Holder Purchased Shares. The deemed price paid by the Operating Company (or a Subsidiary of the Operating Company) to the Corporation for Operating Company Purchased Option Shares shall be an amount equal to the product of (x) the number of Operating Company Purchased Option Shares and (y) the Fair Market Value of a share of Common Stock at the time of the exercise.

iii. The Operating Company (or a Subsidiary of the Operating Company) shall be deemed to transfer the Operating Company Purchased Option Shares to the Participant at no additional cost, as additional compensation.

iv. The Operating Company shall issue to the Corporation on the date of exercise a number of Common Units equal to the sum of the number of Total Purchased Shares in consideration for (i) a deemed Capital Contribution from the Corporation in an amount equal to the number of Operating Company Purchased Option Shares, multiplied by the per-Common Unit Fair Market Value and (ii) a Capital Contribution from the Corporation in amount equal to the Exercise Price Paid. In the case where an Operating Company Service Provider is an Employee or other Service Provider to a Subsidiary of

the Operating Company, the Operating Company shall be deemed to have contributed such amount to the capital of such Subsidiary of the Operating Company.

c. Stock Appreciation Rights. To the extent the Corporation grants any Stock Appreciation Rights, the provisions of this Section 3 shall apply *mutatis mutandis* with respect to such Stock Appreciation Rights, to the extent applicable (as determined by the Administrator).

4. Dividend Equivalent Awards. The following shall apply to Dividend Equivalents granted under the Plan:

a. The Corporation shall make any payments to a Corporation Service Provider under the terms of the Dividend Equivalent award, provided that the Corporation and the Operating Company shall treat such payments as having been made by the Corporation, and the Corporation shall report such payments as compensation to the Corporation Service Provider for all purposes. The Operating Company shall pay to the Corporation the amount of any such payments that the Corporation is required to pay to, or with respect to, the Corporation Service Provider as a reimbursement of Corporation expenses pursuant to Section 6.06 of the Operating Agreement.

b. The Corporation shall make any payments to an Operating Company Service Provider (less any applicable withholding and other payroll taxes) under the terms of the Dividend Equivalent award, provided that the Operating Company (or, if the Operating Company Service Provider is an Employee or other Service Provider of a Subsidiary of the Operating Company, such Subsidiary of the Operating Company) shall reimburse the Corporation for such amounts, handle any applicable withholding and deduct such amounts as compensation. In order to effectuate the foregoing, in addition to the Operating Company's (or the applicable Subsidiary's) distributions to the Corporation with respect to Common Units held by the Corporation, the Operating Company (or the applicable Subsidiary) shall make an additional payment to the Corporation in the amount of this reimbursement, which shall not be treated as a partnership distribution. Such payments shall be treated as having been made by the Operating Company (or the applicable Subsidiary), and not by the Corporation, to such Operating Company Service Provider, and the Operating Company (or the applicable Subsidiary) shall report such payments as compensation to such Operating Company Service Provider for all purposes.

5 . Forfeiture, Surrender or Repurchase of Common Stock. If any shares of Common Stock granted under the Plan are (a) forfeited or surrendered by any Service Provider eligible to participate in the Plan (an "***Eligible Service Provider***") or (b) repurchased from any Eligible Service Provider by the Corporation, the Operating Company or a Subsidiary, (i) the shares of Common Stock forfeited, surrendered or repurchased shall be returned to the Corporation, (ii) the Corporation (or, if the Eligible Service Provider is an Operating Company Service Provider, the Operating Company or a Subsidiary of the Operating Company, as applicable) shall pay the repurchase price (if any) of the repurchased shares of Common Stock to such Eligible Service Provider, and (iii) if corresponding Common Units had theretofore been issued in respect of the shares of Common Stock that were so forfeited, surrendered or repurchased, the Operating Company shall, contemporaneously with such forfeiture, surrender or repurchase of shares of Common Stock, redeem or repurchase a number of the Common Units held by the Corporation equal to the number of forfeited, surrendered or repurchased shares of Common Stock, such redemption or repurchase to be upon the same terms and for the same price per Common Unit as such shares of Common Stock are forfeited, surrendered or repurchased.

REGISTRATION RIGHTS AGREEMENT
OF
BLACK ROCK COFFEE BAR, INC.

This **Registration Rights Agreement** (as it may be amended from time to time in accordance with the terms hereof, the "**Agreement**"), is entered into as of **[●]**, 2025, by and among Black Rock Coffee Bar, Inc., a Texas corporation (the "**Company**"); and each Person executing this Agreement and listed as an "**Investor**" on Exhibit A hereto (collectively, together with their Permitted Transferees (as defined below) that become party hereto, the "**Investors**").

RECITALS

WHEREAS, the Investors own shares of the Company's Class B common stock, par value $0.00001 per share, and/or Class C common stock, par value $0.00001 per share, of the Company and any securities issued in respect thereof, including any rights to exchange any units of Black Rock Coffee Holdings, LLC ("**Black Rock Opco**"), in accordance with its Seventh Amended and Restated Limited Liability Company Agreement, as may be amended and/or restated from time to time, or in substitution therefor, in connection with any stock split, dividend or combination, or any reclassification, recapitalization, merger, consolidation, exchange or other similar reorganization (collectively, with the Class A Common Stock (defined below), the "**Common Stock**");

WHEREAS, on the date hereof, the Company has priced an initial public offering of shares of its Class A common stock, par value $0.00001 per share (the "**Class A Common Stock**," and such transaction, the "**IPO**"); and

WHEREAS, the parties believe that it is in the best interests of the Company and the other parties hereto to set forth their agreements regarding registration rights following the IPO;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises, covenants and agreements of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
EFFECTIVENESS

SECTION 1.1 Effectiveness. This Agreement shall become effective upon the closing of the IPO.

ARTICLE II
DEFINITIONS

SECTION 2.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

"**Adverse Disclosure**" means disclosure of material non-public information that, in the good faith judgment of the board of directors of the Company, after consultation with counsel to

the Company: (i) would be required to be made publicly in any Registration Statement filed with the SEC by the Company so that such Registration Statement, from and after its effective date, does not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading; (ii) would not be required to be made publicly at such time but for the filing, effectiveness or continued use of such Registration Statement; and (iii) the Company has a bona fide business purpose for not disclosing publicly.

"**Affiliate**" means, with respect to any Person, any other Person directly or indirectly controlling, controlled by or under common control with, such Person; provided that the Company and its subsidiaries shall not be deemed to be Affiliates of the Cynosure Investors or the Founder Investors. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract or otherwise**.**

"**Agreement**" shall have the meaning set forth in the preamble.

"**Board**" means the board of directors of the Company.

"**Business Day**" means any day, other than a Saturday, Sunday or any other day on which commercial banks located in the State of New York are authorized or obligated by law or executive order to close.

"**Common Stock**" shall have the meaning set forth in the Recitals.

"**Cynosure Investors**" means Cynosure Partners 2020, LP, a Delaware limited partnership, Cynosure Partners 2020 PV, LP, a Delaware limited partnership, Cynosure Partners 2020 Co-Investment, LLC, a Delaware limited liability company, Cynosure Partners III, LP, a Delaware limited partnership, and CP III BRC Holdings CV, LLC, a Delaware limited liability company (along with their respective Permitted Transferees).

"**Demand Notice**" shall have the meaning set forth in Section 3.1(c).

"**Demand Registration**" shall have the meaning set forth in Section 3.1(a)(i).

"**Demand Registration Request**" shall have the meaning set forth in Section 3.1(a)(i).

"**Demand Registration Statement**" shall have the meaning set forth in Section 3.1(a)(iii).

"**Demand Suspension**" shall have the meaning set forth in Section 3.1(e).

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations. Any reference herein to a specific section, rule or regulation of the Exchange Act shall be deemed to include any corresponding provisions of future law.

"**FINRA**" means the Financial Industry Regulatory Authority.

"**Founder Investors**" means Viking Cake BR, LLC, a Delaware limited liability company, Viking Cake Fuel, LLC, a Delaware limited liability company, Jeffrey R. Hernandez Revocable Trust, Jeffrey R. Hernandez 2021 Trust, Tiffany S. Hernandez 2021 Trust, Daniel and Tanya Brand Living Trust, Daniel J. Brand 2021 Trust, Tanya N. Brand 2021 Trust, Juliet A. Spellmeyer Revocable Trust, Jacob V. Spellmeyer 2021 Trust, Juliet A. Spellmeyer 2021 Trust, Nicole Pereboom, Bryan D. Pereboom 2021 Trust, and Nicole Pereboom 2021 Trust collectively (along with their Permitted Transferees).

"**Holders**" means Investors and their Permitted Transferees who then hold Registrable Securities under this Agreement.

"**Investor**" shall have the meaning set forth in the preamble.

"**IPO**" shall have the meaning set forth in the Recitals.

"**Issuer Free Writing Prospectus**" means an issuer free writing prospectus, as defined in Rule 433 under the Securities Act, relating to an offer of the Registrable Securities.

"**Loss**" shall have the meaning set forth in Section 3.9(a).

"**Majority of the Registrable Securities**" means a majority of the Registrable Securities Voting Interests.

"**Participation Conditions**" shall have the meaning set forth in Section 3.2(e)(ii).

"**Permitted Transferee**" shall have the meaning set forth in the Company's amended and restated certificate of formation in effect, as may be amended and/or restated from time to time.

"**Person**" means an individual or a corporation, partnership, limited liability company, trust, unincorporated organization, association or other entity.

"**Piggyback Notice**" shall have the meaning set forth in Section 3.3(a).

"**Piggyback Registration**" shall have the meaning set forth in Section 3.3(a).

"**Potential Takedown Participant**" shall have the meaning set forth in Section 3.2(e)(ii).

"**Pro Rata Portion**" means, with respect to each Holder requesting that its shares be registered or sold in an Underwritten Public Offering, a number of such shares equal to the aggregate number of Registrable Securities requested to be registered or sold in such Public Offering (excluding any shares to be registered or sold for the account of the Company) multiplied by a fraction, the numerator of which is the aggregate number of Registrable Securities then held by such Holder, and the denominator of which is the aggregate number of Registrable Securities then held by all Holders requesting that their Registrable Securities be registered or sold.

"**Prospectus**" means (i) the prospectus included in any Registration Statement, all amendments and supplements to such prospectus, including post-effective amendments and supplements, and all other material incorporated by reference in such prospectus, and (ii) any Issuer Free Writing Prospectus.

"**Public Offering**" means the offer and sale of Registrable Securities for cash pursuant to an effective Registration Statement under the Securities Act (other than a Registration Statement on Form S-4 or Form S-8 or any successor form).

"**Registrable Securities**" means, without duplication, (i) all shares of Class A Common Stock that are not then subject to forfeiture to the Company, (ii) all shares of Class A Common Stock issued or issuable upon exercise, conversion or exchange of any option, warrant, units of Black Rock Coffee Holdings, LLC (or any successor thereto) or convertible security not then subject to vesting or forfeiture to the Company and (iii) all shares of Class A Common Stock directly or indirectly issued or then issuable with respect to the securities referred to in clauses (i) or (ii) above by way of unit or stock dividend or unit or stock split, or in connection with a combination of units or shares, recapitalization, merger, consolidation or other reorganization. As to any particular Registrable Securities, such securities shall cease to be Registrable Securities when (v) a Registration Statement with respect to the sale of such securities shall have become effective under the Securities Act and such securities shall have been disposed of in accordance with such Registration Statement, (x) such securities shall have been transferred pursuant to Rule 144, (y) such securities have been transferred in a private transaction in which the transferor's rights under this Agreement are not assigned to the transferee of the securities or (z) such securities shall have ceased to be outstanding.

"**Registrable Security Voting Interests**" means, for each Registrable Security, the greater of the votes per share of (i) such Registrable Security and (ii) the securities convertible into, exercisable for or issuable with respect to such Registrable Security.

"**Registrable Securities Voting Interests**" means, for certain Registrable Securities, the aggregate Registrable Security Voting Interests of such Registrable Securities.

"**Registration**" means registration under the Securities Act of the offer and sale of shares of Class A Common Stock under a Registration Statement. The terms "register", "registered" and "registering" shall have correlative meanings.

"**Registration Expenses**" shall have the meaning set forth in Section 3.8.

"**Registration Statement**" means any registration statement of the Company filed with, or to be filed with, the SEC under the Securities Act, including the related Prospectus, amendments and supplements to such registration statement, including pre- and post-effective amendments, and all exhibits and all material incorporated by reference in such registration statement other than a registration statement (and related Prospectus) filed on Form S-4 or Form S-8 or any successor form thereto.

"**Representatives**" means, with respect to any Person, any of such Person's officers, directors, employees, agents, attorneys, accountants, actuaries, consultants, equity financing partners or financial advisors or other Person associated with, or acting on behalf of, such Person.

"**Requisite Investors**" means any of the Founder Investors or Cynosure Investors holding then-outstanding Registrable Securities.

"**Rule 144**" means Rule 144 under the Securities Act (or any successor rule).

"**SEC**" means the U.S. Securities and Exchange Commission or any successor agency having jurisdiction under the Securities Act.

"**Securities Act**" means the Securities Act of 1933, as amended, and any successor thereto, and any rules and regulations promulgated thereunder, all as the same shall be in effect from time to time.

"**Selling Stockholder Information**" shall have the meaning set forth in Section 3.9(a).

"**Shelf Period**" shall have the meaning set forth in Section 3.2(c).

"**Shelf Registration**" shall have the meaning set forth in Section 3.2(a)(i).

"**Shelf Registration Notice**" shall have the meaning set forth in Section 3.2(b).

"**Shelf Registration Request**" shall have the meaning set forth in Section 3.2(a)(i).

"**Shelf Registration Statement**" shall have the meaning set forth in Section 3.2(a)(i).

"**Shelf Suspension**" shall have the meaning set forth in Section 3.2(c).

"**Shelf Takedown Notice**" shall have the meaning set forth in Section 3.2(e)(ii).

"**Shelf Takedown Request**" shall have the meaning set forth in Section 3.2(e)(i).

"**Underwritten Public Offering**" means an underwritten Public Offering, including any underwritten block trade, bought deal, auction block trade or block sale to a financial institution conducted as an underwritten Public Offering.

"**Underwritten Shelf Takedown**" means an Underwritten Public Offering pursuant to an effective Shelf Registration Statement.

"**WKSI**" means any Securities Act registrant that is a well-known seasoned issuer as defined in Rule 405 under the Securities Act at the most recent eligibility determination date specified in paragraph (2) of that definition.

SECTION 2.2 Other Interpretive Provisions.

(i) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(ii) The words "hereof", "herein", "hereunder" and similar words refer to this Agreement as a whole and not to any particular provision of this Agreement; and any subsection and section references are to this Agreement unless otherwise specified.

(iii) The term "including" is not limiting and means "including without limitation."

(iv) The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.

(v) Whenever the context requires, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms.

ARTICLE III
REGISTRATION RIGHTS

The Company will perform and comply, and cause each of its subsidiaries to perform and comply, with such of the following provisions as are applicable to it. Each Holder will perform and comply with such of the following provisions as are applicable to such Holder.

SECTION 3.1 Demand Registration.

(a) Request for Demand Registration.

(i) Following the consummation of the IPO, each of the Founder Investors (as a group) and the Cynosure Investors (as a group) shall have the right to make up to three (3) written requests from time to time (each a "**Demand Registration Request**") to the Company for Registration of all or part of the Registrable Securities held by such Holder. Any such Registration pursuant to a Demand Registration Request shall hereinafter be referred to as a "**Demand Registration**").

(ii) Each Demand Registration Request shall specify (x) the aggregate amount of Registrable Securities to be registered, and (y) the intended method or methods of disposition thereof.

(iii) Upon receipt of a Demand Registration Request, the Company shall as promptly as practicable file a Registration Statement (a "**Demand Registration Statement**") relating to such Demand Registration, and use its reasonable best efforts to cause such Demand Registration Statement to be promptly declared effective under the Securities Act.

(b) Limitation on Demand Registrations. The Company shall not be obligated to take any action to effect any Demand Registration if (x) during the period that is 30 days before the Company's good faith estimate of the date of filing of, and ending on a date that is 90 days after the effective date of, a Company-initiated Registration, (y) a Demand Registration or Piggyback

Registration was declared effective or an Underwritten Shelf Takedown was consummated within the preceding 90 days, or (z) if the value of the Registrable Securities proposed to be sold by the initiating Holders is not at least the lesser of $50 million and all of such Holder's Registrable Securities; provided, any Demand Registration not effected due to the limitations set forth in this Section 3.1(b) shall not count towards the limitation on the number of Demand Registration Requests set forth in Section 3.1(a)(i).

(c) Demand Notice. Promptly upon receipt of a Demand Registration Request pursuant to Section 3.1(a) (but in no event more than 5 Business Days thereafter), the Company shall deliver a written notice (a "**Demand Notice**") of any such Demand Registration Request to all other Holders and the Demand Notice shall offer each such Holder the opportunity to include in the Demand Registration that number of Registrable Securities as each such Holder may request in writing. Subject to Section 3.1(g), the Company shall include in the Demand Registration all such Registrable Securities with respect to which the Company has received written requests for inclusion therein as soon as practicable, and in any event within 10 Business Days, after the date that the Demand Notice was delivered.

(d) Demand Withdrawal. Each Requisite Investor that has requested the inclusion of Registrable Securities in a Demand Registration pursuant to Section 3.1(c) may withdraw all or any portion of its Registrable Securities included in a Demand Registration from such Demand Registration at any time prior to the effectiveness of the applicable Demand Registration Statement. Upon receipt of a notice to such effect with respect to all of the Registrable Securities included in such Demand Registration by such Requisite Investors, the Company shall cease all efforts to secure effectiveness of the applicable Demand Registration Statement. Any such withdrawn Demand Registration Statement shall count as a Demand Registration with respect to any participating Requisite Investor unless such Requisite Investor reimburses the Company its pro rata portion (based on shares requested to be included in such Registration) of the Registration Expenses incurred prior to the withdrawal.

(e) Effective Registration. The Company shall use reasonable best efforts to cause the Demand Registration Statement to become effective and remain effective for not less than 180 days (or such shorter period as will terminate when all Registrable Securities covered by such Demand Registration Statement have been sold or withdrawn), or, if such Demand Registration Statement relates to an Underwritten Public Offering, such longer period as in the opinion of counsel for the underwriter or underwriters a Prospectus is required by law to be delivered in connection with sales of Registrable Securities by an underwriter or dealer.

(f) Delay in Filing; Suspension of Registration. If the filing, initial effectiveness or continued use of a Demand Registration Statement at any time would require the Company to make an Adverse Disclosure, the Company may, upon giving prompt written notice of such action to the Holders, delay the filing or initial effectiveness of, or suspend use of, the Demand Registration Statement (a "**Demand Suspension**"); provided, however, that the Company shall use reasonable efforts to avoid exercising a Demand Suspension (i) for a period exceeding 60 days on any one occasion or (ii) for an aggregate of more than 120 days during any 365-day period. In the case of a Demand Suspension, the Holders agree to suspend use of the applicable

Prospectus in connection with any sale or purchase, or offer to sell or purchase, Registrable Securities, for the duration of the Demand Suspension upon receipt of the notice referred to above. The Company shall immediately notify the Holders in writing upon the termination of any Demand Suspension, amend or supplement the Prospectus, if necessary, so it does not contain any untrue statement or omission and furnish to the Holders such numbers of copies of the Prospectus as so amended or supplemented as the Holders may reasonably request. The Company shall, if necessary, supplement or amend the Demand Registration Statement, if required by the registration form used by the Company for the Demand Registration or by the instructions applicable to such registration form or by the Securities Act or the rules or regulations promulgated thereunder or as may reasonably be requested by the Holders of a Majority of the Registrable Securities that are included in such Demand Registration Statement.

(g) Priority of Securities Registered Pursuant to Demand Registrations. If the managing underwriter or underwriters of a proposed Underwritten Public Offering of the Registrable Securities included in a Demand Registration, the Founder Investors and the Cynosure Investors determine in good faith, and advise the Company in writing that, in their opinion, the number of securities requested to be included in such Demand Registration exceeds the number that can be sold in such offering without being likely to have an adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, then the securities to be included in such Registration shall be in the case of any Demand Registration (x) first, allocated to each of Founder Investors and Cynosure Investors that has requested to participate in such Demand Registration an amount equal to the lesser of (i) the number of such Registrable Securities requested to be registered or sold by such Founder Investors and Cynosure Investors, and (ii) a number of such shares equal to their respective Pro Rata Portion, and (y) second, and only if all the securities referred to in clause (x) have been included, the number of other securities that, in the opinion of such managing underwriter or underwriters can be sold without having such adverse effect. To the extent that a Holder's number of Registrable Securities requested to be included in the Demand Registration is reduced by at least 20% pursuant to this Section 3.1(g), it shall not constitute a Demand Registration Request for purposes of Section 3.1(a)(i).

(h) Resale Rights. In the event that a Holder requests to participate in a Registration pursuant to this Section 3.1 in connection with a distribution of Registrable Securities to its partners or members or to a charitable organization, the Registration shall provide for resale by such partners or members or organizations, if reasonably requested by such Holder.

SECTION 3.2 Shelf Registration.

(a) Request for Shelf Registration.

(i) At such time as the Company is eligible to file a Registration Statement on Form S-3, upon the written request of any Requisite Investor from time to time (a "**Shelf Registration Request**"), the Company shall promptly as practicable, but in no event later than 45 days of such written request, file with the SEC a shelf Registration Statement pursuant to Rule 415 under the Securities Act ("**Shelf Registration Statement**") relating to the offer and sale of Registrable Securities by any Holders thereof from time to time in accordance with the methods

of distribution elected by such Holders and the Company shall use its reasonable best efforts to cause such Shelf Registration Statement to become effective under the Securities Act as promptly as practicable. Any such Registration pursuant to a Shelf Registration Request shall hereinafter be referred to as a "**Shelf Registration**."

(ii) If on the date of the Shelf Registration Request the Company is a WKSI, then the Shelf Registration Request may request Registration of an unspecified amount of Registrable Securities to be sold by unspecified Holders. If on the date of the Shelf Registration Request the Company is not a WKSI, then the Shelf Registration Request shall specify the aggregate amount of Registrable Securities to be registered with respect to each Holder that elects to include their Registrable Securities thereon. The Company shall provide to the Holders the information necessary to determine the Company's status as a WKSI upon request.

(b) Shelf Registration Notice. Promptly upon receipt of a Shelf Registration Request (but in no event more than 5 Business Days thereafter (or such shorter period as may be reasonably requested in connection with an underwritten "block trade")), the Company shall deliver a written notice (a "**Shelf Registration Notice**") of any such request to all other Holders, which notice shall specify, if applicable, the amount of Registrable Securities to be registered, and the Shelf Registration Notice shall offer each such Holder the opportunity to include in the Shelf Registration that number of Registrable Securities as each such Holder may request in writing. The Company shall include in such Shelf Registration all such Registrable Securities with respect to which the Company has received written requests for inclusion therein within 3 Business Days (or such shorter period as may be reasonably requested in connection with an underwritten "block trade") after the date that the Shelf Registration Notice has been delivered.

(c) Continued Effectiveness. The Company shall use its reasonable best efforts to keep such Shelf Registration Statement continuously effective under the Securities Act in order to permit the Prospectus forming part of the Shelf Registration Statement to be usable by Holders until the earlier of: (i) the date as of which all Registrable Securities have been sold pursuant to the Shelf Registration Statement or another Registration Statement filed under the Securities Act (but in no event prior to the applicable period referred to in Section 4(a)(3) of the Securities Act and Rule 174 thereunder); and (ii) the date as of which no Holder holds Registrable Securities (such period of effectiveness, the "**Shelf Period**"). Subject to Section 3.2(d), the Company shall be deemed not to have used its reasonable best efforts to keep the Shelf Registration Statement effective during the Shelf Period if the Company voluntarily takes any action or omits to take any action that would result in Holders of the Registrable Securities covered thereby not being able to offer and sell any Registrable Securities pursuant to such Shelf Registration Statement during the Shelf Period, unless such action or omission is required by applicable law.

(d) Suspension of Registration. If the continued use of such Shelf Registration Statement at any time would require the Company to make an Adverse Disclosure, the Company may, upon giving prompt written notice of such action to the Holders, suspend use of the Shelf Registration Statement (a "**Shelf Suspension**") provided, however, that the Company shall use reasonable efforts to avoid exercising a Shelf Suspension (i) for a period exceeding 60 days on any one occasion or (ii) for an aggregate of more than 120 days during any 365-day period. In

the case of a Shelf Suspension, the Holders agree to suspend use of the applicable Prospectus in connection with any sale or purchase of, or offer to sell or purchase, Registrable Securities, for the duration of the Shelf Suspension upon receipt of the notice referred to above. The Company shall immediately notify the Holders in writing upon the termination of any Shelf Suspension, amend or supplement the Prospectus, if necessary, so it does not contain any untrue statement or omission and furnish to the Holders such numbers of copies of the Prospectus as so amended or supplemented as the Holders may reasonably request. The Company shall, if necessary, supplement or amend the Shelf Registration Statement, if required by the registration form used by the Company for the Shelf Registration Statement or by the instructions applicable to such registration form or by the Securities Act or the rules or regulations promulgated thereunder or as may reasonably be requested by the Holders of a Majority of the Registrable Securities that are included in such Shelf Registration Statement.

(e) Shelf Takedown.

(i) At any time the Company has an effective Shelf Registration Statement with respect to Registrable Securities, by notice to the Company specifying the intended method or methods of disposition thereof, any Requisite Investor may make a written request (a "**Shelf Takedown Request**") to the Company to effect a Public Offering, including an Underwritten Shelf Takedown, of all or a portion of such Holder's Registrable Securities that are registered on such Shelf Registration Statement, and as soon as practicable the Company shall amend or supplement the Shelf Registration Statement as necessary for such purpose. No Holder, other than a Requisite Investor, may effect a Public Offering pursuant to this Section 3.2, except pursuant to Section 3.2(e)(ii) as a Potential Takedown Participant.

(ii) Promptly upon receipt of a Shelf Takedown Request (but in no event more than 3 Business Days thereafter (or such shorter period as may be reasonably requested in connection with an underwritten "block trade")) for any Underwritten Shelf Takedown, the Company shall deliver a notice (a "**Shelf Takedown Notice**") to each other Holder with Registrable Securities covered by the applicable Registration Statement, or to all other Holders if such Registration Statement is undesignated (each a "**Potential Takedown Participant**"). The Shelf Takedown Notice shall offer each such Potential Takedown Participant the opportunity to include in any Underwritten Shelf Takedown such number of Registrable Securities as each such Potential Takedown Participant may request in writing. The Company shall include in the Underwritten Shelf Takedown all such Registrable Securities with respect to which the Company has received written requests for inclusion therein within 3 Business Days (or such shorter period as may be reasonably requested in connection with an underwritten "block trade") after the date that the Shelf Takedown Notice has been delivered. Any Potential Takedown Participant's request to participate in an Underwritten Shelf Takedown shall be binding on the Potential Takedown Participant; provided that each such Potential Takedown Participant that elects to participate may condition its participation on the Underwritten Shelf Takedown being completed within 10 Business Days of its acceptance at a price per share (after giving effect to any underwriters' discounts or commissions) to such Potential Takedown Participant of not less than ninety percent (90%) (or such lesser percentage specified by such Potential Takedown Participant) of the closing price for the shares on their principal trading market on the Business

Day immediately prior to such Potential Takedown Participant's election to participate (the "**Participation Conditions**"). Notwithstanding the delivery of any Shelf Takedown Notice, but subject to the Participation Conditions (to the extent applicable), all determinations as to whether to complete any Underwritten Shelf Takedown and as to the timing, manner, price and other terms of any Underwritten Shelf Takedown contemplated by this Section 3.2.5 shall be determined by the initiating Requisite Investors.

(iii) The Company shall not be obligated to take any action to effect any Underwritten Shelf Takedown if (x) sales were made pursuant to an underwritten Demand Registration or an underwritten Piggyback Registration or an Underwritten Shelf Takedown was consummated within the preceding 90 days or (y) the value of the Registrable Securities proposed to be sold by the initiating Holders is not at least the lesser of $50 million and all of such Holder's Registrable Securities.

(f) Priority of Securities Sold Pursuant to Shelf Takedowns. If the managing underwriter or underwriters of a proposed Underwritten Shelf Takedown pursuant to Section 3.2(e), the Founder Investors and the Cynosure Investors, determine in good faith, and advise the Company in writing that, in their opinion, the number of securities requested to be included in the proposed Underwritten Shelf Takedown exceeds the number that can be sold in such Underwritten Shelf Takedown without being likely to have an adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, the number of Registrable Securities to be included in such offering shall be (x) first, allocated to each of the Founder Investors and the Cynosure Investors that has requested to participate in such Underwritten Shelf Takedown an amount equal to the lesser of (i) the number of such Registrable Securities requested to be registered or sold by such Founder Investors and the Cynosure Investors, and (ii) a number of such shares equal to their respective Pro Rata Portion, and (y) second, and only if all the securities referred to in clause (x) have been included, the number of other securities that, in the opinion of such managing underwriter or underwriters can be sold without having such adverse effect.

(g) Resale Rights. In the event that an Investor elects to request a Registration pursuant to this Section 3.2 in connection with a distribution of Registrable Securities to its partners or members or to a charitable organization, the Registration shall provide for resale by such partners or members or organizations, if reasonably requested by such Holder.

SECTION 3.3 Piggyback Registration.

(a) Participation. If the Company at any time proposes to file a Registration Statement under the Securities Act or to conduct a Public Offering with respect to any offering of its equity securities for its own account or for the account of any other Persons (other than (i) a Registration under Sections 3.1 or 3.2, (ii) a Registration on Form S-4 or Form S-8 or any successor form to such forms, or (iii) a Registration of securities solely relating to an offering and sale to employees or directors of the Company or its subsidiaries pursuant to any employee stock plan, employee stock purchase plan, dividend reinvestment program or other employee benefit plan arrangement), then, as soon as practicable (but in no event less than 10 Business Days prior to (i) the proposed date of filing of such Registration Statement or, (ii) in the case of a

Public Offering under a Shelf Registration Statement, the anticipated pricing or trade date), the Company shall give written notice (a "**Piggyback Notice**") of such proposed filing or Public Offering to all Holders, and such Piggyback Notice shall offer the Holders the opportunity to register under such Registration Statement, or to sell in such Public Offering, such number of Registrable Securities as each such Holder may request in writing (a "**Piggyback Registration**"). Subject to Section 3.3(b), the Company shall include in such Registration Statement or in such Public Offering as applicable, all such Registrable Securities that are requested to be included therein within 5 Business Days after the receipt by such Holder of any such notice; provided, however, that if at any time after giving written notice of its intention to register or sell any securities and prior to the effective date of the Registration Statement filed in connection with such Registration, or the pricing or trade date of a Public Offering under a Shelf Registration Statement, the Company determines for any reason not to register or sell or to delay Registration or the sale of such securities, the Company shall give written notice of such determination to each Holder and, thereupon, (i) in the case of a determination not to register or sell, shall be relieved of its obligation to register or sell any Registrable Securities in connection with such Registration or Public Offering (but not from its obligation to pay the Registration Expenses in connection therewith), without prejudice, however, to the rights of any Holders entitled to request that such Registration or sale be effected as a Demand Registration under Section 3.1 or an Underwritten Shelf Takedown under Section 3.2, as the case may be, and (ii) in the case of a determination to delay Registration or sale, in the absence of a request for a Demand Registration or an Underwritten Shelf Takedown, as the case may be, shall also be permitted to delay registering or selling any Registrable Securities. Any Holder shall have the right to withdraw all or part of its request for inclusion of its Registrable Securities in a Piggyback Registration by giving written notice to the Company of its request to withdraw.

(b) Priority of Piggyback Registration. If the Founder Investors, the Cynosure Investors and if the proposed filing or Public Offering is underwritten, the managing underwriter or underwriters of such proposed filing or Public Offering, determine in good faith, and advise the Company in writing that, in their opinion, the number of securities requested to be included in the proposed Piggyback Registration exceeds the number that can be sold in such Piggyback Registration without being likely to have an adverse effect on the price, timing or distribution of the securities offered or the market for the securities offered, the number of Registrable Securities to be included in such offering shall be (x) first, allocated to each of the Founder Investors and the Cynosure Investors that has requested to participate in such Piggyback Registration an amount equal to the lesser of (i) the number of such Registrable Securities requested to be registered or sold by such Founder Investors and the Cynosure Investors, and (ii) a number of such shares equal to their respective Pro Rata Portion, and (y) second, and only if all the securities referred to in clause (x) have been included, the number of other securities that, in the opinion of such managing underwriter or underwriters can be sold without having such adverse effect.

(c) No Effect on Other Registrations. No Registration of Registrable Securities effected pursuant to a request under this Section 3.3 shall be deemed to have been effected pursuant to Sections 3.1 and 3.2 or shall relieve the Company of its obligations under Sections 3.1 and 3.2.

SECTION 3.4 Lock-Up Agreements. In connection with each Registration or sale of Registrable Securities pursuant to Section 3.1, 3.2 or 3.3 conducted as an Underwritten Public Offering, each Holder agrees, if requested, to become bound by and to execute and deliver a lock-up agreement with the underwriter(s) of such Public Offering restricting such Holder's right to (a) transfer, directly or indirectly, any equity securities of the Company held by such Holder or (b) enter into any swap or other arrangement that transfers to another any of the economic consequences of ownership of such securities during the period commencing on the date of the final Prospectus relating to such Public Offering and ending on the date specified by the underwriters (such period not to exceed 60 days plus such additional period as may be requested by the Company or an underwriter due to regulatory restrictions on the publication or other distribution of research reports and analyst recommendations and opinions, if applicable). The terms of such lock-up agreements shall be negotiated among the Requisite Investors, the Company and the underwriters and shall include customary carve-outs from the restrictions on transfer set forth therein.

SECTION 3.5 Registration Procedures.

(a) Requirements. In connection with the Company's obligations under Sections 3.1, 3.2 and 3.3, the Company shall use its reasonable best efforts to effect such Registration and to permit the sale of such Registrable Securities in accordance with the intended method or methods of distribution thereof as expeditiously as reasonably practicable, and in connection therewith the Company shall:

(i) as promptly as practicable, prepare the required Registration Statement, including all exhibits and financial statements required under the Securities Act to be filed therewith and Prospectus, and, before filing a Registration Statement or Prospectus or any amendments or supplements thereto, (x) furnish to the underwriters, if any, and to the Holders of the Registrable Securities covered by such Registration Statement, copies of all documents prepared to be filed, which documents shall be subject to the review of such underwriters and such Holders and their respective counsel, (y) make such changes in such documents concerning the Holders prior to the filing thereof as such Holders, or their counsel, may reasonably request and (z) except in the case of a Registration under Section 3.3, not file any Registration Statement or Prospectus or amendments or supplements thereto to which the participating Holders, in such capacity, or the underwriters, if any, shall reasonably object;

(ii) prepare and file with the SEC such amendments and post-effective amendments to such Registration Statement and supplements to the Prospectus as may be (x) reasonably requested by any participating Holder with Registrable Securities covered by such Registration Statement, (y) reasonably requested by any participating Holder (to the extent such request relates to information relating to such Holder), or (z) necessary to keep such Registration Statement effective for the period of time required by this Agreement, and comply with provisions of the applicable securities laws with respect to the sale or other disposition of all securities covered by such Registration Statement during such period in accordance with the intended method or methods of disposition by the sellers thereof set forth in such Registration Statement;

(iii) notify the participating Holders and the managing underwriter or underwriters, if any, and (if requested) confirm such notice in writing and provide copies of the relevant documents, as soon as reasonably practicable after notice thereof is received by the Company (A) when the applicable Registration Statement or any amendment thereto has been filed or becomes effective, and when the applicable Prospectus or any amendment or supplement thereto has been filed, (B) of any written comments by the SEC, or any request by the SEC or other federal or state governmental authority for amendments or supplements to such Registration Statement or such Prospectus, or for additional information (whether before or after the effective date of the Registration Statement) or any other correspondence with the SEC relating to, or which may affect, the Registration, (C) of the issuance by the SEC of any stop order suspending the effectiveness of such Registration Statement or any order by the SEC or any other regulatory authority preventing or suspending the use of any preliminary or final Prospectus or the initiation or threatening of any proceedings for such purposes, (D) if, at any time, the representations and warranties of the Company in any applicable underwriting agreement cease to be true and correct in all material respects and (E) of the receipt by the Company of any notification with respect to the suspension of the qualification of the Registrable Securities for offering or sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose;

(iv) promptly notify each selling Holder and the managing underwriter or underwriters, if any, when the Company becomes aware of the happening of any event as a result of which the applicable Registration Statement or the Prospectus included in such Registration Statement (as then in effect) contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements therein (in the case of such Prospectus or any preliminary Prospectus, in light of the circumstances under which they were made) not misleading, when any Issuer Free Writing Prospectus includes information that may conflict with the information contained in the Registration Statement, or, if for any other reason it shall be necessary during such time period to amend or supplement such Registration Statement or Prospectus in order to comply with the Securities Act and, as promptly as reasonably practicable thereafter, prepare and file with the SEC, and furnish without charge to the selling Holders and the managing underwriter or underwriters, if any, an amendment or supplement to such Registration Statement or Prospectus, which shall correct such misstatement or omission or effect such compliance;

(v) to the extent the Company is eligible under the relevant provisions of Rule 430B under the Securities Act, if the Company files any Shelf Registration Statement, the Company shall include in such Shelf Registration Statement such disclosures as may be required by Rule 430B under the Securities Act (referring to the unnamed selling security holders in a generic manner by identifying the initial offering of the securities to the Holders) in order to ensure that the Holders may be added to such Shelf Registration Statement at a later time through the filing of a Prospectus supplement rather than a post-effective amendment;

(vi) to prevent, or obtain the withdrawal of, any stop order or other order or notice preventing or suspending the use of any preliminary or final Prospectus;

(vii) promptly incorporate in a Prospectus supplement, Issuer Free Writing Prospectus or post-effective amendment such information as the managing underwriter or underwriters and the participating Requisite Investors agree should be included therein relating to the plan of distribution with respect to such Registrable Securities; and make all required filings of such Prospectus supplement, Issuer Free Writing Prospectus or post-effective amendment as soon as reasonably practicable after being notified of the matters to be incorporated in such Prospectus supplement, Issuer Free Writing Prospectus or post-effective amendment;

(viii) furnish to each selling Holder and each underwriter, if any, without charge, as many conformed electronic copies as such Holder or underwriter may reasonably request of the applicable Registration Statement and any amendment or post-effective amendment or supplement thereto, including financial statements and schedules, all documents incorporated therein by reference and all exhibits (including those incorporated by reference);

(ix) deliver to each selling Holder and each underwriter, if any, without charge, as many electronic copies of the applicable Prospectus (including each preliminary Prospectus) and any amendment or supplement thereto and such other documents as such Holder or underwriter may reasonably request in order to facilitate the disposition of the Registrable Securities by such Holder or underwriter (it being understood that the Company shall consent to the use of such Prospectus or any amendment or supplement thereto by each of the selling Holders and the underwriters, if any, in connection with the offering and sale of the Registrable Securities covered by such Prospectus or any amendment or supplement thereto);

(x) on or prior to the date on which the applicable Registration Statement becomes effective, use its reasonable best efforts to register or qualify, and cooperate with the selling Holders, the managing underwriter or underwriters, if any, and their respective counsel, in connection with the Registration or qualification of such Registrable Securities for offer and sale under the securities or "**Blue Sky**" laws of each state and other jurisdiction as any such selling Holder or managing underwriter or underwriters, if any, or their respective counsel reasonably request in writing and do any and all other acts or things reasonably necessary or advisable to keep such Registration or qualification in effect for such period as required by Section 3.1 or Section 3.2, as applicable, provided that the Company shall not be required to qualify generally to do business in any jurisdiction where it is not then so qualified or to take any action which would subject it to taxation or general service of process in any such jurisdiction where it is not then so subject;

(xi) cooperate with the selling Holders and the managing underwriter or underwriters, if any, to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any restrictive legends; and enable such Registrable Securities to be in such denominations and registered in such names as the managing underwriters may request prior to any sale of Registrable Securities to the underwriters;

(xii) cause the Registrable Securities covered by the applicable Registration Statement to be registered with or approved by such other governmental agencies or authorities

as may be necessary to enable the seller or sellers thereof or the underwriter or underwriters, if any, to consummate the disposition of such Registrable Securities;

(xiii) make such representations and warranties to the Holders of Registrable Securities being registered, and the underwriters or agents, if any, in form, substance and scope as are customarily made by issuers in public offerings similar to the offering then being undertaken;

(xiv) enter into such customary agreements (including underwriting and indemnification agreements) and take all such other actions as the participating Requisite Investors or the managing underwriter or underwriters, if any, reasonably request in order to expedite or facilitate the Registration and disposition of such Registrable Securities;

(xv) obtain for delivery to the Holders of Registrable Securities being registered and to the underwriter or underwriters, if any, an opinion or opinions from counsel for the Company dated the most recent effective date of the Registration Statement or, in the event of an Underwritten Public Offering, the date of the closing under the underwriting agreement, in customary form, scope and substance, which opinions shall be reasonably satisfactory to such Holders or underwriters, as the case may be, and their respective counsel;

(xvi) in the case of an Underwritten Public Offering, obtain for delivery to the Company and the managing underwriter or underwriters, with electronic copies to the Holders of Registrable Securities included in such Registration or sale, a comfort letter from the Company's independent certified public accountants or independent auditors (and, if necessary, any other independent certified public accountants or independent auditors of any subsidiary of the Company or any business acquired by the Company for which financial statements and financial data are, or are required to be, included in the Registration Statement) in customary form and covering such matters of the type customarily covered by comfort letters as the managing underwriter or underwriters reasonably request, dated the date of execution of the underwriting agreement and brought down to the closing under the underwriting agreement;

(xvii) cooperate with each seller of Registrable Securities and each underwriter, if any, participating in the disposition of such Registrable Securities and their respective counsel in connection with any filings required to be made with FINRA;

(xviii) comply with all applicable securities laws and, if a Registration Statement was filed, make available to its security holders, as soon as reasonably practicable, an earnings statement satisfying the provisions of Section 11(a) of the Securities Act and the rules and regulations promulgated thereunder;

(xix) provide and cause to be maintained a transfer agent and registrar for all Registrable Securities covered by the applicable Registration Statement;

(xx) cause all Registrable Securities covered by the applicable Registration Statement to be listed on each securities exchange on which any of the Company's equity

securities are then listed or quoted and on each inter-dealer quotation system on which any of the Company's equity securities are then quoted.

(xxi) make available upon reasonable notice at reasonable times and for reasonable periods for inspection by a representative appointed by the participating Holders, by any underwriter participating in any disposition to be effected pursuant to such Registration Statement and by any attorney, accountant or other agent retained by such Holders or any such underwriter, all pertinent financial and other records and pertinent corporate documents and properties of the Company, and cause all of the Company's officers, directors and employees and the independent public accountants who have certified its financial statements to make themselves available to discuss the business of the Company and to supply all information reasonably requested by any such Person in connection with such Registration Statement;

(xxii) in the case of an Underwritten Public Offering, cause the senior executive officers of the Company to be available in advance of any such Underwritten Public Offering for due diligence and other purposes, including participation in the customary "road show" presentations that may be reasonably requested by the managing underwriter or underwriters in any such offering and otherwise to facilitate, cooperate with, and participate in each proposed offering contemplated herein and customary selling efforts related thereto;

(xxiii) take no direct or indirect action prohibited by Regulation M under the Exchange Act;

(xxiv) take all reasonable action to ensure that any Issuer Free Writing Prospectus utilized in connection with any Registration complies in all material respects with the Securities Act, is filed in accordance with the Securities Act to the extent required thereby, is retained in accordance with the Securities Act to the extent required thereby and, when taken together with the related Prospectus, will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading; and

(xxv) take all such other commercially reasonable actions as are necessary or advisable in order to expedite or facilitate the disposition of such Registrable Securities in accordance with the terms of this Agreement.

(b) Company Information Requests. The Company may require, pursuant to a written request made at least 3 Business Days prior to the filing of the applicable Registration Statement or Prospectus (or such shorter period as may be reasonably requested in connection with an underwritten "block trade"), each seller of Registrable Securities as to which any Registration or sale is being effected to furnish to the Company such information regarding the distribution of such securities and such other information relating to such Holder and its ownership of Registrable Securities as the Company may from time to time reasonably request in writing and the Company may exclude from such Registration or sale the Registrable Securities of any such Holder who unreasonably fails to furnish such information within a reasonable time after receiving such request. Each Holder agrees to furnish such information to the Company and to

cooperate with the Company as reasonably necessary to enable the Company to comply with the provisions of this Agreement.

(c) Discontinuing Registration. Each Holder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3.5(a)(iv), such Holder will discontinue disposition of Registrable Securities pursuant to such Registration Statement until such Holder's receipt of the copies of the supplemented or amended Prospectus contemplated by Section 3.5(a)(iv), or until such Holder is advised in writing by the Company that the use of the Prospectus may be resumed, and has received copies of any additional or supplemental filings that are incorporated by reference in the Prospectus, or any amendments or supplements thereto, and if so directed by the Company, such Holder shall deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such Holder's possession, of the Prospectus covering such Registrable Securities current at the time of receipt of such notice. In the event the Company shall give any such notice, the period during which the applicable Registration Statement is required to be maintained effective shall be extended by the number of days during the period from and including the date of the giving of such notice to and including the date when each seller of Registrable Securities covered by such Registration Statement either receives the copies of the supplemented or amended Prospectus contemplated by Section 3.5(a)(iv) or is advised in writing by the Company that the use of the Prospectus may be resumed. The Company will use reasonable efforts to avoid taking advantage of this provision (i) for a period exceeding 60 days on any one occasion or (ii) for an aggregate of more than 120 days during any 365-day period, after which the Company shall make any such filings or disclosures as are required to eliminate the existence of the Adverse Disclosure.

SECTION 3.6 Underwritten Offerings.

(a) Shelf and Demand Registrations. If requested by the underwriters for any Underwritten Public Offering, pursuant to a Registration or sale under Sections 3.1 or 3.2, the Company shall enter into an underwriting agreement with such underwriters, such agreement to be reasonably satisfactory in substance and form to each of the Company, the participating Requisite Investors and the underwriters, and to contain such representations and warranties by the Company and such other terms as are generally prevailing in agreements of that type, including indemnities no less favorable to the recipient thereof than those provided in Section 3.9. The Holders of the Registrable Securities proposed to be distributed by such underwriters shall cooperate with the Company in the negotiation of the underwriting agreement and shall give consideration to the reasonable suggestions of the Company regarding the form thereof, and such Holders shall complete and execute all questionnaires, powers of attorney and other documents reasonably requested by the underwriters and required under the terms of such underwriting arrangements. Any such Holder shall not be required to make any representations or warranties to or agreements with the Company or the underwriters other than representations, warranties or agreements regarding such Holder, such Holder's title to the Registrable Securities, such Holder's intended method of distribution and any other representations to be made by the Holder as are generally prevailing in agreements of that type, and the aggregate amount of the liability of such Holder under such agreement shall not exceed such Holder's proceeds from the

sale of its Registrable Securities in the offering, net of underwriting discounts and commissions but before expenses.

(b) Piggyback Registrations. If the Company proposes to register or sell any of its securities under the Securities Act as contemplated by Section 3.3 and such securities are to be distributed through one or more underwriters, the Company shall, if requested by any Holder pursuant to Section 3.3 and, subject to the provisions of Section 3.3(b), use its reasonable best efforts to arrange for such underwriters to include on the same terms and conditions that apply to the other sellers in such Registration or sale all the Registrable Securities to be offered and sold by such Holder among the securities of the Company to be distributed by such underwriters in such Registration or sale. The Holders of Registrable Securities to be distributed by such underwriters shall be parties to the underwriting agreement between the Company and such underwriters and shall complete and execute all questionnaires, powers of attorney and other documents reasonably requested by the underwriters and required under the terms of such underwriting arrangements. Any such Holder shall not be required to make any representations or warranties to or agreements with the Company or the underwriters other than representations, warranties or agreements regarding such Holder, such Holder's title to the Registrable Securities, such Holder's intended method of distribution and any other representations to be made by the Holder as are generally prevailing in agreements of that type, and the aggregate amount of the liability of such Holder shall not exceed such Holder's proceeds from the sale of its Registrable Securities in the offering, net of underwriting discounts and commissions but before expenses.

(c) Selection of Underwriters; Selection of Counsel. In the case of an Underwritten Public Offering under Sections 3.1, 3.2 or Section 3.3, except for underwritten "block trades", the managing underwriter or underwriters to administer the offering shall be determined by the Company; provided that such underwriter or underwriters shall be reasonably acceptable to the Holders of a Majority of the Registrable Securities being sold. In the case of an underwritten "block trade", the managing underwriter or underwriters to administer the offering shall be determined by the Holders of a Majority of the Registrable Securities being sold. In the case of an Underwritten Public Offering under Sections 3.1, 3.2 or 3.3, legal counsel for the Holders shall be selected by participating Holders holding a Majority of the Registrable Securities proposed to be included in the Public Offering.

SECTION 3.7 No Inconsistent Agreements; Additional Rights. Neither the Company nor any of its subsidiaries shall hereafter enter into, and neither the Company nor any of its subsidiaries is currently a party to, any agreement with respect to its securities that is inconsistent with the rights granted to the Holders by this Agreement. Neither the Company nor any of its subsidiaries shall enter into any agreement granting registration or similar rights to any Person, and the Company hereby represents and warrants that, as of the date hereof, no registration or similar rights have been granted to any other Person other than pursuant to this Agreement.

SECTION 3.8 Registration Expenses. All expenses incident to the Company's performance of or compliance with this Agreement shall be paid by the Company, including (a) all registration and filing fees, and any other fees and expenses associated with filings required to be made with the SEC or FINRA, (b) all fees and expenses in connection with compliance with

any securities or "**Blue Sky**" laws (including reasonable fees and disbursements of counsel for the underwriters in connection with blue sky qualifications of the Registrable Securities), (c) all printing, duplicating, word processing, messenger, telephone and delivery expenses, (d) all fees and disbursements of counsel for the Company and of all independent certified public accountants or independent auditors of the Company and any subsidiaries of the Company (including the expenses of any special audit and comfort letters required by or incident to such performance), (e) Securities Act liability insurance or similar insurance if the Company so desires or the underwriters so require in accordance with then-customary underwriting practice, (f) all fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange or quotation of the Registrable Securities on any inter-dealer quotation system, (g) all fees and expenses of any special experts or other Persons retained by the Company in connection with any Registration or sale, (h) all of the Company's internal expenses (including all salaries and expenses of its officers and employees performing legal or accounting duties) and (i) all expenses related to the "road show" for any Underwritten Public Offering (including the reasonable out-of-pocket expenses of the Holders and underwriters, if so requested). All such expenses are referred to herein as "**Registration Expenses**". The Company shall not be required to pay (i) the legal fees of the Founder Investors or the Cynosure Investors or (ii) any fees and disbursements to underwriters not customarily paid by the issuers of securities in an offering similar to the applicable offering, including underwriting discounts and commissions and transfer taxes, if any, attributable to the sale of Registrable Securities not sold by the Company.

SECTION 3.9 Indemnification.

(a) Indemnification by the Company. If any Registrable Securities are included in a Registration Statement pursuant to this Agreement, the Company shall indemnify and hold harmless, to the full extent permitted by law, each Holder, each shareholder, member, limited or general partner of such Holder, each shareholder, member, limited or general partner of each such shareholder, member, limited or general partner, each of their respective Affiliates, officers, directors, shareholders, employees, advisors, and agents and each Person who controls (within the meaning of the Securities Act or the Exchange Act) such Persons and each of their respective Representatives from and against any losses, damage, claim or liability (joint or several) to which a party hereto may become subject under the Securities Act, the Exchange Act, or other federal or state law, insofar as such loss, damage, claim or liability (or any action in respect thereof) (each, a "**Loss**" and collectively "**Losses**") arising out of or based upon (i) any untrue or alleged untrue statement of a material fact contained in any Registration Statement under which such Registrable Securities are registered or sold under the Securities Act (including any final, preliminary or summary Prospectus contained therein or any amendment thereof or supplement thereto or any documents incorporated by reference therein) or any other disclosure document produced by or on behalf of the Company or any of its subsidiaries including any report and other document filed under the Exchange Act, (ii) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of a Prospectus or preliminary Prospectus, in light of the circumstances under which they were made) not misleading or (iii) any violation or alleged violation by the Company or any of its subsidiaries of any federal, state, foreign or common law rule or regulation applicable to

the Company or any of its subsidiaries and relating to action or inaction in connection with any such registration, disclosure document or other document or report; provided, that no selling Holder shall be entitled to indemnification pursuant to this Section 3.9(a) in respect of any untrue statement or omission contained in any information relating to such selling Holder furnished in writing by such selling Holder to the Company specifically for inclusion in a Registration Statement and used by the Company in conformity therewith (such information, "**Selling Stockholder Information**"), nor shall the Company be liable for amounts paid in settlement of any such claim or proceeding if such settlement is effected without the written consent of the Company, which consent shall not be unreasonably withheld. This indemnity shall be in addition to any liability the Company may otherwise have. Such indemnity shall remain in full force and effect regardless of any investigation made by or on behalf of such Holder or any indemnified party and shall survive the transfer of such Registrable Securities by such Holder and regardless of any indemnity agreed to in the underwriting agreement that is less favorable to the Holders.

(b) Indemnification by the Selling Holders. To the extent permitted by law, each selling Holder agrees (severally and not jointly) to indemnify and hold harmless, to the fullest extent permitted by law, the Company, its directors and officers and each Person who controls the Company (within the meaning of the Securities Act or the Exchange Act) from and against any Losses resulting from (i) any untrue statement of a material fact in any Registration Statement under which such Registrable Securities were registered or sold under the Securities Act (including any final, preliminary or summary Prospectus contained therein or any amendment thereof or supplement thereto or any documents incorporated by reference therein) or (ii) any omission to state therein a material fact required to be stated therein or necessary to make the statements therein (in the case of a Prospectus or preliminary Prospectus, in light of the circumstances under which they were made) not misleading, in each case to the extent, but only to the extent, that such untrue statement or omission is contained in such selling Holder's Selling Stockholder Information. In no event shall the liability of any selling Holder hereunder be greater in amount than the dollar amount of the proceeds from the sale of its Registrable Securities in the offering giving rise to such indemnification obligation, net of underwriting discounts and commissions but before expenses, less any amounts paid by such Holder pursuant to Section 3.9(d) and any amounts paid by such Holder as a result of liabilities incurred under the underwriting agreement, if any, related to such sale.

(c) Conduct of Indemnification Proceedings. Any Person entitled to indemnification hereunder shall (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification (provided that any delay or failure to so notify the indemnifying party shall relieve the indemnifying party of its obligations hereunder only to the extent, if at all, that it is actually and materially prejudiced by reason of such delay or failure) and (ii) permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party; provided, however, that any Person entitled to indemnification hereunder shall have the right to select and employ separate counsel and to participate in the defense of such claim, but the fees and expenses of such counsel shall be at the expense of such Person unless (i) the indemnifying party has agreed in writing to pay such fees or expenses, (ii) the indemnifying party shall have failed to assume the defense of such claim within a reasonable time after receipt of notice of such claim from the Person entitled to

indemnification hereunder and employ counsel reasonably satisfactory to such Person, (iii) the indemnified party has reasonably concluded (based upon advice of its counsel) that there may be legal defenses available to it or other indemnified parties that are different from or in addition to those available to the indemnifying party or (iii) in the reasonable judgment of any such Person (based upon advice of its counsel) a conflict of interest may exist between such Person and the indemnifying party with respect to such claims (in which case, if the Person notifies the indemnifying party in writing that such Person elects to employ separate counsel at the expense of the indemnifying party, the indemnifying party shall not have the right to assume the defense of such claim on behalf of such Person). If the indemnifying party assumes the defense, the indemnifying party shall not have the right to settle such action without the prior written consent of the indemnified party. No indemnifying party shall consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such indemnified party of an unconditional release from all liability in respect to such claim or litigation without the prior written consent of such indemnified party. If such defense is not assumed by the indemnifying party, the indemnifying party will not be subject to any liability for any settlement made without its prior written consent, but such consent may not be unreasonably withheld. It is understood that the indemnifying party or parties shall not, except as specifically set forth in this Section 3.9(c), in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees, disbursements or other charges of more than one separate firm admitted to practice in such jurisdiction at any one time unless (x) the employment of more than one counsel has been authorized in writing by the indemnifying party or parties, (y) an indemnified party has reasonably concluded (based on the advice of counsel) that there may be legal defenses available to it that are different from or in addition to those available to the other indemnified parties or (z) a conflict or potential conflict exists or may exist (based upon advice of counsel to an indemnified party) between such indemnified party and the other indemnified parties, in each of which cases the indemnifying party shall be obligated to pay the reasonable fees and expenses of such additional counsel or counsels.

(d) Contribution. If for any reason the indemnification provided for in Section 3.9(a) and Section 3.9(b) is unavailable to an indemnified party or insufficient in respect of any Losses referred to therein (other than as a result of exceptions or limitations on indemnification contained in Section 3.9(a) and Section 3.9(b)), then the indemnifying party shall contribute to the amount paid or payable by the indemnified party as a result of such Loss in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and the indemnified party or parties on the other hand in connection with the acts, statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. In connection with any Registration Statement filed with the SEC by the Company, the relative fault of the indemnifying party on the one hand and the indemnified party on the other hand shall be determined by reference to, among other things, whether any untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. The parties hereto agree that it would not be just or equitable if contribution pursuant to this Section 3.9(d) were determined by pro rata allocation or by any

other method of allocation that does not take account of the equitable considerations referred to in this Section 3.9(d). No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. The amount paid or payable by an indemnified party as a result of the Losses referred to in Sections 3.9(a) and 3.9(b) shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 3.9(d), in connection with any Registration Statement filed by the Company, a selling Holder shall not be required to contribute any amount in excess of the dollar amount of the proceeds from the sale of its Registrable Securities in the offering giving rise to such contribution obligation, net of underwriting discounts and commissions but before expenses, less any amounts paid by such Holder pursuant to Section 3.9(b) and any amounts paid by such Holder as a result of liabilities incurred under the underwriting agreement, if any, related to such sale. If indemnification is available under this Section 3.9, the indemnifying parties shall indemnify each indemnified party to the full extent provided in Sections 3.9(a) and 3.9(b) hereof without regard to the provisions of this Section 3.9(d). The remedies provided for in this Section 3.9 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

SECTION 3.10 Rules 144 and 144A and Regulation S. The Company shall file the reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder (or, if the Company is not required to file such reports, it will, upon the request of any Holder, make publicly available such necessary information for so long as necessary to permit sales that would otherwise be permitted by this Agreement pursuant to Rule 144, Rule 144A or Regulation S under the Securities Act, as such rules may be amended from time to time or any similar rule or regulation hereafter adopted by the SEC), and it will take such further action as any Holder may reasonably request, all to the extent required from time to time to enable such Holder to sell Registrable Securities without Registration under the Securities Act in transactions that would otherwise be permitted by this Agreement and within the limitation of the exemptions provided by (i) Rule 144, Rule 144A or Regulation S under the Securities Act, as such rules may be amended from time to time, or (ii) any similar rule or regulation hereafter adopted by the SEC. Upon the request of any Holder, the Company will deliver to such Holder a written statement as to whether it has complied with such requirements and, if not, the specifics thereof.

SECTION 3.11 Existing Registration Statements. Notwithstanding anything herein to the contrary and subject to applicable law and regulation, the Company may satisfy any obligation hereunder to file a Registration Statement or to have a Registration Statement become effective by a specified date by designating, by notice to the Holders, a Registration Statement that previously has been filed with the SEC or become effective, as the case may be, as the relevant Registration Statement for purposes of satisfying such obligation, and all references to any such obligation shall be construed accordingly; provided that such previously filed Registration Statement may be, and is, amended or, subject to applicable securities laws, supplemented to add the number of Registrable Securities, and, to the extent necessary, to identify as selling

stockholders those Holders demanding the filing of a Registration Statement pursuant to the terms of this Agreement. To the extent this Agreement refers to the filing or effectiveness of other Registration Statements, by or at a specified time and the Company has, in lieu of then filing such Registration Statements or having such Registration Statements become effective, designated a previously filed or effective Registration Statement as the relevant Registration Statement for such purposes, in accordance with the preceding sentence, such references shall be construed to refer to such designated Registration Statement, as amended or supplemented in the manner contemplated by the immediately preceding sentence.

ARTICLE IV
MISCELLANEOUS

SECTION 4.1 Authority: Effect. Each party hereto represents and warrants to and agrees with each other party that the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized on behalf of such party and do not violate any agreement or other instrument applicable to such party or by which its assets are bound. This Agreement does not, and shall not be construed to, give rise to the creation of a partnership among any of the parties hereto, or to constitute any of such parties' members of a joint venture or other association. The Company and its subsidiaries shall be jointly and severally liable for all obligations of each such party pursuant to this Agreement.

SECTION 4.2 Notices. Any notices, requests, demands and other communications required or permitted in this Agreement shall be effective if in writing and (i) delivered personally, (ii) sent by facsimile or e-mail, or (iii) sent by overnight courier, in each case, addressed as follows:

If to the Company to:

Black Rock Coffee Bar, Inc.
9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260
Email:
Attn: Sam Seiberling, Chief Legal Officer

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
1271 Avenue of the Americas
New York, New York 10020
Email:
Attn: Ian D. Schuman

If to a Cynosure Investor to:

The Cynosure Group, LLC
111 Main Street, Suite 2350
Salt Lake City, Utah 8411
Email:
Attention: Andrew Braithwaite

with a copy to:

Bradley Arant Boult Cummings LLP
One Federal Place
1819 5th Avenue N
Birmingham, Alabama 35203
Email:
Attn: Frederic L. Smith

If to a Founder Investor to:

Black Rock Coffee Bar, Inc.
9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260
Email:
Attn: Sam Seiberling, Chief Legal Officer

with a copy to:

Jones Day
1755 Embarcadero Road
Palo Alto, CA 94303
Email:
Attn: Jeremy Cleveland

If to an Investor (other than a Founder Investor or Cynosure Investor) to:

Black Rock Coffee Bar, Inc.
9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260
Email:
Attn: Sam Seiberling, Chief Legal Officer

Notice to the holder of record of any Registrable Securities shall be deemed to be notice to the holder of such securities for all purposes hereof.

Unless otherwise specified herein, such notices or other communications shall be deemed effective (i) on the date received, if personally delivered, (ii) on the date received if delivered by facsimile or e-mail on a Business Day, or if not delivered on a Business Day, on the first

Business Day thereafter and (iii) 3 Business Days after being sent by overnight courier. Each of the parties hereto shall be entitled to specify a different address by giving notice as aforesaid to each of the other parties hereto.

SECTION 4.3 Termination and Effect of Termination. This Agreement shall terminate upon the date on which no Holder holds any Registrable Securities, except for the provisions of Sections 3.9 and 3.10, which shall survive any such termination. No termination under this Agreement shall relieve any Person of liability for breach or Registration Expenses incurred prior to termination. In the event this Agreement is terminated, each Person entitled to indemnification rights pursuant to Section 3.9 hereof shall retain such indemnification rights with respect to any matter that (i) may be an indemnified liability thereunder and (ii) occurred prior to such termination.

SECTION 4.4 Permitted Transferees. The rights of a Holder hereunder may be assigned (but only with all related obligations as set forth below) in connection with a transfer to a Permitted Transferee of Registrable Securities. Without prejudice to any other or similar conditions imposed hereunder with respect to any such transfer, no assignment permitted under the terms of this Section 4.4 will be effective unless the Permitted Transferee to which the assignment is being made, if not a Holder, has delivered to the Company a written acknowledgment and agreement in form and substance reasonably satisfactory to the Company that the Permitted Transferee will be bound by, and will be a party to, this Agreement. A Permitted Transferee to whom rights are transferred pursuant to this Section 4.4 may again transfer those rights to any other Permitted Transferee, as provided in this Section 4.4.

SECTION 4.5 Remedies. The parties to this Agreement shall have all remedies available at law, in equity or otherwise in the event of any breach or violation of this Agreement or any default hereunder. The parties acknowledge and agree that in the event of any breach of this Agreement, in addition to any other remedies that may be available, each of the parties hereto shall be entitled to specific performance of the obligations of the other parties hereto and, in addition, to such other equitable remedies (including preliminary or temporary relief) as may be appropriate in the circumstances. No delay of or omission in the exercise of any right, power or remedy accruing to any party as a result of any breach or default by any other party under this Agreement shall impair any such right, power or remedy, nor shall it be construed as a waiver of or acquiescence in any such breach or default, or of any similar breach or default occurring later; nor shall any such delay, omission nor waiver of any single breach or default be deemed a waiver of any other breach or default occurring before or after that waiver.

SECTION 4.6 Amendments. This Agreement may not be orally amended, modified, extended or terminated, nor shall any oral waiver of any of its terms be effective. This Agreement may be amended, modified, extended or terminated, and the provisions hereof may be waived, only by an agreement in writing signed by the Company and each Requisite Investor; provided, however, the agreement of the Cynosure Investors shall not be required to the extent that its ownership is less than 7.5% of the fully diluted capitalization of the Company on an as-converted to Class A Common Stock basis. Each such amendment, modification, extension or termination shall be binding upon each party hereto. In addition, each party hereto may waive

any right hereunder by an instrument in writing signed by such party. Notwithstanding the foregoing, no amendment or modification to this Agreement shall operate to increase the obligations or diminish the rights of the Cynosure Investors hereunder without the prior written consent of the Cynosure Investors.

SECTION 4.7 Governing Law. This Agreement and all claims arising out of or based upon this Agreement or relating to the subject matter hereof shall be governed by and construed in accordance with the domestic substantive laws of the State of New York without giving effect to any choice or conflict of laws provision or rule that would cause the application of the domestic substantive laws of any other jurisdiction.

SECTION 4.8 Consent to Jurisdiction. Each party to this Agreement, by its execution hereof, (i) hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in the State of New York for the purpose of any action, claim, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation arising out of or based upon this Agreement or relating to the subject matter hereof, (ii) hereby waives to the extent not prohibited by applicable law, and agrees not to assert, and agrees not to allow any of its subsidiaries to assert, by way of motion, as a defense or otherwise, in any such action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that any such proceeding brought in one of the above-named courts is improper, or that this Agreement or the subject matter hereof or thereof may not be enforced in or by such court and (iii) hereby agrees not to commence or maintain any action, claim, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation arising out of or based upon this Agreement or relating to the subject matter hereof or thereof other than before one of the above-named courts nor to make any motion or take any other action seeking or intending to cause the transfer or removal of any such action, claim, cause of action or suit (in contract, tort or otherwise), inquiry, proceeding or investigation to any court other than one of the above-named courts whether on the grounds of inconvenient forum or otherwise. Notwithstanding the foregoing, to the extent that any party hereto is or becomes a party in any litigation in connection with which it may assert indemnification rights set forth in this Agreement, the court in which such litigation is being heard shall be deemed to be included in clause (i) above. Notwithstanding the foregoing, any party to this Agreement may commence and maintain an action to enforce a judgment of any of the above-named courts in any court of competent jurisdiction. Each party hereto hereby consents to service of process in any such proceeding in any manner permitted by New York law, and agrees that service of process by registered or certified mail, return receipt requested, at its address specified pursuant to Section 4.2 hereof is reasonably calculated to give actual notice.

SECTION 4.9 WAIVER OF JURY TRIAL . TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW WHICH CANNOT BE WAIVED, EACH PARTY HERETO HEREBY WAIVES AND COVENANTS THAT IT WILL NOT ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY ISSUE OR ACTION, CLAIM, CAUSE OF ACTION OR SUIT (IN CONTRACT, TORT OR OTHERWISE), INQUIRY, PROCEEDING OR INVESTIGATION ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE SUBJECT MATTER

HEREOF OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE TRANSACTIONS CONTEMPLATED HEREBY, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING. EACH PARTY HERETO ACKNOWLEDGES THAT IT HAS BEEN INFORMED BY THE OTHER PARTIES HERETO THAT THIS SECTION 4.9 CONSTITUTES A MATERIAL INDUCEMENT UPON WHICH THEY ARE RELYING AND WILL RELY IN ENTERING INTO THIS AGREEMENT. ANY PARTY HERETO MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 4.9 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH SUCH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

SECTION 4.10 Merger; Binding Effect, Etc. This Agreement constitutes the entire agreement of the parties with respect to its subject matter, supersedes all prior or contemporaneous oral or written agreements or discussions with respect to such subject matter, and shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective heirs, representatives, successors and permitted assigns. Except as otherwise expressly provided herein, no Holder or other party hereto may assign any of its respective rights or delegate any of its respective obligations under this Agreement without the prior written consent of the other parties hereto, and any attempted assignment or delegation in violation of the foregoing shall be null and void.

SECTION 4.11 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one instrument. Counterpart signature pages to this Agreement may be delivered by facsimile or electronic delivery (i.e., by email of a PDF signature page) and each such counterpart signature page will constitute an original for all purposes.

SECTION 4.12 Severability. In the event that any provision hereof would, under applicable law, be invalid or unenforceable in any respect, such provision shall be construed by modifying or limiting it so as to be valid and enforceable to the maximum extent compatible with, and possible under, applicable law. The provisions hereof are severable, and in the event any provision hereof should be held invalid or unenforceable in any respect, it shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

SECTION 4.13 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement, the Company and each Holder covenant, agree and acknowledge that no recourse under this Agreement or any documents or instruments delivered in connection with this Agreement shall be had against any current or future director, officer, employee, general or limited partner or member of any Holder or of any Affiliate or assignee thereof, as such, whether by the enforcement of any assessment or by any legal or equitable proceeding, or by virtue of any statute, regulation or other applicable law, it being expressly agreed and acknowledged that no personal liability whatsoever shall attach to, be imposed on or otherwise be incurred by any current or future officer, agent or employee of any Holder or any current or future member of any Holder or any current or future director, officer, employee, partner or member of any Holder or of any Affiliate or assignee thereof, as such, for any obligation of any Holder under this

Agreement or any documents or instruments delivered in connection with this Agreement for any claim based on, in respect of or by reason of such obligations or their creation.

[Signature Pages Follow]

IN WITNESS WHEREOF, each of the undersigned has duly executed this Agreement as of the date first above written.

COMPANY:

Black Rock Coffee Bar, Inc.

By: _____
Name: Mark Davis
Title: Chief Executive Officer

[SIGNATURE PAGE TO REGISTRATION RIGHTS AGREEMENT]

IN WITNESS WHEREOF, each of the undersigned has duly executed this Agreement as of the date first above written.

VIKING CAKE BR, LLC

By: _____
Name:
Title:

JEFFREY R. HERNANDEZ REVOCABLE TRUST

By: _____
Name:
Title:

JEFFREY R. HERNANDEZ 2021 TRUST

By: _____
Name:
Title:

TIFFANY S. HERNANDEZ 2021 TRUST

By: _____
Name:
Title:

DANIEL AND TANYA BRAND LIVING TRUST

By: _____
Name:
Title:

DANIEL J. BRAND 2021 TRUST

By: _____
Name:
Title:

TANYA N. BRAND 2021 TRUST

By: _____
Name:
Title:

JULIET A. SPELLMEYER REVOCABLE TRUST

By: _____
Name:
Title:

JACOB V. SPELLMEYER 2021 TRUST

By: _____
Name:
Title:

JULIET A. SPELLMEYER 2021 TRUST

By:
Its:

By: _____
Name:
Title:

NICOLE PEREBOOM

BRYAN D. PEREBOOM 2021 TRUST

By: _____
Name:
Title:

NICOLE R. PEREBOOM 2021 TRUST

By: _____
Name:
Title:

IN WITNESS WHEREOF, each of the undersigned has duly executed this Agreement as of the date first above written.

INVESTORS:

CYNOSURE PARTNERS 2020, LP,
a Delaware limited partnership

By: _____
Name:
Title:

CYNOSURE PARTNERS 2020 PV, LP,
a Delaware limited partnership

By: _____
Name:
Title:

CYNOSURE PARTNERS 2020 CO-INVESTMENT, LLC,
a Delaware limited liability company, for and on
behalf of the Series A members

By: _____
Name:
Title:

CYNOSURE PARTNERS 2020 CO-INVESTMENT, LLC,
a Delaware limited liability company, for and on
behalf of the Series B members

By: _____
Name:
Title:

CYNOSURE PARTNERS III, LP
a Delaware limited partnership

By: _____
Name:
Title:

CP III BRC HOLDINGS CV, LLC
a Delaware limited liability company

By: _____
Name:
Title:

EXHIBIT A

VIKING CAKE BR, LLC
JEFFREY R. HERNANDEZ REVOCABLE TRUST
JEFFREY R. HERNANDEZ 2021 TRUST
TIFFANY S. HERNANDEZ 2021 TRUST
DANIEL AND TANYA BRAND LIVING TRUST
DANIEL J. BRAND 2021 TRUST
TANYA N. BRAND 2021 TRUST
JULIET A. SPELLMEYER REVOCABLE TRUST
JACOB V. SPELLMEYER 2021 TRUST
JULIET A. SPELLMEYER 2021 TRUST
NICOLE PEREBOOM
BRYAN D. PEREBOOM 2021 TRUST
NICOLE PEREBOOM 2021 TRUST
CYNOSURE PARTNERS 2020, LP
CYNOSURE PARTNERS 2020 PV, LP
CYNOSURE PARTNERS 2020 CO-INVESTMENT, LLC (for and on behalf of the Series A members),
CYNOSURE PARTNERS 2020 CO-INVESTMENT, LLC (for and on behalf of the Series B members),
CYNOSURE PARTNERS III, LP
CP III BRC HOLDINGS CV, LLC

VOTING AGREEMENT

This VOTING AGREEMENT (this "**Agreement**"), is made and entered into as of [✧], 2025, by and among Viking Cake BR, LLC, a Delaware limited liability company, and any of its subsidiaries or affiliated entities that hold Common Units ("**Viking Cake**"), Jeffrey R. Hernandez Revocable Trust, Jeffrey R. Hernandez 2021 Trust, Tiffany S. Hernandez 2021 Trust, Daniel and Tanya Brand Living Trust, Daniel J. Brand 2021 Trust, Tanya N. Brand 2021 Trust, Juliet A. Spellmeyer Revocable Trust, Jacob V. Spellmeyer 2021 Trust, Juliet A. Spellmeyer 2021 Trust, Nicole Pereboom, Bryan D. Pereboom 2021 Trust, and Nicole Pereboom 2021 Trust (together with their respective Permitted Transferees, the "**Founder Investors**"), and Black Rock Coffee Bar, Inc., a Texas corporation (the " **Company**"). Unless otherwise specified herein, all capitalized terms used but not otherwise defined in this Agreement shall have the respective meanings ascribed to such terms in the Company's Amended and Restated Certificate of Formation, dated as of August 28, 2025 (as may be amended from time to time, the "**Restated Certificate**").

RECITALS

WHEREAS, the Restated Certificate provides that, subject to the requirements and limitations set forth therein, the Company shall take all Necessary Action to cause the slate of nominees recommended by the board of directors of the Company (the "**Board**") for election as Directors of the Company to be consistent with Part G of Article V of the Restated Certificate, including for so long as Cynosure beneficially owns, on a collective basis, at least seven and one-half percent (7.5%) of the outstanding Common Stock, one (1) individual nominated for election to the Board by Cynosure (the "**Cynosure Nominee**"); and

WHEREAS, the Founder Investors and the Company wish to enter into this Agreement concerning the voting of shares of Common Stock held by the Founder Investors in favor of the election of the Cynosure Nominee and the Incumbent Nominees (as defined below).

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. Voting Provisions Regarding the Election of the Cynosure Nominee. Subject to Part G of Article V of the Restated Certificate, and for so long as Cynosure has the right to nominate for election to the Board the Cynosure Nominee pursuant to the terms of the Restated Certificate, each Founder Investor agrees to vote, or cause to be voted, all shares of Common Stock that it owns or over which such Founder Investor has voting control, from time to time and at all times, in favor of the election of the Cynosure Nominee that is nominated for election to the Board in accordance with Article V of the Restated Certificate (including in connection with the filling of any vacancy on the Board), whether by written consent or at a special or annual meeting of shareholders.

2. Voting Provisions Regarding the Election of Incumbent Directors. Subject to Part G of Article V of the Restated Certificate, and solely for the next two (2) consecutive annual meetings of the Company's shareholders (excluding any adjournments or postponements thereof) occurring after the date of this Agreement, each Founder Investor agrees to vote, or cause to be voted, all shares of Common Stock that it owns or over which such Founder Investor has voting control, from time to time and at all times, in favor of the election of each incumbent member of the Board that is nominated for election to the Board in accordance with Article V of the Restated Certificate (such slate of nominees, the

"**Incumbent Nominees**") at such annual meeting; provided that each of the Individual Founders continues to serve on the Board immediately prior to the commencement of such annual meeting, except where any such Individual Founder no longer serves on the Board by reason of resignation, death or incapacity. For the avoidance of doubt, nothing in this Section 2 shall limit or otherwise affect the obligations of the Founder Investors pursuant to Section 1 hereof to vote in favor of the Cynosure Nominee for so long as Cynosure retains its nomination rights under the Restated Certificate.

3. Voting Provisions Regarding the Election of Independent Directors. Solely for the next two (2) consecutive annual meetings of the Company's shareholders, in the event that either of Kristina Cashman or Richard Federico shall fail to be nominated for election to the Board prior to the end of their respective term, in either event other than due to their respective death, resignation, disability or a determination by the Board in good faith that such nomination would be a violation of the Board's fiduciary duties of care and loyalty, each Founder Investor agrees to refrain from voting, and to cause not to be voted, all shares of Common Stock that it owns or over which such Founder Investor has voting control, from time to time and at all times, in favor of the election of a different nominee to the Board nominated in the place of either of Kristina Cashman or Richard Federico without the written consent of the Cynosure Director.

4. Term. This Agreement shall be effective as of the date hereof and shall continue in effect until and shall terminate upon the earliest to occur of (a) the mutual written agreement of the Company, the Founder Investors and The Cynosure Group, LLC, (b) the Sunset Date and (c) the date on which Cynosure no longer has the right to nominate for election to the Board the Cynosure Nominee pursuant to the terms of the Restated Certificate.

5. Miscellaneous.

5.1 Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

5.2 Further Assurances. Each party hereto agrees to execute and deliver such further documents and instruments and take such further actions as may be necessary to carry out the intent of this Agreement.

5.3 Governing Law. This Agreement shall be governed by the internal law of the State of Texas, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Texas.

5.4 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act or other applicable law) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

5.5 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

5.6 Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) when sent by e mail or confirmed facsimile if sent during normal business hours of the recipient, and, if not, then on the next Business Day (as defined below); (c) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one Business Day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. "**Business Day**" means any day, other than a Saturday, Sunday or any other day on which commercial banks located in the State of New York are authorized or obligated by law or executive order to close. All communications shall be sent to such party's address as set forth below or at such other address as the party shall have furnished to each other party in writing in accordance with this provision:

If to the Company, to:

Black Rock Coffee Bar, Inc.
9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260
Email:
Attn: Sam Seiberling, Chief Legal Officer

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
1271 Avenue of the Americas
New York, New York 10020
Email:
Attn: Ian D. Schuman

If to a Founder Investor:

c/o Viking Cake BR, LLC
18625 Macalpine Loop
Bend, OR 97702
Email:
Attn: Jake Spellmeyer

with a copy (which shall not constitute notice) to:

Jones Day
1755 Embarcadero Road
Palo Alto, CA 94303
Email:
Attn: Jeremy Cleveland

5.7 Consent Required to Amend, Modify, Terminate or Waive. This Agreement may be amended, modified or terminated and the observance of any term hereof may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a written instrument executed by the Founder Investors, the Company and, for so long as The Cynosure Group or its affiliates has the

right to nominate a director for election to the Board pursuant to the Restated Certificate, The Cynosure Group, LLC.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Voting Agreement as of the date first written above.

BLACK ROCK COFFEE BAR, INC.

By: _____

Name: Mark Davis
Title: Chief Executive Officer

IN WITNESS WHEREOF, the parties have executed this Voting Agreement as of the date first written above.

VIKING CAKE BR, LLC

By: Vahalda LLC
Its: Manager

By: _____
Name: Jake Spellmeyer
Title: Manager

VIKING CAKE FUEL, LLC

By: Viking Cake BR, LLC
Its: Member

By: _____
Name: Jeffrey Hernandez
Title: Manager

JEFFREY R. HERNANDEZ REVOCABLE TRUST

By: _____
Name: Jeffrey R. Hernandez
Title: Trustee

JEFFREY R. HERNANDEZ 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

TIFFANY S. HERNANDEZ 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

DANIEL AND TANYA BRAND LIVING TRUST

By: _____
Name: Daniel J. Brand
Title: Trustee

By: _____
Name: Tanya N. Brand
Title: Trustee

DANIEL J. BRAND 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

TANYA N. BRAND 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

JULIET A. SPELLMEYER REVOCABLE TRUST

By: _____
Name: Juliet A. Spellmeyer
Title: Trustee

By: _____
Name: Jacob V. Spellmeyer
Title: Trustee

JACOB V. SPELLMEYER 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

JULIET A. SPELLMEYER 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

_____
NICOLE PEREBOOM

BRYAN D. PEREBOOM 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

NICOLE R. PEREBOOM 2021 TRUST

By: IconTrust, LLC
Its: Trustee

By: _____
Name: Andrew Tatay
Title: Trust Officer

Exhibit 10.11

VOTING AGREEMENT

This VOTING AGREEMENT (this "**Agreement**"), is made and entered into as of [●], 2025, by and among Cynosure Partners 2020, LP, a Delaware limited partnership, Cynosure Partners 2020 PV, LP, a Delaware limited partnership, Cynosure Partners 2020 Co-Investment, LLC, a Delaware limited liability company, Cynosure Partners III, LP, a Delaware limited partnership, and CP III BRC Holdings CV, LLC, a Delaware limited liability company (together with their respective Permitted Transferees, the "**Cynosure Investors**"), and Black Rock Coffee Bar, Inc., a Texas corporation (the " **Company**"). Unless otherwise specified herein, all capitalized terms used but not otherwise defined in this Agreement shall have the respective meanings ascribed to such terms in the Company's Amended and Restated Certificate of Formation, dated as of August 28, 2025 (as may be amended from time to time, the "**Restated Certificate**").

RECITALS

WHEREAS, the Restated Certificate provides that, subject to the requirements and limitations set forth therein, the Company shall take all Necessary Action to cause the slate of nominees recommended by the board of directors of the Company (the "**Board**") for election as Directors of the Company to be consistent with Part G of Article V of the Restated Certificate, including for so long as Cynosure beneficially owns, on a collective basis, at least seven and one-half percent (7.5%) of the outstanding Common Stock, one (1) individual nominated for election to the Board by Cynosure (the "**Cynosure Nominee**"); and

WHEREAS, the Cynosure Investors and the Company wish to enter into this Agreement concerning the voting of shares of Common Stock held by the Cynosure Investors in favor of the slate of nominees recommended by the Board (such slate of nominees, the "**Director Nominees**").

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1 . Voting Provisions Regarding the Election of Directors. Subject to Part G of Article V of the Restated Certificate, and for so long as Cynosure has the right to nominate for election to the Board the Cynosure Nominee pursuant to the terms of the Restated Certificate, each Cynosure Investor agrees to vote, or cause to be voted, all shares of Common Stock that it owns or over which such Cynosure Investor has voting control, from time to time and at all times, in favor of the election of the Founder Investor Director Nominees that are nominated for election to the Board in accordance with Article V of the Restated Certificate (including in connection with the filling of any vacancy on the Board), whether by written consent or at a special or annual meeting of shareholders.

2. Term. This Agreement shall be effective as of the date hereof and shall continue in effect until and shall terminate upon the earliest to occur of (a) the mutual written agreement of the Company, the Cynosure Investors and the Founder Investors, (b) the Sunset Date and (c) the date on which Cynosure no longer has the right to nominate for election to the Board the Cynosure Nominee pursuant to the terms of the Restated Certificate.

3. Miscellaneous.

3.1 Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

3 . 2 Further Assurances. Each party hereto agrees to execute and deliver such further documents and instruments and take such further actions as may be necessary to carry out the intent of this Agreement.

3.3 Governing Law. This Agreement shall be governed by the internal law of the State of Texas, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Texas.

3.4 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act or other applicable law) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

3.5 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

3.6 Notices. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given: (a) upon personal delivery to the party to be notified; (b) when sent by e mail or confirmed facsimile if sent during normal business hours of the recipient, and, if not, then on the next Business Day (as defined below); (c) five days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one Business Day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. "**Business Day**" means any day, other than a Saturday, Sunday or any other day on which commercial banks located in the State of New York are authorized or obligated by law or executive order to close. All communications shall be sent to such party's address as set forth below or at such other address as the party shall have furnished to each other party in writing in accordance with this provision:

If to the Company, to:

Black Rock Coffee Bar, Inc.
9170 E. Bahia Drive, Suite 101
Scottsdale, AZ 85260
Email:
Attn: Sam Seiberling, Chief Legal Officer

with a copy (which shall not constitute notice) to:

Latham & Watkins LLP
1271 Avenue of the Americas
New York, New York 10020
Email:
Attn: Ian D. Schuman

If to a Cynosure Investor:

The Cynosure Group, LLC
111 Main Street, Suite 2350
Salt Lake City, Utah 8411
Email:
Attention: Andrew Braithwaite

with a copy (which shall not constitute notice) to:

Bradley Arant Boult Cummings LLP
One Federal Place
1819 5th Avenue N
Birmingham, Alabama 35203
Email:
Attn: Frederic L. Smith

3.7 Consent Required to Amend, Modify, Terminate or Waive. This Agreement may be amended, modified or terminated and the observance of any term hereof may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a written instrument executed by the Cynosure Investors, the Company and the Founder Investors.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Voting Agreement as of the date first written above.

BLACK ROCK COFFEE BAR, INC.

By: _____

Name: Mark Davis
Title: Chief Executive Officer

IN WITNESS WHEREOF, the parties have executed this Voting Agreement as of the date first written above.

CYNOSURE PARTNERS 2020, LP,
a Delaware limited partnership

By: Cynosure Partners 2020 GP, LLC, its general partner
By: The Cynosure Group, LLC, its manager

By: _____

Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS 2020 PV, LP,
a Delaware limited partnership
By: Cynosure Partners 2020 GP, LLC, its general partner
By: The Cynosure Group, LLC, its manager

By: _____

Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS 2020 CO-INVESTMENT, LLC,
a Delaware limited liability company, for and on behalf of the Series A members

By: Cynosure Partners 2020 GP, LLC, its managing member
By: The Cynosure Group, LLC, its manager

By: _____

Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS 2020 CO-INVESTMENT, LLC,
a Delaware limited liability company, for and on behalf of the Series B members

By: Cynosure Partners 2020 GP, LLC, its managing member
By: The Cynosure Group, LLC, its manager

By: _____

Name: Andrew Braithwaite
Title: Managing Director

CYNOSURE PARTNERS III, LP
a Delaware limited partnership

By: Cynosure Partners III GP, LLC, its general partner
By: The Cynosure Group, LLC, its manager

By: _____

Name: Andrew Braithwaite
Title: Managing Director

CP III BRC HOLDINGS CV, LLC
a Delaware limited liability company

By: Cynosure Partners III GP, LLC, its managing member
By: The Cynosure Group, LLC, its manager

By: _____
Name: Andrew Braithwaite
Title: Managing Director

BLACK ROCK COFFEE BAR, INC.

2025 INCENTIVE AWARD PLAN

ARTICLE I.
PURPOSE

The Plan's purpose is to enhance the Company's ability to attract, retain and motivate persons who make (or are expected to make) important contributions to the Company and the Operating Company by providing these individuals with equity ownership opportunities and/or equity-linked compensatory opportunities. Capitalized terms used in the Plan are defined in Article XI.

ARTICLE II.
ELIGIBILITY

Service Providers are eligible to be granted Awards under the Plan, subject to the limitations described herein.

ARTICLE III.
ADMINISTRATION AND DELEGATION

3.1 Administration. The Plan is administered by the Administrator. The Administrator has authority to determine which Service Providers receive Awards, grant Awards and set Award terms and conditions, subject to the conditions and limitations in the Plan. The Administrator also has the authority to take all actions and make all determinations under the Plan, to interpret the Plan and Award Agreements and to adopt, amend and repeal Plan administrative rules, guidelines and practices as it deems advisable. The Administrator may correct defects and ambiguities, supply omissions and reconcile inconsistencies in the Plan or any Award Agreement as it deems necessary or appropriate to administer the Plan and any Awards. The Administrator's determinations under the Plan are in its sole discretion and will be final and binding on all persons having or claiming any interest in the Plan or any Award.

3.2 Appointment of Committees. To the extent Applicable Laws permit, the Board or the Administrator may delegate any or all of its powers under the Plan to one or more Committees or committees of officers of the Company or any of its Subsidiaries. The Board or the Administrator, as applicable, may rescind any such delegation, abolish any such committee or Committee and/or re-vest in itself any previously delegated authority at any time.

ARTICLE IV.
STOCK AVAILABLE FOR AWARDS

4.1 Number of Shares. Subject to adjustment under Article VIII and the terms of this Article IV, the maximum number of Shares that may be issued pursuant to Awards under the Plan shall be equal to the Overall Share Limit. Shares issued under the Plan may consist of authorized but unissued Shares, Shares purchased on the open market or treasury Shares. Shares issued under the Plan will be shares of Class A Common Stock.

4.2 Share Recycling. If all or any part of an Award expires, lapses or is terminated, exchanged for or settled in cash, surrendered, repurchased, canceled without having been fully exercised or forfeited, in any case, in a manner that results in the Company acquiring Shares covered by the Award

at a price not greater than the price (as adjusted to reflect any Equity Restructuring) paid by the Participant for such Shares or not issuing any Shares covered by the Award, the unused Shares covered by the Award will, as applicable, become or again be available for Award grants under the Plan. Further, Shares delivered (either by actual delivery or attestation) to the Company by a Participant to satisfy the applicable exercise or purchase price of an Award and/or to satisfy any applicable tax withholding obligation with respect to an Award (including Shares retained by the Company from the Award being exercised or purchased and/or creating the tax obligation) will, as applicable, become or again be available for Award grants under the Plan. The payment of Dividend Equivalents in cash in conjunction with any outstanding Awards shall not count against the Overall Share Limit. Notwithstanding anything to the contrary contained herein, the following Shares shall not be added to the Shares authorized for grant under Section 4.1 and shall not be available for future grants of Awards: (a) Shares subject to a Stock Appreciation Right that are not issued in connection with the stock settlement of the Stock Appreciation Right on exercise thereof; and (b) Shares purchased on the open market with the cash proceeds from the exercise of Options. Further notwithstanding anything to the contrary contained herein, no Shares shall again be available for future grants of Awards under the Plan pursuant to this Article IV to the extent that such return of shares would cause the Plan to be a "formula" plan or constitute a "material revision" or "material amendment" subject to stockholder approval under the requirements of the established stock exchange on which the Company's securities are traded).

4.3 Incentive Stock Option Limitations. Notwithstanding anything to the contrary herein, no more than 10,000,000 Shares may be issued pursuant to the exercise of Incentive Stock Options.

4.4 Substitute Awards. In connection with an entity's merger or consolidation with the Company or the Company's acquisition of an entity's property or stock, the Administrator may grant Awards in substitution for any options or other stock or stock-based awards granted before such merger or consolidation by such entity or its affiliate. Substitute Awards may be granted on such terms as the Administrator deems appropriate, notwithstanding limitations on Awards in the Plan. Substitute Awards will not count against the Overall Share Limit (nor shall Shares subject to a Substitute Award be added to the Shares available for Awards under the Plan as provided above), except that Shares acquired by exercise of substitute Incentive Stock Options will count against the maximum number of Shares that may be issued pursuant to the exercise of Incentive Stock Options under the Plan. Additionally, in the event that a company acquired by the Company or any Affiliate or with which the Company or any Affiliate combines has shares available under a pre-existing plan approved by stockholders and not adopted in contemplation of such acquisition or combination, the shares available for grant pursuant to the terms of such pre-existing plan (as adjusted, to the extent appropriate, using the exchange ratio or other adjustment or valuation ratio or formula used in such acquisition or combination to determine the consideration payable to the holders of common stock of the entities party to such acquisition or combination) may be used for Awards under the Plan and shall not reduce the Shares authorized for grant under the Plan (and Shares subject to such Awards shall not be added to the Shares available for Awards under the Plan as provided above); provided that Awards using such available shares shall not be made after the date awards or grants could have been made under the terms of the pre-existing plan, absent the acquisition or combination, and shall only be made to individuals who were not Employees, Consultants or Directors prior to such acquisition or combination.

4.5 Non-Employee Director Compensation. Notwithstanding any provision to the contrary in the Plan, the Administrator may establish compensation for non-employee Directors from time to time, subject to the limitations in the Plan. The Administrator will from time to time determine the terms, conditions and amounts of all such non-employee Director compensation in its discretion and pursuant to the exercise of its business judgment, taking into account such factors, circumstances and considerations

as it shall deem relevant from time to time, provided that, commencing with the calendar year following the calendar year in which the Effective Date occurs, the sum of any cash compensation, or other compensation, and the value (determined as of the grant date in accordance with Financial Accounting Standards Board Accounting Standards Codification Topic 718, or any successor thereto) of Awards granted to a non-employee Director as compensation for services as a non-employee Director with respect to any fiscal year of the Company may not exceed $750,000 (increased to $1,000,000 in a non-employee Director's initial calendar year of service as a non-employee director or any calendar year during which a non-employee Director serves as chair of the Board or lead independent Director), which limits shall not apply to the compensation for any non-employee Director of the Company who serves in any capacity in addition to that of a non-employee Director for which he or she receives additional compensation. The Administrator may make exceptions to this limit for individual non-employee Directors in extraordinary circumstances, as the Administrator may determine in its discretion, provided that the non-employee Director receiving such additional compensation may not participate in the decision to award such compensation or in other contemporaneous compensation decisions involving non-employee Directors.

ARTICLE V.
STOCK OPTIONS AND STOCK APPRECIATION RIGHTS

5.1 General. The Administrator may grant Options or Stock Appreciation Rights to Service Providers subject to the limitations in the Plan, including any limitations in the Plan that apply to Incentive Stock Options. A Stock Appreciation Right will entitle the Participant (or other person entitled to exercise the Stock Appreciation Right) to receive from the Company upon exercise of the exercisable portion of the Stock Appreciation Right an amount determined by multiplying the excess, if any, of the Fair Market Value of one Share on the date of exercise over the exercise price per Share of the Stock Appreciation Right by the number of Shares with respect to which the Stock Appreciation Right is exercised. Such amount shall be subject to any limitations of the Plan or that the Administrator may impose and payable in cash, Shares valued at Fair Market Value or a combination of the two as the Administrator may determine or provide in the Award Agreement.

5 . 2 Exercise Price. The Administrator will establish each Option's and Stock Appreciation Right's exercise price and specify the exercise price in the Award Agreement. The exercise price will not be less than 100% of the Fair Market Value on the grant date of the Option (subject to Section 5.6) or Stock Appreciation Right. Notwithstanding the foregoing, in the case of an Option or a Stock Appreciation Right that is a Substitute Award, the exercise price per share of the Shares subject to such Option or Stock Appreciation Right, as applicable, may be less than the Fair Market Value per share on the date of grant; provided that the exercise price of any Substitute Award shall be determined in accordance with the applicable requirements of Sections 424 and 409A of the Code.

5.3 Duration. Each Option or Stock Appreciation Right will be exercisable at such times and as specified in the Award Agreement, provided that, subject to Section 5.6, the term of an Option or Stock Appreciation Right will not exceed ten years. Notwithstanding the foregoing and unless determined otherwise by the Company, in the event that on the last business day of the term of an Option or Stock Appreciation Right (other than an Incentive Stock Option) (i) the exercise of the Option or Stock Appreciation Right is prohibited by Applicable Law, as determined by the Company, or (ii) Shares may not be purchased or sold by the applicable Participant due to any Company insider trading policy (including blackout periods) or a "lock-up" agreement undertaken in connection with an issuance of securities by the Company, the term of the Option or Stock Appreciation Right shall be extended until the date that is 30 days after the end of the legal prohibition, black-out period or lock-up agreement, as determined by the Company; provided, however, in no event shall the extension last beyond the ten year

term of the applicable Option or Stock Appreciation Right. Notwithstanding the foregoing, to the extent permitted under Applicable Laws, if the Participant, prior to the end of the term of an Option or Stock Appreciation Right, violates the non-competition, non-solicitation, confidentiality or other similar restrictive covenant provisions of any employment contract, confidentiality and nondisclosure agreement or other agreement between the Participant and the Company, the Operating Company or any of their respective Subsidiaries or affiliates, the right of the Participant and the Participant's transferees to exercise any Option or Stock Appreciation Right issued to the Participant shall terminate immediately upon such violation, unless the Company otherwise determines.

5.4 Exercise. Options and Stock Appreciation Rights may be exercised by delivering to the Company a written notice of exercise, in a form the Administrator approves (which may be electronic), signed by the person authorized to exercise the Option or Stock Appreciation Right, together with, as applicable, payment in full (i) as specified in Section 5.5 for the number of Shares for which the Award is exercised and (ii) as specified in Section 9.5 for any applicable taxes. Unless the Administrator otherwise determines, an Option or Stock Appreciation Right may not be exercised for a fraction of a Share.

5.5 Payment Upon Exercise. Subject to Sections 9.10 and 10.8, any Company insider trading policy (including blackout periods) and Applicable Laws, the exercise price of an Option must be paid by:

(a) cash, wire transfer of immediately available funds or by check payable to the order of the Company, provided that the Company may limit the use of one of the foregoing payment forms if one or more of the payment forms below is permitted;

(b) if there is a public market for Shares at the time of exercise, unless the Company otherwise determines, (i) delivery (including electronically or telephonically to the extent permitted by the Company) of an irrevocable and unconditional undertaking by a broker acceptable to the Company to deliver promptly to the Company sufficient funds to pay the exercise price, or (ii) the Participant's delivery to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company to deliver promptly to the Company cash or a check sufficient to pay the exercise price; provided that such amount is paid to the Company at such time as may be required by the Administrator;

(c) to the extent permitted by the Administrator, delivery (either by actual delivery or attestation) of Shares owned by the Participant valued at their Fair Market Value;

(d) to the extent permitted by the Administrator, surrendering Shares then issuable upon the Option's exercise valued at their Fair Market Value on the exercise date;

(e) to the extent permitted by the Administrator, delivery of a promissory note or any other property that the Administrator determines is good and valuable consideration; or

(f) to the extent permitted by the Company, any combination of the above payment forms approved by the Administrator.

5.6 Additional Terms of Incentive Stock Options. The Administrator may grant Incentive Stock Options only to employees of the Company, any of its present or future parent or subsidiary corporations, as defined in Sections 424(e) or (f) of the Code, respectively, and any other entities the employees of which are eligible to receive Incentive Stock Options under the Code. If an Incentive Stock Option is granted to a Greater Than 10% Stockholder, the exercise price will not be less than 110% of the Fair Market Value on the Option's grant date, and the term of the Option will not exceed five years. All Incentive Stock Options will be subject to and construed consistently with Section 422 of the Code. By

accepting an Incentive Stock Option, the Participant agrees to give prompt notice to the Company of dispositions or other transfers (other than in connection with a Change in Control) of Shares acquired under the Option made within (i) two years from the grant date of the Option or (ii) one year after the transfer of such Shares to the Participant, specifying the date of the disposition or other transfer and the amount the Participant realized, in cash, other property, assumption of indebtedness or other consideration, in such disposition or other transfer. Neither the Company nor the Administrator will be liable to a Participant, or any other party, if an Incentive Stock Option fails or ceases to qualify as an "incentive stock option" under Section 422 of the Code. Any Incentive Stock Option or portion thereof that fails to qualify as an "incentive stock option" under Section 422 of the Code for any reason, including becoming exercisable with respect to Shares having a fair market value exceeding the $100,000 limitation under Treasury Regulation Section 1.422-4, will be a Non-Qualified Stock Option.

ARTICLE VI.
RESTRICTED STOCK; RESTRICTED STOCK UNITS

6.1 General. The Administrator may grant Restricted Stock, or the right to purchase Restricted Stock, to any Service Provider, subject to the Company's right to repurchase all or part of such Shares at their issue price or other stated or formula price from the Participant (or to require forfeiture of such Shares) if conditions the Administrator specifies in the Award Agreement are not satisfied before the end of the applicable restriction period or periods that the Administrator establishes for such Award. In addition, the Administrator may grant to Service Providers Restricted Stock Units, which may be subject to vesting and forfeiture conditions during the applicable restriction period or periods, as set forth in an Award Agreement.

6.2 Restricted Stock.

(a) Dividends. Subject to the terms of this Section 6.2(a), Participants holding Shares of Restricted Stock will be entitled to all ordinary cash dividends paid with respect to such Shares, unless the Administrator provides otherwise in the Award Agreement. In addition, unless the Administrator provides otherwise, if any dividends or distributions are paid in Shares, or consist of a dividend or distribution to holders of Common Stock of property other than an ordinary cash dividend, the Shares or other property will be subject to the same restrictions on transferability and forfeitability as the Shares of Restricted Stock with respect to which they were paid. Notwithstanding anything to the contrary herein, with respect to any award of Restricted Stock, dividends which are paid to holders of Common Stock prior to vesting shall only be paid out to a Participant holding such Restricted Stock to the extent that the vesting conditions are subsequently satisfied. All such dividend payments will be made no later than March 15 of the calendar year following the calendar year in which the right to the dividend payment becomes nonforfeitable.

(b) Stock Certificates. The Company may require that the Participant deposit in escrow with the Company (or its designee) any stock certificates issued in respect of Shares of Restricted Stock, together with a stock power endorsed in blank.

6.3 Restricted Stock Units.

(a) Settlement. The Administrator may provide that settlement of Restricted Stock Units will occur upon or as soon as reasonably practicable after the Restricted Stock Units vest or will instead be deferred, on a mandatory basis or at the Participant's election, in a manner intended to comply with Section 409A.

(b) Stockholder Rights. A Participant will have no rights of a stockholder with respect to Shares subject to any Restricted Stock Unit unless and until the Shares are delivered in settlement of the Restricted Stock Unit.

ARTICLE VII.
OTHER STOCK OR CASH BASED AWARDS; DIVIDEND EQUIVALENTS

7.1 Other Stock or Cash Based Awards. Other Stock or Cash Based Awards may be granted to Participants, including Awards entitling Participants to receive Shares to be delivered in the future and including annual or other periodic or long-term cash bonus awards (whether based on specified Performance Criteria or otherwise), in each case subject to any conditions and limitations in the Plan. Such Other Stock or Cash Based Awards will also be available as a payment form in the settlement of other Awards, as standalone payments and as payment in lieu of compensation to which a Participant is otherwise entitled. Other Stock or Cash Based Awards may be paid in Shares, cash or other property, as the Administrator determines.

7.2 Dividend Equivalents. A grant of Restricted Stock Units or Other Stock or Cash Based Award may provide a Participant with the right to receive Dividend Equivalents, and no Dividend Equivalents shall be payable with respect to Options or Stock Appreciation Rights. Dividend Equivalents may be paid currently or credited to an account for the Participant, settled in cash or Shares and subject to the same restrictions on transferability and forfeitability as the Award with respect to which the Dividend Equivalents are paid and subject to other terms and conditions as set forth in the Award Agreement. Notwithstanding anything to the contrary herein, Dividend Equivalents with respect to an Award shall only be paid out to a Participant to the extent that the vesting conditions are subsequently satisfied. All such Dividend Equivalent payments will be made no later than March 15 of the calendar year following the calendar year in which the right to the Dividend Equivalent payment becomes nonforfeitable, unless determined otherwise by the Administrator or unless deferred in a manner intended to comply with Section 409A.

ARTICLE VIII.
ADJUSTMENTS FOR CHANGES IN COMMON STOCK
AND CERTAIN OTHER EVENTS

8.1 Equity Restructuring. In connection with any Equity Restructuring, notwithstanding anything to the contrary in this Article VIII, the Administrator will equitably adjust each outstanding Award as it deems appropriate to reflect the Equity Restructuring, which may include (if applicable) adjusting the number and type of securities subject to each outstanding Award, adjusting the Award's exercise price, grant price and/or applicable performance goals, granting new Awards to Participants, and/or making a cash payment to Participants. The adjustments provided under this Section 8.1 will be nondiscretionary and final and binding on the affected Participant and the Company; provided that the Administrator will determine whether an adjustment is equitable.

8.2 Corporate Transactions. In the event of any dividend or other distribution (whether in the form of cash, Common Stock, other securities, or other property), reorganization, merger, consolidation, combination, amalgamation, repurchase, recapitalization, liquidation, dissolution, or sale, transfer, exchange or other disposition of all or substantially all of the assets of the Company, or sale or exchange of Common Stock or other securities of the Company, Change in Control, issuance of warrants or other rights to purchase Common Stock or other securities of the Company, other similar corporate transaction or event, other unusual or nonrecurring transaction or event affecting the Company or its financial

statements or any change in any Applicable Laws or accounting principles, the Administrator, on such terms and conditions as it deems appropriate, either by the terms of the Award or by action taken in connection with the occurrence of such transaction or event (any action to give effect to a change in Applicable Law or accounting principles may be made within a reasonable period of time after such change), is hereby authorized to take any one or more of the following actions whenever the Administrator determines that such action is appropriate in order to (x) prevent dilution or enlargement of the benefits or potential benefits intended by the Company to be made available under the Plan or with respect to any Award granted or issued under the Plan, (y) to facilitate such transaction or event or (z) give effect to such changes in Applicable Laws or accounting principles:

(a) To provide for the cancellation of any such Award in exchange for either an amount of cash or other property with a value equal to the amount that could have been obtained upon the exercise or settlement of the vested portion of such Award or realization of the Participant's rights under the vested portion of such Award, as applicable; provided that, if the amount that could have been obtained upon the exercise or settlement of the vested portion of such Award or realization of the Participant's rights, in any case, is equal to or less than zero, then the Award may be terminated without payment; provided, further, that Awards held by members of the Board will be deemed settled in Shares on or immediately prior to the applicable event if the Administrator takes action under this clause (a);

(b) To provide that such Award shall vest and, to the extent applicable, be exercisable as to all Shares covered thereby, notwithstanding anything to the contrary in the Plan or the provisions of such Award;

(c) To provide that such Award be assumed by the successor or survivor corporation, or a parent or subsidiary thereof, or shall be substituted for by awards covering the stock of the successor or survivor corporation, or a parent or subsidiary thereof, or equivalent value thereof in cash, with appropriate adjustments as to the number and kind of shares and/or applicable exercise or purchase price, in all cases, as determined by the Administrator;

(d) To make adjustments in the number and type of Shares (or other securities or property) subject to outstanding Awards and/or with respect to which Awards may be granted under the Plan (including, but not limited to, adjustments of the limitations in Article IV on the maximum number and kind of shares which may be issued) and/or in the terms and conditions of (including the grant or exercise price or applicable performance goals), and the criteria included in, outstanding Awards;

(e) To replace such Award with other rights or property selected by the Administrator; and/or

(f) To provide that the Award will terminate and cannot vest, be exercised or become payable after the applicable event.

8 . 3 Effect of a Change in Control . Notwithstanding the provisions of Section 8.2, if a Change in Control occurs and a Participant's Awards are not continued, converted, assumed, or replaced with a substantially similar award by (a) the Company, or (b) a successor entity or its parent or subsidiary (an "***Assumption***" or "***Assumed***"), and provided that the Participant has not had a Termination of Service, then, immediately prior to the Change in Control, such Awards shall become fully vested, exercisable and/or payable, as applicable, and all forfeiture, repurchase and other restrictions on such Awards shall lapse, in which case, such Awards shall be canceled upon the consummation of the Change in Control in exchange for the right to receive the Change in Control consideration payable to other holders of

Common Stock (i) which may be on such terms and conditions as apply generally to holders of Common Stock under the Change in Control documents (including, without limitation, any escrow, earn-out or other deferred consideration provisions) or such other terms and conditions as the Administrator may provide, and (ii) determined by reference to the number of Shares subject to such Awards and net of any applicable exercise price; provided that to the extent that any Awards constitute "nonqualified deferred compensation" that may not be paid upon the Change in Control under Section 409A without the imposition of taxes thereon under Section 409A, the timing of such payments shall be governed by the applicable Award Agreement (subject to any deferred consideration provisions applicable under the Change in Control documents); and provided, further, that if the amount to which a Participant would be entitled upon the settlement or exercise of such Award at the time of the Change in Control is equal to or less than zero, then such Award may be terminated without payment. An Award will be considered replaced with a substantially similar award if the Award is exchanged for an amount of cash or other property with a value equal to the amount that could have been obtained upon the settlement of such Award in such Change in Control (as determined by the Administrator), even if such cash or other property payable with respect to the unvested portion of such Award remains subject to similar vesting provisions following such Change in Control. Notwithstanding the foregoing, the Administrator will have full and final authority to determine whether an Assumption of an Award has occurred in connection with a Change in Control.

8.4 Administrative Stand Still. In the event of any pending stock dividend, stock split, combination or exchange of shares, merger, consolidation or other distribution (other than normal cash dividends) of Company assets to stockholders, or any other extraordinary transaction or change affecting the Shares or the share price of Common Stock, including any Equity Restructuring or any securities offering or other similar transaction, for administrative convenience, the Administrator may refuse to permit the exercise of any Award for up to 60 days before or after such transaction.

8 . 5 General. Except as expressly provided in the Plan or the Administrator's action under the Plan, no Participant will have any rights due to any subdivision or consolidation of Shares of any class, dividend payment, increase or decrease in the number of Shares of any class or dissolution, liquidation, merger, or consolidation of the Company or other corporation. Except as expressly provided with respect to an Equity Restructuring under Section 8.1 or the Administrator's action under the Plan, no issuance by the Company of Shares of any class, or securities convertible into Shares of any class, will affect, and no adjustment will be made regarding, the number of Shares subject to an Award or the Award's grant or exercise price. The existence of the Plan, any Award Agreements and the Awards granted hereunder will not affect or restrict in any way the Company's right or power to make or authorize (i) any adjustment, recapitalization, reorganization or other change in the Company's capital structure or its business, (ii) any merger, consolidation dissolution or liquidation of the Company or sale of Company assets or (iii) any sale or issuance of securities, including securities with rights superior to those of the Shares or securities convertible into or exchangeable for Shares. The Administrator may treat Participants and Awards (or portions thereof) differently under this Article VIII.

ARTICLE IX.
GENERAL PROVISIONS APPLICABLE TO AWARDS

9 . 1 Transferability. Except as the Administrator may determine or provide in an Award Agreement or otherwise for Awards other than Incentive Stock Options, Awards may not be sold, assigned, transferred, pledged or otherwise encumbered, either voluntarily or by operation of law, except for certain Designated Beneficiary designations, by will or the laws of descent and distribution, or, subject to the Administrator's consent, pursuant to a domestic relations order, and, during the life of the

Participant, will be exercisable only by the Participant. Any permitted transfer of an Award hereunder shall be without consideration, except as required by Applicable Law. References to a Participant, to the extent relevant in the context, will include references to a Participant's authorized transferee that the Administrator specifically approves.

9.2 Documentation. Each Award will be evidenced in an Award Agreement, which may be written or electronic, as the Administrator determines. Each Award may contain terms and conditions in addition to those set forth in the Plan.

9.3 Discretion. Except as the Plan otherwise provides, each Award may be made alone or in addition or in relation to any other Award. The terms of each Award to a Participant need not be identical, and the Administrator need not treat Participants or Awards (or portions thereof) uniformly.

9.4 Termination of Status. The Administrator will determine how the disability, death, retirement, an authorized leave of absence or any other change or purported change in a Participant's Service Provider status affects an Award and the extent to which, and the period during which, the Participant, the Participant's legal representative, conservator, guardian or Designated Beneficiary may exercise rights under the Award, if applicable.

9.5 Withholding. Each Participant must pay the Company, the Operating Company or any of their respective Subsidiaries or affiliates, as applicable, or make provision satisfactory to the Administrator for payment of, any taxes required by Applicable Law to be withheld in connection with such Participant's Awards by the date of the event creating the tax liability. The Company, the Operating Company or any of their respective Subsidiaries or affiliates may deduct an amount sufficient to satisfy such tax obligations based on the applicable statutory withholding rates (or such other rate as may be determined by the Company, the Operating Company or any of their respective Subsidiaries or affiliates after considering any accounting consequences or costs) from any payment of any kind otherwise due to a Participant. In the absence of a contrary determination by the Company, the Operating Company or any of their respective Subsidiaries or affiliates (or, with respect to withholding pursuant to clause (ii) below with respect to Awards held by individuals subject to Section 16 of the Exchange Act, a contrary determination by the Administrator), all tax withholding obligations will be calculated based on the minimum applicable statutory withholding rates. Subject to Section 10.8 and any Company insider trading policy (including blackout periods), Participants may satisfy such tax obligations (i) in cash, by wire transfer of immediately available funds, by check made payable to the order of the Company, provided that the Company may limit the use of the foregoing payment forms if one or more of the payment forms below is permitted, (ii) to the extent permitted by the Administrator, in whole or in part by delivery of Shares, including Shares delivered by attestation and Shares retained from the Award creating the tax obligation, valued at their fair market value on the date of delivery, (iii) subject to Section 9.10, if there is a public market for Shares at the time the tax obligations are satisfied, unless the Company otherwise determines, (A) delivery (including electronically or telephonically to the extent permitted by the Company) of an irrevocable and unconditional undertaking by a broker acceptable to the Company to deliver promptly to the Company sufficient funds to satisfy the tax obligations, or (B) delivery by the Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company to deliver promptly to the Company cash or a check sufficient to satisfy the tax withholding; provided that such amount is paid to the Company at such time as may be required by the Administrator, or (iv) to the extent permitted by the Company, any combination of the foregoing payment forms approved by the Administrator. Notwithstanding any other provision of the Plan, the number of Shares which may be so delivered or retained pursuant to clause (ii) of the immediately preceding sentence shall be limited to the number of Shares which have a fair market value on the date of delivery

or retention no greater than the aggregate amount of such liabilities based on the maximum individual statutory withholding rate in the applicable jurisdiction at the time of such withholding (or such other rate as may be required to avoid the liability classification of the applicable award under generally accepted accounting principles in the United States of America). Subject to Section 9.10, if any tax withholding obligation will be satisfied under clause (ii) above by the Company's retention of Shares from the Award creating the tax obligation and there is a public market for Shares at the time the tax obligation is satisfied, the Company may elect to instruct any brokerage firm determined acceptable to the Company for such purpose to sell on the applicable Participant's behalf some or all of the Shares retained and to remit the proceeds of the sale to the Company or its designee, and each Participant's acceptance of an Award under the Plan will constitute the Participant's authorization to the Company and instruction and authorization to such brokerage firm to complete the transactions described in this sentence.

9.6 Amendment of Award; Repricing. The Administrator may amend, modify or terminate any outstanding Award, including by substituting another Award of the same or a different type, changing the exercise or settlement date, and converting an Incentive Stock Option to a Non-Qualified Stock Option. The Participant's consent to such action will be required unless (i) the action, taking into account any related action, does not materially and adversely affect the Participant's rights under the Award, or (ii) the change is permitted under Article VIII or pursuant to Section 10.6. Notwithstanding the foregoing or anything in the Plan to the contrary, the Administrator may, without the approval of the stockholders of the Company, reduce the exercise price per share of outstanding Options or Stock Appreciation Rights or cancel outstanding Options or Stock Appreciation Rights in exchange for cash, other Awards or Options or Stock Appreciation Rights with an exercise price per share that is less than the exercise price per share of the original Options or Stock Appreciation Rights.

9.7 Conditions on Delivery of Stock. The Company will not be obligated to deliver any Shares under the Plan or remove restrictions from Shares previously delivered under the Plan until (i) all Award conditions have been met or removed to the Company's satisfaction, (ii) as determined by the Company, all other legal matters regarding the issuance and delivery of such Shares have been satisfied, including any applicable securities laws and stock exchange or stock market rules and regulations, and (iii) the Participant has executed and delivered to the Company such representations or agreements as the Administrator deems necessary or appropriate to satisfy any Applicable Laws. The Company's inability to obtain authority from any regulatory body having jurisdiction, which the Administrator determines is necessary to the lawful issuance and sale of any securities, will relieve the Company of any liability for failing to issue or sell such Shares as to which such requisite authority has not been obtained.

9.8 Acceleration. The Administrator may at any time provide that any Award will become immediately vested and fully or partially exercisable, free of some or all restrictions or conditions, or otherwise fully or partially realizable.

9.9 Cash Settlement. Without limiting the generality of any other provision of the Plan, the Administrator may provide, in an Award Agreement or subsequent to the grant of an Award, in its discretion, that any Award may be settled in cash, Shares or a combination thereof.

9.10 Broker-Assisted Sales. In the event of a broker-assisted sale of Shares in connection with the payment of amounts owed by a Participant under or with respect to the Plan or Awards, including amounts to be paid under the final sentence of Section 9.5: (a) any Shares to be sold through the broker-assisted sale will be sold on the day the payment first becomes due, or as soon thereafter as practicable; (b) such Shares may be sold as part of a block trade with other Participants in the Plan in which all Participants receive an average price; (c) the applicable Participant will be responsible for all broker's

fees and other costs of sale, and by accepting an Award, each Participant agrees to indemnify and hold the Company harmless from any losses, costs, damages, or expenses relating to any such sale; (d) to the extent the Company or its designee receives proceeds of such sale that exceed the amount owed, the Company will pay such excess in cash to the applicable Participant as soon as reasonably practicable; (e) the Company and its designees are under no obligation to arrange for such sale at any particular price; and (f) in the event the proceeds of such sale are insufficient to satisfy the Participant's applicable obligation, the Participant may be required to pay immediately upon demand to the Company or its designee an amount in cash sufficient to satisfy any remaining portion of the Participant's obligation.

ARTICLE X.
MISCELLANEOUS

10.1 No Right to Employment or Other Status. No person will have any claim or right to be granted an Award, and the grant of an Award will not be construed as giving a Participant the right to continued employment or any other relationship with the Company, the Operating Company or any of their respective Subsidiaries or affiliates. The Company, the Operating Company and their respective Subsidiaries or affiliates expressly reserve the right at any time to dismiss or otherwise terminate their relationship with a Participant free from any liability or claim under the Plan or any Award, except as expressly provided in an Award Agreement or in the Plan.

10.2 No Rights as Stockholder; Certificates. Subject to the Award Agreement, no Participant or Designated Beneficiary will have any rights as a stockholder with respect to any Shares to be distributed under an Award until becoming the record holder of such Shares. Notwithstanding any other provision of the Plan, unless the Administrator otherwise determines or Applicable Laws require, the Company will not be required to deliver to any Participant certificates evidencing Shares issued in connection with any Award and instead such Shares may be recorded in the books of the Company (or, as applicable, its transfer agent or stock plan administrator). The Company may place legends on stock certificates issued under the Plan that the Administrator deems necessary or appropriate to comply with Applicable Laws.

10.3 Effective Date and Term of Plan. Unless earlier terminated by the Board, the Plan will become effective on Effective Date and will remain in effect until terminated by the Administrator in accordance with the Plan. Notwithstanding anything to the contrary in the Plan, an Incentive Stock Option may not be granted under the Plan after 10 years from the earlier of (i) the date the Board adopted the Plan or (ii) the date the Company's stockholders approved the Plan. Notwithstanding anything to the contrary contained herein, if the Plan is not approved by the Company's stockholders, the Plan will not become effective and no Awards will be granted under the Plan.

10.4 Amendment of Plan. The Administrator may amend, suspend or terminate the Plan at any time; provided that no amendment to the Plan, other than an increase to the Overall Share Limit, may materially and adversely affect any Award outstanding at the time of such amendment without the affected Participant's consent. No Awards may be granted under the Plan during any suspension period or after the Plan's termination. Awards outstanding at the time of any Plan suspension or termination will continue to be governed by the Plan and the Award Agreement, as in effect before such suspension or termination. The Board will obtain stockholder approval of any Plan amendment to the extent necessary to comply with Applicable Laws.

10.5 Provisions for Foreign Participants. The Administrator may modify Awards granted to Participants who are foreign nationals or employed outside the United States or establish subplans or

procedures under the Plan to address differences in laws, rules, regulations or customs of such foreign jurisdictions with respect to tax, securities, currency, employee benefit or other matters.

10.6 Section 409A.

(a) General. The Company intends that all Awards be structured to comply with, or be exempt from, Section 409A, such that no adverse tax consequences, interest, or penalties under Section 409A apply. Notwithstanding anything in the Plan or any Award Agreement to the contrary, the Administrator may, without a Participant's consent, amend this Plan or Awards, adopt policies and procedures, or take any other actions (including amendments, policies, procedures and retroactive actions) as are necessary or appropriate to preserve the intended tax treatment of Awards, including any such actions intended to (A) exempt this Plan or any Award from Section 409A, or (B) comply with Section 409A, including regulations, guidance, compliance programs and other interpretative authority that may be issued after an Award's grant date. The Company makes no representations or warranties as to an Award's tax treatment under Section 409A or otherwise. The Company will have no obligation under this Section 10.6 or otherwise to avoid the taxes, penalties or interest under Section 409A with respect to any Award and will have no liability to any Participant or any other person if any Award, compensation or other benefits under the Plan are determined to constitute noncompliant "nonqualified deferred compensation" subject to taxes, penalties or interest under Section 409A.

(b) Separation from Service. If an Award constitutes "nonqualified deferred compensation" under Section 409A, any payment or settlement of such Award upon a termination of a Participant's Service Provider relationship will, to the extent necessary to avoid taxes under Section 409A, be made only upon the Participant's "separation from service" (within the meaning of Section 409A), whether such "separation from service" occurs upon or after the termination of the Participant's Service Provider relationship. For purposes of this Plan or any Award Agreement relating to any such payments or benefits, references to a "termination," "termination of employment" or like terms means a "separation from service." Furthermore, notwithstanding any contrary provision of the Plan or any Award Agreement, any payment of "nonqualified deferred compensation" under the Plan that may be made in installments shall be treated as a right to receive a series of separate and distinct payments.

(c) Payments to Specified Employees. Notwithstanding any contrary provision in the Plan or any Award Agreement, any payment(s) of "nonqualified deferred compensation" required to be made under an Award to a "specified employee" (as defined under Section 409A and as the Administrator determines) due to his or her "separation from service" will, to the extent necessary to avoid taxes under Section 409A(a)(2)(B)(i) of the Code, be delayed for the six-month period immediately following such "separation from service" (or, if earlier, until the specified employee's death) and will instead be paid (as set forth in the Award Agreement) on the day immediately following such six-month period or as soon as administratively practicable thereafter (without interest). Any payments of "nonqualified deferred compensation" under such Award payable more than six months following the Participant's "separation from service" will be paid at the time or times the payments are otherwise scheduled to be made.

10.7 Limitations on Liability. Notwithstanding any other provisions of the Plan, and to the fullest extent permitted by Applicable Laws and the Company's Certificate of Formation and bylaws, (a) no individual acting as a director, officer, other employee or agent of the Company, the Operating Company or any of their respective Subsidiaries or affiliates will be liable to any Participant, former Participant, spouse, beneficiary, or any other person for any claim, loss, liability, or expense incurred in connection with the Plan or any Award, and such individual will not be personally liable with respect to

the Plan because of any contract or other instrument executed in his or her capacity as an Administrator, director, officer, other employee or agent of the Company, the Operating Company or any of their respective Subsidiaries or affiliates and (b) the Company will indemnify and hold harmless each director, officer, other employee and agent of the Company, the Operating Company or any of their respective Subsidiaries or affiliates that has been or will be granted or delegated any duty or power relating to the Plan's administration or interpretation, against any cost or expense (including attorneys' fees) or liability (including any sum paid in settlement of a claim with the Administrator's approval) arising from any act or omission concerning this Plan unless arising from such person's own fraud or bad faith.

10.8 Lock-Up Period. The Company may, at the request of any underwriter representative or otherwise, in connection with registering the offering of any Company securities under the Securities Act, prohibit Participants from, directly or indirectly, selling or otherwise transferring any Shares or other Company securities during a period of up to 180 days following the effective date of a Company registration statement filed under the Securities Act, or such longer period as determined by the underwriter.

10.9 Data Privacy. As a condition for receiving any Award, each Participant explicitly and unambiguously consents to the collection, use and transfer, in electronic or other form, of personal data as described in this section by and among the Company, the Operating Company and their respective Subsidiaries and affiliates exclusively for implementing, administering and managing the Participant's participation in the Plan. The Company, the Operating Company and their respective Subsidiaries and affiliates may hold certain personal information about a Participant, including the Participant's name, address and telephone number; birthdate; social security, insurance number or other identification number; salary; nationality; job title(s); any Shares held in the Company, the Operating Company or their respective Subsidiaries and affiliates; and Award details, to implement, manage and administer the Plan and Awards (the "***Data***"). The Company, the Operating Company and their respective Subsidiaries and affiliates may transfer the Data amongst themselves as necessary to implement, administer and manage a Participant's participation in the Plan, and the Company, the Operating Company and their respective Subsidiaries and affiliates may transfer the Data to third parties assisting the Company with the Plan implementation, administration and management. These recipients may be located in the Participant's country, or elsewhere, and the Participant's country may have different data privacy laws and protections than the recipients' country. By accepting an Award, each Participant authorizes such recipients to receive, possess, use, retain and transfer the Data, in electronic or other form, to implement, administer and manage the Participant's participation in the Plan, including any required Data transfer to a broker or other third party with whom the Company or the Participant may elect to deposit any Shares. The Data related to a Participant will be held only as long as necessary to implement, administer, and manage the Participant's participation in the Plan. A Participant may, at any time, view the Data that the Company holds regarding such Participant, request additional information about the storage and processing of the Data regarding such Participant, recommend any necessary corrections to the Data regarding the Participant or refuse or withdraw the consents in this Section 10.9 in writing, without cost, by contacting the local human resources representative. If the Participant refuses or withdraws the consents in this Section 10.9, the Company may cancel Participant's ability to participate in the Plan and, in the Administrator's discretion, the Participant may forfeit any outstanding Awards. For more information on the consequences of refusing or withdrawing consent, Participants may contact their local human resources representative.

10.10 Severability. If any portion of the Plan or any action taken under it is held illegal or invalid for any reason, the illegality or invalidity will not affect the remaining parts of the Plan, and the

Plan will be construed and enforced as if the illegal or invalid provisions had been excluded, and the illegal or invalid action will be null and void.

10.11 Governing Documents. If any contradiction occurs between the Plan and any Award Agreement or other written agreement between a Participant and the Company or the Operating Company (or any of their respective Subsidiaries or Affiliates) that the Administrator has approved, the Plan will govern, unless it is expressly specified in such Award Agreement or other written document that a specific provision of the Plan will not apply.

10.12 Governing Law. The Plan and all Awards will be governed by and interpreted in accordance with the laws of the State of Texas, disregarding any state's choice-of-law principles requiring the application of a jurisdiction's laws other than the State of Texas.

10.13 Clawback Provisions. All Awards (including, without limitation, any proceeds, gains or other economic benefit actually or constructively received by Participant upon any receipt or exercise of any Award or upon the receipt or sale of any Shares underlying the Award) shall be subject to the provisions of any clawback policy implemented by the Company, including, without limitation, the Company's Policy for Recovery of Erroneously Awarded Compensation and any other clawback policy adopted to comply with Applicable Laws, as and to the extent set forth in such clawback policy or the Award Agreement.

10.14 Titles and Headings. The titles and headings in the Plan are for convenience of reference only and, if there is any conflict, the Plan's text, rather than such titles or headings, will control.

10.15 Conformity to Laws. Participant acknowledges that the Plan is intended to conform to the extent necessary with Applicable Laws. Notwithstanding anything herein to the contrary, the Plan and all Awards will be administered only in conformance with Applicable Laws. To the extent Applicable Laws permit, the Plan and all Award Agreements will be deemed amended as necessary to conform to Applicable Laws.

10.16 Relationship to Other Benefits. No payment under the Plan will be taken into account in determining any benefits under any pension, retirement, savings, profit sharing, group insurance, welfare or other benefit plan of the Company, the Operating Company or any of their respective Subsidiaries or affiliates except as expressly provided in writing in such other plan or an agreement thereunder.

10.17 Grant of Awards to Certain Eligible Service Providers. The Company may provide through the establishment of a formal written policy (which shall be deemed a part of this Plan) or otherwise for the method by which Common Stock or other securities of the Company may be issued and by which such Common Stock or other securities and/or payment therefor may be exchanged or contributed among the Company, the Operating Company, or any of Affiliates, or may be returned to the Company upon any forfeiture of Common Stock or other securities by the eligible Service Provider.

ARTICLE XI.
DEFINITIONS

As used in the Plan, the following words and phrases will have the following meanings:

11.1 "***Administrator***" means the Board or a Committee to the extent that the Board's powers or authority under the Plan have been delegated to such Committee.

11.2 "***Affiliate***" means the Operating Company and any other person or entity that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the Company, including any Subsidiary and any Affiliate that is a domestic eligible entity that is disregarded, under Treasury Regulation Section 301.7701-3, as an entity separate from either the Company or any Subsidiary. As used in this definition, "control", as used with respect to any person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the controlled person or entity whether through ownership of voting securities, by contract or otherwise.

11.3 "***Applicable Laws***" means any applicable law, including without limitation: (a) provisions of the Code, the Securities Act, the Exchange Act and any rules or regulations thereunder; (b) corporate, securities, tax or other laws, statutes, rules, requirements or regulations, whether U.S. or non-U.S. federal, state or local; and (c) rules of any securities exchange or automated quotation system on which the Shares are listed, quoted or traded.

11.4 "***Award***" means, individually or collectively, a grant under the Plan of Options, Stock Appreciation Rights, Restricted Stock, Restricted Stock Units, Dividend Equivalents, or Other Stock or Cash Based Awards.

11.5 "***Award Agreement***" means a written agreement evidencing an Award, which may be electronic, that contains such terms and conditions as the Administrator determines, consistent with and subject to the terms and conditions of the Plan.

11.6 "***Board***" means the Board of Directors of the Company.

11.7 "***Cause***" means, in respect of a Participant, either (a) the definition of "Cause" contained in the Participant's Award Agreement or an effective, written service or employment agreement between the Participant and the Company, the Operating Company or any of their respective Subsidiaries or affiliates; or (b) if no such agreement exists or such agreement does not define Cause, then Cause shall mean (i) the Participant's unauthorized use or disclosure of confidential information or trade secrets of the Company, the Operating Company or any of their respective Subsidiaries or affiliates or any material breach of a written agreement between the Participant and the Company, the Operating Company or any of their respective Subsidiaries or affiliates, including without limitation a material breach of any employment, confidentiality, non-compete, non-solicit or similar agreement; (ii) the Participant's commission of, indictment for or the entry of a plea of guilty or nolo contendere by the Participant to, a felony under the laws of the United States or any state thereof or any crime involving dishonesty or moral turpitude (or any similar crime in any jurisdiction outside the United States); (iii) the Participant's negligence or willful misconduct in the performance of the Participant's duties or the Participant's willful or repeated failure or refusal to substantially perform assigned duties; (iv) any act of fraud, embezzlement, material misappropriation or dishonesty committed by the Participant against the Company, the Operating Company or any of their respective Subsidiaries or affiliates; or (v) any acts, omissions or statements by a Participant which the Company determines to be materially detrimental or damaging to the reputation, operations, prospects or business relations of the Company, the Operating Company or any of their respective Subsidiaries or affiliates. The findings and decision of the Administrator with respect to any Cause determination will be final and binding for all purposes.

11.8 "***Certificate of Formation***" means the Amended and Restated Certificate of Formation of the Company, as may be amended from time to time, dated as of August 28, 2025.

11.9 "***Change in Control***" means and includes each of the following:

(a) A transaction or series of transactions (other than an offering of Common Stock to the general public through a registration statement filed with the Securities and Exchange Commission or a transaction or series of transactions that meets the requirements of clauses (i) and (ii) of subsection (c) below) whereby any "person" or related "group" of "persons" (as such terms are used in Sections 13(d) and 14(d)(2) of the Exchange Act) (other than the Company, any of its Affiliates, the Founders, Cynosure or any of their respective Permitted Transferees (each, as defined in the Certificate of Formation), an employee benefit plan maintained by the Company or any of its Affiliates or a "person" that, prior to such transaction, directly or indirectly controls, is controlled by, or is under common control with, the Company) directly or indirectly acquires beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act) of securities of the Company possessing more than 50% of the total combined voting power of the Company's securities outstanding immediately after such acquisition; or

(b) During any period of two consecutive years, individuals who, at the beginning of such period, constitute the Board together with any new Director(s) (other than a Director designated by a person who shall have entered into an agreement with the Company to effect a transaction described in subsections (a) or (c)) whose election by the Board or nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the Directors then still in office who either were Directors at the beginning of the two-year period or whose election or nomination for election was previously so approved, cease for any reason to constitute a majority thereof; or

(c) The consummation by the Company (whether directly involving the Company or indirectly involving the Company through one or more intermediaries) of (x) a merger, consolidation, reorganization, or business combination or (y) a sale or other disposition of all or substantially all of the Company's assets in any single transaction or series of related transactions or (z) the acquisition of assets or stock of another entity, in each case other than a transaction:

(i) which results in the Company's voting securities outstanding immediately before the transaction continuing to represent (either by remaining outstanding or by being converted into voting securities of the Company or the person that, as a result of the transaction, controls, directly or indirectly, the Company or owns, directly or indirectly, all or substantially all of the Company's assets or otherwise succeeds to the business of the Company (the Company or such person, the "***Successor Entity***")) directly or indirectly, at least a majority of the combined voting power of the Successor Entity's outstanding voting securities immediately after the transaction, and

(ii) after which no person or group beneficially owns voting securities representing 50% or more of the combined voting power of the Successor Entity; provided, however, that no person or group shall be treated for purposes of this clause (ii) as beneficially owning 50% or more of the combined voting power of the Successor Entity solely as a result of the voting power held in the Company prior to the consummation of the transaction.

Notwithstanding the foregoing, (1) the change in voting power of Class C Common Stock upon the Sunset Date (as defined in the Certificate of Formation) shall not constitute a Change in Control and (2) if a Change in Control constitutes a payment event with respect to any Award (or portion of any Award) that provides for the deferral of compensation that is subject to Section 409A, to the extent required to avoid the imposition of additional taxes under Section 409A, the transaction or event described in subsection (a), (b) or (c) with respect to such Award (or portion thereof) shall only constitute a Change in Control for purposes of the payment timing of such Award (or portion thereof) if such

transaction also constitutes a "change in control event," as defined in Treasury Regulation Section 1.409A-3(i)(5).

The Administrator shall have full and final authority, which shall be exercised in its discretion, to determine conclusively whether a Change in Control has occurred pursuant to the above definition, the date of the occurrence of such Change in Control and any incidental matters relating thereto; provided that any exercise of authority in conjunction with a determination of whether a Change in Control is a "change in control event" as defined in Treasury Regulation Section 1.409A-3(i)(5) shall be consistent with such regulation.

11.10 "***Class A Common Stock***" means the Class A common stock of the Company, par value of $0.00001 per share.

11.11 "***Class B Common Stock***" means the Class B common stock of the Company, par value of $0.00001 per share.

11.12 "***Class C Common Stock***" means the Class C common stock of the Company, par value of $0.00001 per share.

11.13 "***Code***" means the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder.

11.14 "***Committee***" means one or more committees or subcommittees of the Board, which may include one or more Company directors or executive officers, to the extent Applicable Laws permit. To the extent required to comply with the provisions of Rule 16b-3, it is intended that each member of the Committee will be, at the time the Committee takes any action with respect to an Award that is subject to Rule 16b-3, a "non-employee director" within the meaning of Rule 16b-3; however, a Committee member's failure to qualify as a "non-employee director" within the meaning of Rule 16b-3 will not invalidate any Award granted by the Committee that is otherwise validly granted under the Plan.

11.15 "***Common Stock***" means the Class A Common Stock, Class B Common Stock or Class C Common Stock of the Company.

11.16 "***Company***" means Black Rock Coffee Bar, Inc., a Texas corporation, or any successor.

11.17 "***Consultant***" means any consultant or advisor engaged by the Company, the Operating Company or an Affiliate to render services to such entity, in each case that can be granted an Award that is eligible to be registered on a Form S-8 Registration Statement.

11.18 "***Designated Beneficiary***" means the beneficiary or beneficiaries the Participant designates, in a manner the Administrator determines, to receive amounts due or exercise the Participant's rights if the Participant dies or becomes incapacitated. Without a Participant's effective designation, "Designated Beneficiary" will mean the Participant's estate.

11.19 "***Director***" means a Board member.

11.20 "***Disability***" means a permanent and total disability under Section 22(e)(3) of the Code, as amended.

11.21 "***Dividend Equivalents***" means a right granted to a Participant under the Plan to receive the equivalent value (in cash or Shares) of dividends paid on Shares.

11.22 "***Employee***" means any employee of the Company, the Operating Company or an Affiliate.

11.23 "***Effective Date***" means the day prior to the Public Trading Date.

11.24 "***Equity Restructuring***" means, as determined by the Administrator, a non-reciprocal transaction between the Company and its stockholders, such as a stock dividend, stock split, spin-off or recapitalization, or a large, nonrecurring cash dividend, that affects the shares of Common Stock (or other securities of the Company) or the share price of Common Stock (or other securities of the Company) and causes a change in the per share value of the Common Stock underlying outstanding Awards.

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

11.26 "***Fair Market Value***" means, as of any date, the value of a Share determined as follows: (a) if the Class A Common Stock is listed on any established stock exchange, its Fair Market Value will be the closing sales price for such Class A Common Stock as quoted on such exchange for such date, or if no sale occurred on such date, the last day preceding such date during which a sale occurred, as reported in The Wall Street Journal or another source the Administrator deems reliable; (b) if the Class A Common Stock is not traded on a stock exchange but is quoted on a national market or other quotation system, the closing sales price on such date, or if no sales occurred on such date, then on the last date preceding such date during which a sale occurred, as reported in The Wall Street Journal or another source the Administrator deems reliable; or (c) without an established market for the Class A Common Stock, the Administrator will determine the Fair Market Value in its discretion.

Notwithstanding the foregoing, with respect to any Award granted on the pricing date of the Company's initial public offering, the Fair Market Value shall mean the initial public offering price of a Share as set forth in the Company's final prospectus relating to its initial public offering filed with the Securities and Exchange Commission.

11.27 "***Greater Than 10% Stockholder***" means an individual then owning (within the meaning of Section 424(d) of the Code) more than 10% of the total combined voting power of all classes of stock of the Company or its parent or subsidiary corporation, as defined in Section 424(e) and (f) of the Code, respectively.

11.28 "***Incentive Stock Option***" means an Option intended to qualify as an "incentive stock option" as defined in Section 422 of the Code.

11.29 "***Non-Qualified Stock Option***" means an Option, or portion thereof, not intended or not qualifying as an Incentive Stock Option.

11.30 "***Operating Company***" means Black Rock Coffee Holdings, LLC.

11.31 "***Option***" means an option to purchase Shares, which will either be an Incentive Stock option or a Non-Qualified Stock Option.

11.32 "***Other Stock or Cash Based Awards*** " means cash awards, awards of Shares, and other awards valued wholly or partially by referring to, or are otherwise based on, Shares or other property awarded to a Participant under Article VII.

11.33 "***Overall Share Limit***" means the sum of (a) [_____] Shares;[1] and (b) an annual increase on the first day of each calendar year beginning on and including January 1, 2026 and ending on and including January 1, 2035, equal to (i) a number of Shares equal to 3% of the aggregate number of shares of Common Stock outstanding on the final day of the immediately preceding calendar year, or (ii) such smaller number of Shares as is determined by the Board.

11.34 "***Participant***" means a Service Provider who has been granted an Award.

11.35 "***Performance Criteria***" mean the criteria (and adjustments) that the Administrator may select for an Award to establish performance goals for a performance period, which may include the following: net earnings or losses (either before or after one or more of interest, taxes, depreciation, amortization, and non-cash equity-based compensation expense); gross or net sales or revenue or sales or revenue growth; net income (either before or after taxes) or adjusted net income; profits (including but not limited to gross profits, net profits, profit growth, net operation profit or economic profit), profit return ratios or operating margin; budget or operating earnings (either before or after taxes or before or after allocation of corporate overhead and bonus); cash flow (including operating cash flow and free cash flow or cash flow return on capital); return on assets; return on capital or invested capital; cost of capital; return on stockholders' equity; total stockholder return; return on sales; costs, reductions in costs and cost control measures; expenses; working capital; earnings or loss per share; adjusted earnings or loss per share; price per share or dividends per share (or appreciation in or maintenance of such price or dividends); regulatory achievements or compliance; implementation, completion or attainment of objectives relating to research, development, regulatory, commercial, or strategic milestones or developments; market share; economic value or economic value added models; division, group or corporate financial goals; customer satisfaction/growth; customer service; employee satisfaction; recruitment and maintenance of personnel; human capital management (including diversity and inclusion); supervision of litigation and other legal matters; strategic partnerships and transactions; financial ratios (including those measuring liquidity, activity, profitability or leverage); debt levels or reductions; sales-related goals; financing and other capital raising transactions; cash on hand; acquisition activity; investment sourcing activity; and marketing initiatives, any of which may be measured in absolute terms or as compared to any incremental increase or decrease. Such performance goals also may be based solely by reference to the Company's performance or the performance of the Operating Company or any of their respective Subsidiaries or affiliates, division, business segment or business unit of the Company, the Operating Company or any of their respective Subsidiaries or affiliates, or based upon performance relative to performance of other companies or upon comparisons of any of the indicators of performance relative to performance of other companies.

11.36 "***Plan***" means this 2025 Incentive Award Plan.

11.37 "***Public Trading Date***" means the first date upon which the Class A Common Stock is listed (or approved for listing) upon notice of issuance on any securities exchange or designated (or

[1] **NTD**: To be the sum of: (i) 2,500,000 Shares; and (ii) if, as of immediately following the closing of the IPO, the number of Shares in subclause (i) equals less than nine percent (9%) of the aggregate number of shares of Common Stock, an increase to the Overall Share Limit on the date of the closing of the Company's initial public offering in an amount such that the aggregate number of Shares available for issuance pursuant to awards under the 2025 Plan after such increase is equal to nine percent (9%) of the aggregate number of shares of Common Stock.

approved for designation) upon notice of issuance as a national market security on an interdealer quotation system.

11.38 "***Restricted Stock***" means Shares awarded to a Participant under Article VI subject to certain vesting conditions and other restrictions.

11.39 "***Restricted Stock Unit***" means an unfunded, unsecured right to receive, on the applicable settlement date, one Share or an amount in cash or other consideration determined by the Administrator to be of equal value as of such settlement date awarded to a Participant under Article VI subject to certain vesting conditions and other restrictions.

11.40 "***Rule 16b-3***" means Rule 16b-3 promulgated under the Exchange Act.

11.41 "***Section 409A***" means Section 409A of the Code and all regulations, guidance, compliance programs and other interpretative authority thereunder.

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

11.43 "***Service Provider***" means an Employee, Consultant or Director.

11.44 "***Share***" means a share of Class A Common Stock.

11.45 "***Stock Appreciation Right***" means a stock appreciation right granted under Article V.

11.46 "***Subsidiary***" means any entity (other than the Company), whether domestic or foreign, in an unbroken chain of entities beginning with the Company if each of the entities other than the last entity in the unbroken chain beneficially owns, at the time of the determination, securities or interests representing at least 50% of the total combined voting power of all classes of securities or interests in one of the other entities in such chain.

11.47 "***Substitute Awards***" means Awards granted or Shares issued by the Company in assumption of, or in substitution or exchange for, awards previously granted, or the right or obligation to make future awards, in each case by a company acquired by the Company or any Affiliate or with which the Company or any Affiliate combines.

11.48 "***Termination of Service***" means the date the Participant ceases to be a Service Provider.

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BLACK ROCK COFFEE BAR, INC.

2025 INCENTIVE AWARD PLAN

STOCK OPTION GRANT NOTICE

Black Rock Coffee Bar, Inc., a Texas corporation (the " ***Company***") has granted to the participant listed below ("***Participant***") the stock option (the "***Option***") described in this Stock Option Grant Notice (the "***Grant Notice***"), subject to the terms and conditions of the Black Rock Coffee Bar, Inc. 2025 Incentive Award Plan (as amended from time to time, the "***Plan***") and the Stock Option Agreement attached hereto as **Exhibit A** (the "***Agreement***"), both of which are incorporated into this Grant Notice by reference. Capitalized terms not specifically defined in this Grant Notice or the Agreement have the meanings given to them in the Plan.

Participant:	[To be specified]
Grant Date:	[To be specified]
Exercise Price per Share:	[To be specified]
Shares Subject to the Option:	[To be specified]
Final Expiration Date:	[To be specified]
Vesting Commencement Date:	[To be specified]
Vesting Schedule:	[To be specified]
Type of Option	[Incentive Stock Option]/[Non-Qualified Stock Option]

By accepting (whether in writing, electronically or otherwise) the Option, Participant agrees to be bound by the terms of this Grant Notice, the Plan and the Agreement. Participant has reviewed the Plan, this Grant Notice and the Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Grant Notice and fully understands all provisions of the Plan, this Grant Notice and the Agreement. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan, this Grant Notice or the Agreement.

BLACK ROCK COFFEE BAR, INC.

By: _____

Name: _____

Title: _____

PARTICIPANT

_____

[Participant Name]

STOCK OPTION AGREEMENT

Capitalized terms not specifically defined in this Agreement have the meanings specified in the Grant Notice or, if not defined in the Grant Notice, in the Plan.

ARTICLE I.
GENERAL

1.1 Grant of Option. The Company has granted to Participant the Option effective as of the grant date set forth in the Grant Notice (the " ***Grant Date***").

1.2 Incorporation of Terms of Plan. The Option is subject to the terms and conditions set forth in this Agreement and the Plan, which is incorporated herein by reference. In the event of any inconsistency between the Plan and this Agreement, the terms of the Plan will control.

ARTICLE II.
PERIOD OF EXERCISABILITY

2.1 Commencement of Exercisability. The Option will vest and become exercisable according to the vesting schedule in the Grant Notice (the "***Vesting Schedule***") except that any fraction of a Share as to which the Option would be vested or exercisable will be accumulated and will vest and become exercisable only when a whole Share has accumulated. The Option will immediately expire and be forfeited as to any portion that is not vested and exercisable as of Participant's Termination of Service for any reason, except as otherwise determined by the Administrator or provided in a binding written agreement between Participant and the Company (after taking into consideration any accelerated vesting and exercisability which may occur in connection with such Termination of Service, including under the Company's Executive Severance Plan, if applicable).

2.2 Duration of Exercisability. The Vesting Schedule is cumulative. Any portion of the Option which vests and becomes exercisable will remain vested and exercisable until the Option expires. The Option will be forfeited immediately upon its expiration.

2.3 Expiration of Option. The Option may not be exercised to any extent by anyone after, and will expire on, the first of the following to occur:

(a) The final expiration date in the Grant Notice; provided, however, such final expiration date may be extended pursuant to Section 5.3 of the Plan;

(b) Except as the Administrator may otherwise approve, the expiration of three months from the date of Participant's Termination of Service, unless Participant's Termination of Service is for Cause or by reason of Participant's death or Disability;

(c) Except as the Administrator may otherwise approve, the expiration of one year from the date of Participant's Termination of Service by reason of Participant's death or Disability; and

(d) Except as the Administrator may otherwise approve, Participant's Termination of Service for Cause.

ARTICLE III.
EXERCISE OF OPTION

3.1 Person Eligible to Exercise. During Participant's lifetime, only Participant may exercise the Option. After Participant's death, any exercisable portion of the Option may, prior to the time the Option expires, be exercised by Participant's Designated Beneficiary as provided in the Plan.

3.2 Partial Exercise. Any exercisable portion of the Option or the entire Option, if then wholly exercisable, may be exercised, in whole or in part, according to the procedures in the Plan at any time prior to the time the Option or portion thereof expires, except that the Option may only be exercised for whole Shares.

3.3 Tax Withholding; Exercise Price.

(a) Subject to Section 3.3(b) and 3.3(c), payment of the exercise price and withholding tax obligations with respect to the Option may be by any of the following, or a combination thereof, as determined by the Company (or, if the Participant is subject to Section 16 of the Exchange Act, the Administrator):

(i) Cash or check;

(ii) In whole or in part by delivery of Shares, including Shares delivered by attestation and Shares retained from the Option creating the tax obligation, valued at their Fair Market Value on the date of delivery;

(iii) Subject to Section 9.10 of the Plan, delivery (including electronically or telephonically to the extent permitted by the Company) by Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company that Participant has placed a market sell order with such broker with respect to Shares then-issuable upon exercise of the Option, and that the broker has been directed to deliver promptly to the Company funds sufficient to satisfy the applicable exercise price and/or tax withholding obligations; provided, that payment of such proceeds is then made to the Company at such time as may be required by the Administrator; or

(iv) In whole or in part by the Company withholding of Shares otherwise issuable upon exercise of this Option.

(b) Unless the Company (or, if Participant is subject to Section 16 of the Exchange Act, the Administrator) otherwise determines, and subject to Section 9.10 of the Plan, payment of any exercise price and/or applicable withholding tax obligations with respect to the Award shall be (i) if Participant is not subject to Section 16 of the Exchange Act, by delivery (including electronically or telephonically to the extent permitted by the Company) of an irrevocable and unconditional undertaking by a broker acceptable to the Company to deliver promptly to the Company sufficient funds to satisfy the exercise price and/or applicable tax withholding obligations or (ii) if Participant is subject to Section 16 of the Exchange Act, by delivery (including electronically or telephonically to the extent permitted by the Company) by Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company that Participant has placed a market sell order with such broker with respect to Shares then-issuable upon exercise of the Award, and that the broker has been directed to deliver promptly to the Company funds sufficient to satisfy the exercise price and/or applicable tax withholding obligations; provided, that payment of such proceeds is then made to the Company at such time as may be required by the Administrator.

(c) Subject to Section 9.5 of the Plan, the applicable tax withholding obligation will be determined based on Participant's Applicable Withholding Rate. Participant's "***Applicable Withholding Rate***" shall mean (i) if Participant is subject to Section 16 of the Exchange Act, the greater of (A) the minimum applicable statutory tax withholding rate or (B) with Participant's consent, the maximum individual tax withholding rate permitted under the rules of the applicable taxing authority for tax withholding attributable to the underlying transaction, or (ii) if Participant is not subject to Section 16 of the Exchange Act, the minimum applicable statutory tax withholding rate or such other higher rate approved by the Company; provided, however, that (i) in no event shall Participant's Applicable Withholding Rate exceed the maximum individual statutory tax rate in the applicable jurisdiction at the time of such withholding (or such other rate as may be required to avoid the liability classification of the applicable award under generally accepted accounting principles in the United States of America); and (ii) the number of Shares tendered or withheld, if applicable, shall be rounded up to the nearest whole Share sufficient to cover the applicable tax withholding obligation, to the extent rounding up to the nearest whole Share does not result in the liability classification of the Option under generally accepted accounting principles.

(d) Participant acknowledges that Participant is ultimately liable and responsible for the exercise price and all taxes owed in connection with the Option (and, with respect to taxes, regardless of any action the Company or any Subsidiary takes with respect to any tax withholding obligations that arise in connection with the Option). Neither the Company nor any Subsidiary makes any representation or undertaking regarding the treatment of any tax withholding in connection with the awarding, vesting or exercise of the Option or the subsequent sale of Shares. The Company and the Subsidiaries do not commit and are under no obligation to structure the Option to reduce or eliminate Participant's tax liability.

ARTICLE IV.
OTHER PROVISIONS

4.1 Adjustments. Participant acknowledges that the Option is subject to adjustment, modification and termination in certain events as provided in this Agreement and the Plan.

4.2 Clawback. The Option and the Shares issuable hereunder shall be subject to any clawback or recoupment policy in effect on the Grant Date or as may be adopted or maintained by the Company following the Grant Date, including the Company's Policy for Recovery of Erroneously Awarded Compensation.

4.3 Notices. Any notice to be given under the terms of this Agreement to the Company must be in writing and addressed to the Company in care of the Company's Chief Legal Officer at the Company's principal office or the Chief Legal Officer's then-current email address or facsimile number. Any notice to be given under the terms of this Agreement to Participant must be in writing and addressed to Participant (or, if Participant is then deceased, to the Designated Beneficiary) at Participant's last known mailing address, email address or facsimile number in the Company's personnel files. By a notice given pursuant to this Section, either party may designate a different address for notices to be given to that party. Any notice will be deemed duly given when actually received, when sent by email, when sent by certified mail (return receipt requested) and deposited with postage prepaid in a post office or branch post office regularly maintained by the United States Postal Service, when delivered by a nationally recognized express shipping company or upon receipt of a facsimile transmission confirmation.

4.4 Titles. Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

4.5 Conformity to Securities Laws. Participant acknowledges that the Plan, the Grant Notice and this Agreement are intended to conform to the extent necessary with all Applicable Laws and, to the extent Applicable Laws permit, will be deemed amended as necessary to conform to Applicable Laws.

4.6 Successors and Assigns. The Company may assign any of its rights under this Agreement to single or multiple assignees, and this Agreement will inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth in this Agreement or the Plan, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.

4.7 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan or this Agreement, if Participant is subject to Section 16 of the Exchange Act, the Plan, the Grant Notice, this Agreement and the Option will be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3) that are requirements for the application of such exemptive rule. To the extent Applicable Laws permit, this Agreement will be deemed amended as necessary to conform to such applicable exemptive rule.

4.8 Entire Agreement; Amendment. The Plan, the Grant Notice and this Agreement (including any exhibit hereto) constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof. To the extent permitted by the Plan, this Agreement may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Administrator or the Board; provided, however, that except as may otherwise be provided by the Plan, no amendment, modification, suspension or termination of this Agreement shall materially and adversely affect the Option without the prior written consent of Participant.

4.9 Agreement Severable. In the event that any provision of the Grant Notice or this Agreement is held illegal or invalid, the provision will be severable from, and the illegality or invalidity of the provision will not be construed to have any effect on, the remaining provisions of the Grant Notice or this Agreement.

4.10 Limitation on Participant's Rights. Participation in the Plan confers no rights or interests other than as herein provided. This Agreement creates only a contractual obligation on the part of the Company as to amounts payable and may not be construed as creating a trust. Neither the Plan nor any underlying program, in and of itself, has any assets. Participant will have only the rights of a general unsecured creditor of the Company with respect to amounts credited and benefits payable, if any, with respect to the Option, and rights no greater than the right to receive the Shares as a general unsecured creditor with respect to the Option, as and when exercised pursuant to the terms hereof.

4.11 Not a Contract of Employment. Nothing in the Plan, the Grant Notice or this Agreement confers upon Participant any right to continue in the employ or service of the Company or any Subsidiary or interferes with or restricts in any way the rights of the Company and its Subsidiaries, which rights are hereby expressly reserved, to discharge or terminate the services of Participant at any time for any reason whatsoever, with or without Cause, except to the extent expressly provided otherwise in a written agreement between the Company or a Subsidiary and Participant.

4.12 Counterparts. The Grant Notice may be executed in one or more counterparts, including by way of any electronic signature, subject to Applicable Law, each of which will be deemed an original and all of which together will constitute one instrument.

4.13 Incentive Stock Options. If the Option is designated as an Incentive Stock Option:

(a) Participant acknowledges that to the extent the aggregate fair market value of shares (determined as of the time the option with respect to the shares is granted) with respect to which stock options intended to qualify as "incentive stock options" under Section 422 of the Code, including the Option, are exercisable for the first time by Participant during any calendar year exceeds $100,000 or if for any other reason such stock options do not qualify or cease to qualify for treatment as "incentive stock options" under Section 422 of the Code, such stock options (including the Option) will be treated as non-qualified stock options. Participant further acknowledges that the rule set forth in the preceding sentence will be applied by taking the Option and other stock options into account in the order in which they were granted, as determined under Section 422(d) of the Code. Participant also acknowledges that if the Option is exercised more than three months after Participant's Termination of Service, other than by reason of death or Disability, the Option will be taxed as a Non-Qualified Stock Option.

(b) Participant will give prompt written notice to the Company of any disposition or other transfer of any Shares acquired under this Agreement if such disposition or other transfer is made (i) within two years from the Grant Date or (ii) within one year after the transfer of such Shares to Participant. Such notice will specify the date of such disposition or other transfer and the amount realized, in cash, other property, assumption of indebtedness or other consideration, by Participant in such disposition or other transfer.

* * * * *

BLACK ROCK COFFEE BAR, INC.

2025 INCENTIVE AWARD PLAN

STOCK OPTION GRANT NOTICE

Black Rock Coffee Bar, Inc., a Texas corporation (the " ***Company***") has granted to the participant listed below ("***Participant***") the stock option (the "***Option***") described in this Stock Option Grant Notice (the "***Grant Notice***"), subject to the terms and conditions of the Black Rock Coffee Bar, Inc. 2025 Incentive Award Plan (as amended from time to time, the "***Plan***") and the Stock Option Agreement attached hereto as **Exhibit A** (the "***Agreement***"), both of which are incorporated into this Grant Notice by reference. Capitalized terms not specifically defined in this Grant Notice or the Agreement have the meanings given to them in the Plan.

Participant:	[To be specified]
Grant Date:	[To be specified]
Exercise Price per Share:	[To be specified]
Shares Subject to the Option:	[To be specified]
Final Expiration Date:	[To be specified]
Vesting Commencement Date:	[To be specified]
Vesting Schedule:	[To be specified]
Type of Option	[Incentive Stock Option]/[Non-Qualified Stock Option]

By accepting (whether in writing, electronically or otherwise) the Option, Participant agrees to be bound by the terms of this Grant Notice, the Plan and the Agreement. Participant has reviewed the Plan, this Grant Notice and the Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Grant Notice and fully understands all provisions of the Plan, this Grant Notice and the Agreement. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan, this Grant Notice or the Agreement.

BLACK ROCK COFFEE BAR, INC.

By: _____

Name: _____

Title: _____

PARTICIPANT

_____

[Participant Name]

STOCK OPTION AGREEMENT

Capitalized terms not specifically defined in this Agreement have the meanings specified in the Grant Notice or, if not defined in the Grant Notice, in the Plan.

ARTICLE I.
GENERAL

1.1 Grant of Option. The Company has granted to Participant the Option effective as of the grant date set forth in the Grant Notice (the " ***Grant Date***").

1.2 Incorporation of Terms of Plan. The Option is subject to the terms and conditions set forth in this Agreement and the Plan, which is incorporated herein by reference. In the event of any inconsistency between the Plan and this Agreement, the terms of the Plan will control.

1.3 Defined Terms. Capitalized terms not specifically defined in this Agreement shall have the meanings specified in the Grant Notice or, if not defined in the Grant Notice, in the Plan. In addition, the following defined terms shall apply:

(a) "***Retirement***" shall mean a termination of Participant's employment with the Company, the Operating Company or any of their respective Subsidiaries or affiliates or resignation by Participant as the Company's Chief Executive Officer, in either case, due to retirement (as determined by the Culture and Compensation Committee of the Board in its sole discretion) (the "***Retirement Termination/Resignation***"), provided (i) Participant has provided the Board at least 12 months' notice of his intention to retire, (ii) the Retirement Termination/Resignation occurs on or after the completion by Participant of five years of service with the Company, the Operating Company or any of their respective Subsidiaries or affiliates (which need not be continuous), (iii) the Retirement Termination/Resignation occurs on or after the sum of Participant's age and years of service equals or exceeds 62 (in each case measured in years, rounded down to the nearest whole number), (iv) Participant has identified, vetted and recommended to the Board (using Participant's good faith efforts) a successor to Participant (as the Company's Chief Executive Officer) and (v) if requested by the Company, the Company and Participant have entered into an agreement for Participant to serve as Executive Chair for at least 12 months post-Retirement Termination/Resignation.

ARTICLE II.
PERIOD OF EXERCISABILITY

2.1 Commencement of Exercisability. The Option will vest and become exercisable according to the vesting schedule in the Grant Notice (the "***Vesting Schedule***") except that any fraction of a Share as to which the Option would be vested or exercisable will be accumulated and will vest and become exercisable only when a whole Share has accumulated. In addition, and notwithstanding anything to the contrary in the Company's Executive Severance Plan, upon Participant's Retirement, the Option will vest and become exercisable in full (including in the event that Participant remains in service with the Company, the Operating Company or any of their respective Subsidiaries or affiliates following Participant's Retirement). The Option will immediately expire and be forfeited as to any portion that is not vested and exercisable as of Participant's Termination of Service for any other reason, except as otherwise determined by the Administrator or provided in a binding written agreement between Participant and the Company (after taking into consideration any accelerated vesting and exercisability which may occur in connection with such Termination of Service, including under the Company's Executive Severance Plan, if applicable).

2.2 Duration of Exercisability. The Vesting Schedule is cumulative. Any portion of the Option which vests and becomes exercisable will remain vested and exercisable until the Option expires. The Option will be forfeited immediately upon its expiration.

2.3 Expiration of Option. The Option may not be exercised to any extent by anyone after, and will expire on, the first of the following to occur:

(a) The final expiration date in the Grant Notice; provided, however, such final expiration date may be extended pursuant to Section 5.3 of the Plan;

(b) Except as the Administrator may otherwise approve, the expiration of three months from the date of Participant's Termination of Service, unless Participant's Termination of Service is for Cause or by reason of Participant's death or Disability;

(c) Except as the Administrator may otherwise approve, the expiration of one year from the date of Participant's Termination of Service by reason of Participant's death or Disability; and

(d) Except as the Administrator may otherwise approve, Participant's Termination of Service for Cause.

ARTICLE III.
EXERCISE OF OPTION

3.1 Person Eligible to Exercise. During Participant's lifetime, only Participant may exercise the Option. After Participant's death, any exercisable portion of the Option may, prior to the time the Option expires, be exercised by Participant's Designated Beneficiary as provided in the Plan.

3.2 Partial Exercise. Any exercisable portion of the Option or the entire Option, if then wholly exercisable, may be exercised, in whole or in part, according to the procedures in the Plan at any time prior to the time the Option or portion thereof expires, except that the Option may only be exercised for whole Shares.

3.3 Tax Withholding; Exercise Price.

(a) Subject to Section 3.3(b) and 3.3(c), payment of the exercise price and withholding tax obligations with respect to the Option may be by any of the following, or a combination thereof, as determined by the Company (or, if Participant is subject to Section 16 of the Exchange Act, the Administrator):

(i) Cash or check;

(ii) In whole or in part by delivery of Shares, including Shares delivered by attestation and Shares retained from the Option creating the tax obligation, valued at their Fair Market Value on the date of delivery;

(iii) Subject to Section 9.10 of the Plan, delivery (including electronically or telephonically to the extent permitted by the Company) by Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company that Participant has placed a market sell order with such broker with respect to Shares then-issuable upon exercise of the Option, and that the broker has been directed to deliver promptly to the Company funds sufficient to

satisfy the applicable exercise price and/or tax withholding obligations; provided, that payment of such proceeds is then made to the Company at such time as may be required by the Administrator; or

(iv) In whole or in part by the Company withholding of Shares otherwise issuable upon exercise of this Option.

(b) Unless the Company (or, if Participant is subject to Section 16 of the Exchange Act, the Administrator) otherwise determines, and subject to Section 9.10 of the Plan, payment of any exercise price and/or applicable withholding tax obligations with respect to the Award shall be by delivery (including electronically or telephonically to the extent permitted by the Company) by Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company that Participant has placed a market sell order with such broker with respect to Shares then-issuable upon exercise of the Award, and that the broker has been directed to deliver promptly to the Company funds sufficient to satisfy the exercise price and/or applicable tax withholding obligations; provided, that payment of such proceeds is then made to the Company at such time as may be required by the Administrator.

(c) Subject to Section 9.5 of the Plan, the applicable tax withholding obligation will be determined based on Participant's Applicable Withholding Rate. Participant's "***Applicable Withholding Rate***" shall mean (i) if Participant is subject to Section 16 of the Exchange Act, the greater of (A) the minimum applicable statutory tax withholding rate or (B) with Participant's consent, the maximum individual tax withholding rate permitted under the rules of the applicable taxing authority for tax withholding attributable to the underlying transaction, or (ii) if Participant is not subject to Section 16 of the Exchange Act, the minimum applicable statutory tax withholding rate or such other higher rate approved by the Company; provided, however, that (i) in no event shall Participant's Applicable Withholding Rate exceed the maximum individual statutory tax rate in the applicable jurisdiction at the time of such withholding (or such other rate as may be required to avoid the liability classification of the applicable award under generally accepted accounting principles in the United States of America); and (ii) the number of Shares tendered or withheld, if applicable, shall be rounded up to the nearest whole Share sufficient to cover the applicable tax withholding obligation, to the extent rounding up to the nearest whole Share does not result in the liability classification of the Option under generally accepted accounting principles.

(d) Participant acknowledges that Participant is ultimately liable and responsible for the exercise price and all taxes owed in connection with the Option (and, with respect to taxes, regardless of any action the Company or any Subsidiary takes with respect to any tax withholding obligations that arise in connection with the Option). Neither the Company nor any Subsidiary makes any representation or undertaking regarding the treatment of any tax withholding in connection with the awarding, vesting or exercise of the Option or the subsequent sale of Shares. The Company and the Subsidiaries do not commit and are under no obligation to structure the Option to reduce or eliminate Participant's tax liability.

ARTICLE IV.
OTHER PROVISIONS

4.1 Adjustments. Participant acknowledges that the Option is subject to adjustment, modification and termination in certain events as provided in this Agreement and the Plan.

4.2 Clawback. The Option and the Shares issuable hereunder shall be subject to any clawback or recoupment policy in effect on the Grant Date or as may be adopted or maintained by the Company following the Grant Date, including the Company's Policy for Recovery of Erroneously Awarded Compensation.

4.3 Notices. Any notice to be given under the terms of this Agreement to the Company must be in writing and addressed to the Company in care of the Company's Chief Legal Officer at the Company's principal office or the Chief Legal Officer's then-current email address or facsimile number. Any notice to be given under the terms of this Agreement to Participant must be in writing and addressed to Participant (or, if Participant is then deceased, to the Designated Beneficiary) at Participant's last known mailing address, email address or facsimile number in the Company's personnel files. By a notice given pursuant to this Section, either party may designate a different address for notices to be given to that party. Any notice will be deemed duly given when actually received, when sent by email, when sent by certified mail (return receipt requested) and deposited with postage prepaid in a post office or branch post office regularly maintained by the United States Postal Service, when delivered by a nationally recognized express shipping company or upon receipt of a facsimile transmission confirmation.

4.4 Titles. Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

4.5 Conformity to Securities Laws. Participant acknowledges that the Plan, the Grant Notice and this Agreement are intended to conform to the extent necessary with all Applicable Laws and, to the extent Applicable Laws permit, will be deemed amended as necessary to conform to Applicable Laws.

4.6 Successors and Assigns. The Company may assign any of its rights under this Agreement to single or multiple assignees, and this Agreement will inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth in this Agreement or the Plan, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.

4.7 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan or this Agreement, if Participant is subject to Section 16 of the Exchange Act, the Plan, the Grant Notice, this Agreement and the Option will be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3) that are requirements for the application of such exemptive rule. To the extent Applicable Laws permit, this Agreement will be deemed amended as necessary to conform to such applicable exemptive rule.

4.8 Entire Agreement; Amendment. The Plan, the Grant Notice and this Agreement (including any exhibit hereto) constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof. To the extent permitted by the Plan, this Agreement may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Administrator or the Board; provided, however, that except as may otherwise be provided by the Plan, no amendment, modification, suspension or termination of this Agreement shall materially and adversely affect the Option without the prior written consent of Participant.

4.9 Agreement Severable. In the event that any provision of the Grant Notice or this Agreement is held illegal or invalid, the provision will be severable from, and the illegality or invalidity

of the provision will not be construed to have any effect on, the remaining provisions of the Grant Notice or this Agreement.

4.10 Limitation on Participant's Rights. Participation in the Plan confers no rights or interests other than as herein provided. This Agreement creates only a contractual obligation on the part of the Company as to amounts payable and may not be construed as creating a trust. Neither the Plan nor any underlying program, in and of itself, has any assets. Participant will have only the rights of a general unsecured creditor of the Company with respect to amounts credited and benefits payable, if any, with respect to the Option, and rights no greater than the right to receive the Shares as a general unsecured creditor with respect to the Option, as and when exercised pursuant to the terms hereof.

4.11 Not a Contract of Employment. Nothing in the Plan, the Grant Notice or this Agreement confers upon Participant any right to continue in the employ or service of the Company or any Subsidiary or interferes with or restricts in any way the rights of the Company and its Subsidiaries, which rights are hereby expressly reserved, to discharge or terminate the services of Participant at any time for any reason whatsoever, with or without Cause, except to the extent expressly provided otherwise in a written agreement between the Company or a Subsidiary and Participant.

4.12 Counterparts. The Grant Notice may be executed in one or more counterparts, including by way of any electronic signature, subject to Applicable Law, each of which will be deemed an original and all of which together will constitute one instrument.

4.13 Incentive Stock Options. If the Option is designated as an Incentive Stock Option:

(a) Participant acknowledges that to the extent the aggregate fair market value of shares (determined as of the time the option with respect to the shares is granted) with respect to which stock options intended to qualify as "incentive stock options" under Section 422 of the Code, including the Option, are exercisable for the first time by Participant during any calendar year exceeds $100,000 or if for any other reason such stock options do not qualify or cease to qualify for treatment as "incentive stock options" under Section 422 of the Code, such stock options (including the Option) will be treated as non-qualified stock options. Participant further acknowledges that the rule set forth in the preceding sentence will be applied by taking the Option and other stock options into account in the order in which they were granted, as determined under Section 422(d) of the Code. Participant also acknowledges that if the Option is exercised more than three months after Participant's Termination of Service, other than by reason of death or Disability, the Option will be taxed as a Non-Qualified Stock Option.

(b) Participant will give prompt written notice to the Company of any disposition or other transfer of any Shares acquired under this Agreement if such disposition or other transfer is made (i) within two years from the Grant Date or (ii) within one year after the transfer of such Shares to Participant. Such notice will specify the date of such disposition or other transfer and the amount realized, in cash, other property, assumption of indebtedness or other consideration, by Participant in such disposition or other transfer.

* * * * *

BLACK ROCK COFFEE BAR, INC.

2025 INCENTIVE AWARD PLAN

RESTRICTED STOCK UNIT GRANT NOTICE

Black Rock Coffee Bar, Inc., a Texas corporation (the " ***Company***"), has granted to the participant listed below ("***Participant***") the Restricted Stock Units (the "***RSUs***") described in this Restricted Stock Unit Grant Notice (this "***Grant Notice***"), subject to the terms and conditions of the Black Rock Coffee Bar, Inc. 2025 Incentive Award Plan (as amended from time to time, the "***Plan***") and the Restricted Stock Unit Agreement attached hereto as **Exhibit A** (the "***Agreement***"), both of which are incorporated into this Grant Notice by reference. Capitalized terms not specifically defined in this Grant Notice or the Agreement have the meanings given to them in the Plan.

Participant:	[To be specified]
Grant Date:	[To be specified]
Number of RSUs:	[To be specified]
Vesting Commencement Date:	[To be specified]
Vesting Schedule:	[To be specified]

By accepting (whether in writing, electronically or otherwise) the RSUs, Participant agrees to be bound by the terms of this Grant Notice, the Plan and the Agreement. Participant has reviewed the Plan, this Grant Notice and the Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Grant Notice and fully understands all provisions of the Plan, this Grant Notice and the Agreement. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan, this Grant Notice or the Agreement.

BLACK ROCK COFFEE BAR, INC.

By: _____

Name: _____

Title: _____

PARTICIPANT

_____

[Participant Name]

RESTRICTED STOCK UNIT AGREEMENT

Capitalized terms not specifically defined in this Restricted Stock Unit Agreement (this " ***Agreement***") have the meanings specified in the Grant Notice or, if not defined in the Grant Notice, in the Plan.

ARTICLE I.
GENERAL

1.1 Award of RSUs and Dividend Equivalents.

(a) The Company has granted the RSUs to Participant effective as of the Grant Date set forth in the Grant Notice (the "***Grant Date***"). Each RSU represents the right to receive one Share as set forth in this Agreement. Participant will have no right to the distribution of any Shares until the time (if ever) the RSUs have vested.

(b) The Company hereby grants to Participant, with respect to each RSU granted hereunder, a Dividend Equivalent for ordinary cash dividends paid to substantially all holders of outstanding Shares with a record date after the Grant Date and prior to the date the applicable RSU is settled, forfeited or otherwise expires. Each Dividend Equivalent entitles Participant to receive the equivalent value of any such ordinary cash dividends paid on a single Share. The Company will establish a separate Dividend Equivalent bookkeeping account (a "***Dividend Equivalent Account***") for each Dividend Equivalent and credit the Dividend Equivalent Account (without interest) on the applicable dividend payment date with the amount of any such cash paid.

1.2 Incorporation of Terms of Plan. The RSUs and Dividend Equivalents are subject to the terms and conditions set forth in this Agreement and the Plan, which is incorporated herein by reference. In the event of any inconsistency between the Plan and this Agreement, the terms of the Plan will control.

1.3 Unsecured Promise. The RSUs and Dividend Equivalents will at all times prior to settlement represent an unsecured Company obligation payable only from the Company's general assets.

ARTICLE II.
VESTING; FORFEITURE AND SETTLEMENT

2.1 Vesting; Forfeiture. The RSUs will vest according to the vesting schedule in the Grant Notice except that any fraction of an RSU that would otherwise be vested will be accumulated and will vest only when a whole RSU has accumulated. Dividend Equivalents (including any Dividend Equivalent Account balance) will vest upon the vesting of the RSUs with respect to which the Dividend Equivalent (including the Dividend Equivalent Account) relates. In the event of Participant's Termination of Service for any reason, (a) all unvested RSUs will immediately and automatically be cancelled and forfeited, except as otherwise determined by the Administrator or provided in a binding written agreement between Participant and the Company (after taking into consideration any accelerated vesting which may occur in connection with such Termination of Service, including under the Company's Executive Severance Plan, if applicable) and (b) Dividend Equivalents (including any Dividend Equivalent Account balance) will be forfeited upon the forfeiture of the RSUs with respect to which the Dividend Equivalent (including the Dividend Equivalent Account) relates.

2.2 Settlement.

(a) The RSUs will, to the extent vested, be paid in Shares, and Dividend Equivalents (including any Dividend Equivalent Account balance) will be paid in cash or, if approved by the Administrator, Shares, as soon as administratively practicable after the vesting of the applicable RSU, but in no event later than March 15 of the year following the year in which the RSU's vesting date occurs.

(b) Notwithstanding the foregoing, the Company may delay any payment under this Agreement that the Company reasonably determines would violate Applicable Law until the earliest date the Company reasonably determines the making of the payment will not cause such a violation (in accordance with Treasury Regulation Section 1.409A-2(b)(7)(ii)); provided the Company reasonably believes the delay will not result in the imposition of excise taxes under Section 409A. Any Dividend Equivalents granted in connection with the RSUs issued hereunder, and any amounts that may become distributable in respect thereof, shall be treated separately from such RSUs and the rights arising in connection therewith for purposes of the designation of time and form of payments required by Section 409A.

(c) If a Dividend Equivalent is paid in Shares, the number of Shares paid with respect to the Dividend Equivalent will equal the quotient, rounded down to the nearest whole Share, of the Dividend Equivalent Account balance divided by the Fair Market Value of a Share on the day immediately preceding the payment date.

ARTICLE III.
TAXATION AND TAX WITHHOLDING

3.1 Representation. Participant represents to the Company that Participant has reviewed with Participant's own tax advisors the tax consequences of this award of RSUs and Dividend Equivalents (the "***Award***") and the transactions contemplated by the Grant Notice and this Agreement. Participant is relying solely on such advisors and not on any statements or representations of the Company or any of its agents.

3.2 Tax Withholding.

(a) Subject to Section 3.2(b), payment of the withholding tax obligations with respect to the Award may be by any of the following, or a combination thereof, as determined by the Company (or, if Participant is subject to Section 16 of the Exchange Act, the Administrator):

(i) Cash or check;

(ii) In whole or in part by delivery of Shares, including Shares delivered by attestation and Shares retained from the Award creating the tax obligation, valued at their Fair Market Value on the date of delivery;

(iii) Subject to Section 9.10 of the Plan, delivery (including electronically or telephonically to the extent permitted by the Company) by Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company that Participant has placed a market sell order with such broker with respect to Shares then-issuable upon settlement of the Award, and that the broker has been directed to deliver promptly to the Company funds sufficient to satisfy the applicable tax withholding obligations; provided, that

payment of such proceeds is then made to the Company at such time as may be required by the Administrator; or

(iv) In whole or in part by the Company withholding of Shares otherwise vesting or issuable under this Award in satisfaction of any applicable withholding tax obligations.

(b) Unless the Company (or, if Participant is subject to Section 16 of the Exchange Act, the Administrator) otherwise determines, and subject to Section 9.10 of the Plan, payment of the withholding tax obligations with respect to the Award shall be (i) if Participant is not subject to Section 16 of the Exchange Act, by delivery (including electronically or telephonically to the extent permitted by the Company) of an irrevocable and unconditional undertaking by a broker acceptable to the Company to deliver promptly to the Company sufficient funds to satisfy the applicable tax withholding obligations or (ii) if Participant is subject to Section 16 of the Exchange Act, then by delivery (including electronically or telephonically to the extent permitted by the Company) by Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company that Participant has placed a market sell order with such broker with respect to Shares then-issuable upon settlement of the Award, and that the broker has been directed to deliver promptly to the Company funds sufficient to satisfy the applicable tax withholding obligations; provided, that payment of such proceeds is then made to the Company at such time as may be required by the Administrator.

(c) Subject to Section 9.5 of the Plan, the applicable tax withholding obligation will be determined based on Participant's Applicable Withholding Rate. Participant's "***Applicable Withholding Rate***" shall mean (i) if Participant is subject to Section 16 of the Exchange Act, the greater of (A) the minimum applicable statutory tax withholding rate or (B) with Participant's consent, the maximum individual tax withholding rate permitted under the rules of the applicable taxing authority for tax withholding attributable to the underlying transaction, or (ii) if Participant is not subject to Section 16 of the Exchange Act, the minimum applicable statutory tax withholding rate or such other higher rate approved by the Company; provided, however, that (i) in no event shall Participant's Applicable Withholding Rate exceed the maximum individual statutory tax rate in the applicable jurisdiction at the time of such withholding (or such other rate as may be required to avoid the liability classification of the applicable award under generally accepted accounting principles in the United States of America); and (ii) the number of Shares tendered or withheld, if applicable, shall be rounded up to the nearest whole Share sufficient to cover the applicable tax withholding obligation, to the extent rounding up to the nearest whole Share does not result in the liability classification of the RSUs under generally accepted accounting principles.

(d) Participant acknowledges that Participant is ultimately liable and responsible for all taxes owed in connection with the RSUs and Dividend Equivalents, regardless of any action the Company or any Subsidiary takes with respect to any tax withholding obligations that arise in connection with the RSUs or Dividend Equivalents. Neither the Company nor any Subsidiary makes any representation or undertaking regarding the treatment of any tax withholding in connection with the awarding, vesting or payment of the RSUs or the Dividend Equivalents or the subsequent sale of Shares. The Company and its Subsidiaries do not commit and are under no obligation to structure the RSUs or Dividend Equivalents to reduce or eliminate Participant's tax liability.

ARTICLE IV.
OTHER PROVISIONS

4.1 Adjustments. Participant acknowledges that the RSUs and the Shares subject to the RSUs and the Dividend Equivalents are subject to adjustment, modification and termination in certain events as provided in this Agreement and the Plan.

4.2 Clawback. The Award and the Shares issuable hereunder shall be subject to any clawback or recoupment policy in effect on the Grant Date or as may be adopted or maintained by the Company following the Grant Date, including the Company's Policy for Recovery of Erroneously Awarded Compensation.

4.3 Notices. Any notice to be given under the terms of this Agreement to the Company must be in writing and addressed to the Company in care of the Company's Chief Legal Officer at the Company's principal office or the Chief Legal Officer's then-current email address or facsimile number. Any notice to be given under the terms of this Agreement to Participant must be in writing and addressed to Participant (or, if Participant is then deceased, to the Designated Beneficiary) at Participant's last known mailing address, email address or facsimile number in the Company's personnel files. By a notice given pursuant to this Section, either party may designate a different address for notices to be given to that party. Any notice will be deemed duly given when actually received, when sent by email, when sent by certified mail (return receipt requested) and deposited with postage prepaid in a post office or branch post office regularly maintained by the United States Postal Service, when delivered by a nationally recognized express shipping company or upon receipt of a facsimile transmission confirmation.

4.4 Titles. Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

4.5 Conformity to Securities Laws. Participant acknowledges that the Plan, the Grant Notice and this Agreement are intended to conform to the extent necessary with all Applicable Laws and, to the extent Applicable Laws permit, will be deemed amended as necessary to conform to Applicable Laws.

4.6 Successors and Assigns. The Company may assign any of its rights under this Agreement to a single or multiple assignees, and this Agreement will inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth in this Agreement or the Plan, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.

4.7 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan or this Agreement, if Participant is subject to Section 16 of the Exchange Act, the Plan, the Grant Notice, this Agreement and the RSUs and Dividend Equivalents will be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3) that are requirements for the application of such exemptive rule. To the extent Applicable Laws permit, this Agreement will be deemed amended as necessary to conform to such applicable exemptive rule.

4.8 Entire Agreement; Amendment. The Plan, the Grant Notice and this Agreement (including any exhibit hereto) constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof. To the extent permitted by the Plan, this Agreement may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Administrator or the

Board; provided, however, that except as may otherwise be provided by the Plan, no amendment, modification, suspension or termination of this Agreement shall materially and adversely affect the RSUs or Dividend Equivalents without the prior written consent of Participant.

4.9 Agreement Severable. In the event that any provision of the Grant Notice or this Agreement is held illegal or invalid, the provision will be severable from, and the illegality or invalidity of the provision will not be construed to have any effect on, the remaining provisions of the Grant Notice or this Agreement.

4.10 Limitation on Participant's Rights. Participation in the Plan confers no rights or interests other than as herein provided. This Agreement creates only a contractual obligation on the part of the Company as to amounts payable and may not be construed as creating a trust. Neither the Plan nor any underlying program, in and of itself, has any assets. Participant will have only the rights of a general unsecured creditor of the Company with respect to amounts credited and benefits payable, if any, with respect to the RSUs and Dividend Equivalents, and rights no greater than the right to receive cash or the Shares as a general unsecured creditor with respect to the RSUs and Dividend Equivalents, as and when settled pursuant to the terms of this Agreement.

4.11 Not a Contract of Employment. Nothing in the Plan, the Grant Notice or this Agreement confers upon Participant any right to continue in the employ or service of the Company or any Subsidiary or interferes with or restricts in any way the rights of the Company and its Subsidiaries, which rights are hereby expressly reserved, to discharge or terminate the services of Participant at any time for any reason whatsoever, with or without cause, except to the extent expressly provided otherwise in a written agreement between the Company or a Subsidiary and Participant.

4.12 Counterparts. The Grant Notice may be executed in one or more counterparts, including by way of any electronic signature, subject to Applicable Law, each of which will be deemed an original and all of which together will constitute one instrument.

* * * * *

BLACK ROCK COFFEE BAR, INC.

2025 INCENTIVE AWARD PLAN

RESTRICTED STOCK UNIT GRANT NOTICE

Black Rock Coffee Bar, Inc., a Texas corporation (the " ***Company***"), has granted to the participant listed below ("***Participant***") the Restricted Stock Units (the "***RSUs***") described in this Restricted Stock Unit Grant Notice (this "***Grant Notice***"), subject to the terms and conditions of the Black Rock Coffee Bar, Inc. 2025 Incentive Award Plan (as amended from time to time, the "***Plan***") and the Restricted Stock Unit Agreement attached hereto as **Exhibit A** (the "***Agreement***"), both of which are incorporated into this Grant Notice by reference. Capitalized terms not specifically defined in this Grant Notice or the Agreement have the meanings given to them in the Plan.

Participant:	[To be specified]
Grant Date:	[To be specified]
Number of RSUs:	[To be specified]
Vesting Commencement Date:	[To be specified]
Vesting Schedule:	[To be specified]

By accepting (whether in writing, electronically or otherwise) the RSUs, Participant agrees to be bound by the terms of this Grant Notice, the Plan and the Agreement. Participant has reviewed the Plan, this Grant Notice and the Agreement in their entirety, has had an opportunity to obtain the advice of counsel prior to executing this Grant Notice and fully understands all provisions of the Plan, this Grant Notice and the Agreement. Participant hereby agrees to accept as binding, conclusive and final all decisions or interpretations of the Administrator upon any questions arising under the Plan, this Grant Notice or the Agreement.

BLACK ROCK COFFEE BAR, INC.	**PARTICIPANT**
By: _____	_____
Name: _____	[Participant Name]
Title: _____	

Exhibit A

RESTRICTED STOCK UNIT AGREEMENT

Capitalized terms not specifically defined in this Restricted Stock Unit Agreement (this " ***Agreement***") have the meanings specified in the Grant Notice or, if not defined in the Grant Notice, in the Plan.

ARTICLE I.
GENERAL

1.1 Award of RSUs and Dividend Equivalents.

(a) The Company has granted the RSUs to Participant effective as of the Grant Date set forth in the Grant Notice (the "***Grant Date***"). Each RSU represents the right to receive one Share as set forth in this Agreement. Participant will have no right to the distribution of any Shares until the time (if ever) the RSUs have vested.

(b) The Company hereby grants to Participant, with respect to each RSU granted hereunder, a Dividend Equivalent for ordinary cash dividends paid to substantially all holders of outstanding Shares with a record date after the Grant Date and prior to the date the applicable RSU is settled, forfeited or otherwise expires. Each Dividend Equivalent entitles Participant to receive the equivalent value of any such ordinary cash dividends paid on a single Share. The Company will establish a separate Dividend Equivalent bookkeeping account (a "***Dividend Equivalent Account***") for each Dividend Equivalent and credit the Dividend Equivalent Account (without interest) on the applicable dividend payment date with the amount of any such cash paid.

1.2 Incorporation of Terms of Plan. The RSUs and Dividend Equivalents are subject to the terms and conditions set forth in this Agreement and the Plan, which is incorporated herein by reference. In the event of any inconsistency between the Plan and this Agreement, the terms of the Plan will control.

1.3 Unsecured Promise. The RSUs and Dividend Equivalents will at all times prior to settlement represent an unsecured Company obligation payable only from the Company's general assets.

1.4 Defined Terms. Capitalized terms not specifically defined in this Agreement shall have the meanings specified in the Grant Notice or, if not defined in the Grant Notice, in the Plan. In addition, the following defined terms shall apply:

(a) "***Retirement***" shall mean a termination of Participant's employment with the Company, the Operating Company or any of their respective Subsidiaries or affiliates or resignation by Participant as the Company's Chief Executive Officer, in either case, due to retirement (as determined by the Culture and Compensation Committee of the Board in its sole discretion) (the "***Retirement Termination/Resignation***"), provided (i) Participant has provided the Board at least 12 months' notice of his intention to retire, (ii) the Retirement Termination/Resignation occurs on or after the completion by Participant of five years of service with the Company, the Operating Company or any of their respective Subsidiaries or affiliates (which need not be continuous), (iii) the Retirement Termination/Resignation occurs on or after the sum of Participant's age and years of service equals or exceeds 62 (in each case measured in years, rounded down to the nearest whole number), (iv) Participant has identified, vetted and recommended to the Board (using Participant's good faith efforts) a successor to Participant (as the

Company's Chief Executive Officer) and (v) if requested by the Company, the Company and Participant have entered into an agreement for Participant to serve as Executive Chair for at least 12 months post-Retirement Termination/Resignation.

ARTICLE II.
VESTING; FORFEITURE AND SETTLEMENT

2.1 Vesting; Forfeiture. The RSUs will vest according to the vesting schedule in the Grant Notice except that any fraction of an RSU that would otherwise be vested will be accumulated and will vest only when a whole RSU has accumulated. Dividend Equivalents (including any Dividend Equivalent Account balance) will vest upon the vesting of the RSUs with respect to which the Dividend Equivalent (including the Dividend Equivalent Account) relates. In addition, and notwithstanding anything to the contrary in the Company's Executive Severance Plan, upon Participant's Retirement, 100% of the unvested RSUs shall vest in full (including in the event that Participant remains in service with the Company, the Operating Company or any of their respective Subsidiaries or affiliates following Participant's Retirement). In the event of Participant's Termination of Service for any other reason, (a) all unvested RSUs will immediately and automatically be cancelled and forfeited, except as otherwise determined by the Administrator or provided in a binding written agreement between Participant and the Company (after taking into consideration any accelerated vesting which may occur in connection with such Termination of Service, including under the Company's Executive Severance Plan, if applicable) and (b) Dividend Equivalents (including any Dividend Equivalent Account balance) will be forfeited upon the forfeiture of the RSUs with respect to which the Dividend Equivalent (including the Dividend Equivalent Account) relates.

2.2 Settlement.

(a) The RSUs will, to the extent vested, be paid in Shares, and Dividend Equivalents (including any Dividend Equivalent Account balance) will be paid in cash or, if approved by the Administrator, Shares, as soon as administratively practicable after the vesting of the applicable RSU, but in no event later than March 15 of the year following the year in which the RSU's vesting date occurs.

(b) Notwithstanding the foregoing, the Company may delay any payment under this Agreement that the Company reasonably determines would violate Applicable Law until the earliest date the Company reasonably determines the making of the payment will not cause such a violation (in accordance with Treasury Regulation Section 1.409A-2(b)(7)(ii)); provided the Company reasonably believes the delay will not result in the imposition of excise taxes under Section 409A. Any Dividend Equivalents granted in connection with the RSUs issued hereunder, and any amounts that may become distributable in respect thereof, shall be treated separately from such RSUs and the rights arising in connection therewith for purposes of the designation of time and form of payments required by Section 409A.

(c) If a Dividend Equivalent is paid in Shares, the number of Shares paid with respect to the Dividend Equivalent will equal the quotient, rounded down to the nearest whole Share, of the Dividend Equivalent Account balance divided by the Fair Market Value of a Share on the day immediately preceding the payment date.

ARTICLE III.
TAXATION AND TAX WITHHOLDING

3.1 Representation. Participant represents to the Company that Participant has reviewed with Participant's own tax advisors the tax consequences of this award of RSUs and Dividend Equivalents (the "***Award***") and the transactions contemplated by the Grant Notice and this Agreement. Participant is relying solely on such advisors and not on any statements or representations of the Company or any of its agents.

3.2 Tax Withholding.

(a) Subject to Section 3.2(b), payment of the withholding tax obligations with respect to the Award may be by any of the following, or a combination thereof, as determined by the Company (or, if Participant is subject to Section 16 of the Exchange Act, the Administrator):

(i) Cash or check;

(ii) In whole or in part by delivery of Shares, including Shares delivered by attestation and Shares retained from the Award creating the tax obligation, valued at their Fair Market Value on the date of delivery;

(iii) Subject to Section 9.10 of the Plan, delivery (including electronically or telephonically to the extent permitted by the Company) by Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company that Participant has placed a market sell order with such broker with respect to Shares then-issuable upon settlement of the Award, and that the broker has been directed to deliver promptly to the Company funds sufficient to satisfy the applicable tax withholding obligations; provided, that payment of such proceeds is then made to the Company at such time as may be required by the Administrator; or

(iv) In whole or in part by the Company withholding of Shares otherwise vesting or issuable under this Award in satisfaction of any applicable withholding tax obligations.

(b) Unless the Company (or, if Participant is subject to Section 16 of the Exchange Act, the Administrator) otherwise determines, and subject to Section 9.10 of the Plan, payment of the withholding tax obligations with respect to the Award shall be by delivery (including electronically or telephonically to the extent permitted by the Company) by Participant to the Company of a copy of irrevocable and unconditional instructions to a broker acceptable to the Company that Participant has placed a market sell order with such broker with respect to Shares then-issuable upon settlement of the Award, and that the broker has been directed to deliver promptly to the Company funds sufficient to satisfy the applicable tax withholding obligations; provided, that payment of such proceeds is then made to the Company at such time as may be required by the Administrator.

(c) Subject to Section 9.5 of the Plan, the applicable tax withholding obligation will be determined based on Participant's Applicable Withholding Rate. Participant's "***Applicable Withholding Rate***" shall mean (i) if Participant is subject to Section 16 of the Exchange Act, the greater of (A) the minimum applicable statutory tax withholding rate or (B) with Participant's consent, the maximum individual tax withholding rate permitted under the rules of the applicable taxing authority for tax withholding attributable to the underlying transaction, or (ii) if Participant is not subject to Section 16

of the Exchange Act, the minimum applicable statutory tax withholding rate or such other higher rate approved by the Company; provided, however, that (i) in no event shall Participant's Applicable Withholding Rate exceed the maximum individual statutory tax rate in the applicable jurisdiction at the time of such withholding (or such other rate as may be required to avoid the liability classification of the applicable award under generally accepted accounting principles in the United States of America); and (ii) the number of Shares tendered or withheld, if applicable, shall be rounded up to the nearest whole Share sufficient to cover the applicable tax withholding obligation, to the extent rounding up to the nearest whole Share does not result in the liability classification of the RSUs under generally accepted accounting principles.

(d) Participant acknowledges that Participant is ultimately liable and responsible for all taxes owed in connection with the RSUs and Dividend Equivalents, regardless of any action the Company or any Subsidiary takes with respect to any tax withholding obligations that arise in connection with the RSUs or Dividend Equivalents. Neither the Company nor any Subsidiary makes any representation or undertaking regarding the treatment of any tax withholding in connection with the awarding, vesting or payment of the RSUs or the Dividend Equivalents or the subsequent sale of Shares. The Company and its Subsidiaries do not commit and are under no obligation to structure the RSUs or Dividend Equivalents to reduce or eliminate Participant's tax liability.

ARTICLE IV.
OTHER PROVISIONS

4.1 Adjustments. Participant acknowledges that the RSUs and the Shares subject to the RSUs and the Dividend Equivalents are subject to adjustment, modification and termination in certain events as provided in this Agreement and the Plan.

4.2 Clawback. The Award and the Shares issuable hereunder shall be subject to any clawback or recoupment policy in effect on the Grant Date or as may be adopted or maintained by the Company following the Grant Date, including the Company's Policy for Recovery of Erroneously Awarded Compensation.

4.3 Notices. Any notice to be given under the terms of this Agreement to the Company must be in writing and addressed to the Company in care of the Company's Chief Legal Officer at the Company's principal office or the Chief Legal Officer's then-current email address or facsimile number. Any notice to be given under the terms of this Agreement to Participant must be in writing and addressed to Participant (or, if Participant is then deceased, to the Designated Beneficiary) at Participant's last known mailing address, email address or facsimile number in the Company's personnel files. By a notice given pursuant to this Section, either party may designate a different address for notices to be given to that party. Any notice will be deemed duly given when actually received, when sent by email, when sent by certified mail (return receipt requested) and deposited with postage prepaid in a post office or branch post office regularly maintained by the United States Postal Service, when delivered by a nationally recognized express shipping company or upon receipt of a facsimile transmission confirmation.

4.4 Titles. Titles are provided herein for convenience only and are not to serve as a basis for interpretation or construction of this Agreement.

4.5 Conformity to Securities Laws. Participant acknowledges that the Plan, the Grant Notice and this Agreement are intended to conform to the extent necessary with all Applicable Laws and, to the extent Applicable Laws permit, will be deemed amended as necessary to conform to Applicable Laws.

4.6 Successors and Assigns. The Company may assign any of its rights under this Agreement to a single or multiple assignees, and this Agreement will inure to the benefit of the successors and assigns of the Company. Subject to the restrictions on transfer set forth in this Agreement or the Plan, this Agreement will be binding upon and inure to the benefit of the heirs, legatees, legal representatives, successors and assigns of the parties hereto.

4.7 Limitations Applicable to Section 16 Persons. Notwithstanding any other provision of the Plan or this Agreement, if Participant is subject to Section 16 of the Exchange Act, the Plan, the Grant Notice, this Agreement and the RSUs and Dividend Equivalents will be subject to any additional limitations set forth in any applicable exemptive rule under Section 16 of the Exchange Act (including any amendment to Rule 16b-3) that are requirements for the application of such exemptive rule. To the extent Applicable Laws permit, this Agreement will be deemed amended as necessary to conform to such applicable exemptive rule.

4.8 Entire Agreement; Amendment. The Plan, the Grant Notice and this Agreement (including any exhibit hereto) constitute the entire agreement of the parties and supersede in their entirety all prior undertakings and agreements of the Company and Participant with respect to the subject matter hereof. To the extent permitted by the Plan, this Agreement may be wholly or partially amended or otherwise modified, suspended or terminated at any time or from time to time by the Administrator or the Board; provided, however, that except as may otherwise be provided by the Plan, no amendment, modification, suspension or termination of this Agreement shall materially and adversely affect the RSUs or Dividend Equivalents without the prior written consent of Participant.

4.9 Agreement Severable. In the event that any provision of the Grant Notice or this Agreement is held illegal or invalid, the provision will be severable from, and the illegality or invalidity of the provision will not be construed to have any effect on, the remaining provisions of the Grant Notice or this Agreement.

4.10 Limitation on Participant's Rights. Participation in the Plan confers no rights or interests other than as herein provided. This Agreement creates only a contractual obligation on the part of the Company as to amounts payable and may not be construed as creating a trust. Neither the Plan nor any underlying program, in and of itself, has any assets. Participant will have only the rights of a general unsecured creditor of the Company with respect to amounts credited and benefits payable, if any, with respect to the RSUs and Dividend Equivalents, and rights no greater than the right to receive cash or the Shares as a general unsecured creditor with respect to the RSUs and Dividend Equivalents, as and when settled pursuant to the terms of this Agreement.

4.11 Not a Contract of Employment. Nothing in the Plan, the Grant Notice or this Agreement confers upon Participant any right to continue in the employ or service of the Company or any Subsidiary or interferes with or restricts in any way the rights of the Company and its Subsidiaries, which rights are hereby expressly reserved, to discharge or terminate the services of Participant at any time for any reason whatsoever, with or without cause, except to the extent expressly provided otherwise in a written agreement between the Company or a Subsidiary and Participant.

4.12 Counterparts. The Grant Notice may be executed in one or more counterparts, including by way of any electronic signature, subject to Applicable Law, each of which will be deemed an original and all of which together will constitute one instrument.

* * * * *

BLACK ROCK COFFEE BAR, INC.

NON-EMPLOYEE DIRECTOR COMPENSATION PROGRAM

Eligible Directors (as defined below) on the board of directors (the "***Board***") of Black Rock Coffee Bar, Inc. (the " ***Company***") shall be eligible to receive cash and/or equity compensation as set forth in this Non-Employee Director Compensation Program (this "***Program***"). The cash and equity compensation described in this Program shall be paid or be made, as applicable, automatically as set forth herein and without further action of the Board, to each member of the Board who is not an employee of the Company or any of its parents or subsidiaries (each, an "***Eligible Director***"), subject to any additional eligibility requirements provided for in this Program, unless such member is determined by the Board to not be an Eligible Director or unless such Eligible Director declines the receipt of such cash or equity compensation by written notice to the Company.

This Program shall become effective upon the closing of the initial public offering of the Company's Class A common stock (the " ***Effective Date***") and shall remain in effect until it is revised or rescinded by further action of the Board. This Program may be amended, modified or terminated by the Board at any time in its sole discretion. No Eligible Director shall have any rights hereunder, except with respect to equity awards granted pursuant to Section 2 of this Program.

1. Cash Compensation.

a . Annual Retainers. Unless otherwise determined by the Board, each Eligible Director who is "independent" within the meaning of the applicable stock exchange rules and not affiliated with The Cynosure Group, LLC and its affiliates (an "***Independent Eligible Director***") shall be eligible to receive an annual cash retainer of $50,000 for service on the Board.

b. Payment of Retainers. The annual cash retainer described in Section 1(a) shall be earned on a quarterly basis based on a calendar quarter and shall be paid by the Company in arrears not later than 30 days following the end of each calendar quarter. In the event an Independent Eligible Director does not serve as a director for an entire calendar quarter, the retainer paid to such Independent Eligible Director shall be prorated for the portion of such calendar quarter actually served as a director.

2. Equity Compensation.

a . General. Eligible Directors shall be granted the equity awards described below without further action from the Board. The awards described below shall be granted under and shall be subject to the terms and provisions of the Company's 2025 Incentive Award Plan or any other applicable Company equity incentive plan then-maintained by the Company (such plan, as may be amended from time to time, the "***Equity Plan***") and may be granted subject to the execution and delivery of award agreements, including attached exhibits, in substantially the forms approved by the Board prior to or in connection with such grants. All applicable terms of the Equity Plan apply to this Program as if fully set forth herein, and all grants of equity awards hereby are subject in all respects to the terms of the Equity Plan. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Equity Plan.

b . 2025 Award . An Eligible Director who is serving on the Board as of the Effective Date shall be granted a Restricted Stock Unit award with a value of $56,250 (the "***2025 Award***"). The 2025 Award shall be granted on the later of (i) the date on which the Form S-8 Registration Statement with respect to the Company's Class A common stock issuance under the Equity

Plan becomes effective and (ii) the Effective Date. The number of Restricted Stock Units subject to a 2025 Award will be determined by dividing $56,250 by the price per share to the public of the Company's Class A common stock as determined on the pricing date of the Company's initial public offering. Each 2025 Award shall vest in full on the earlier to occur of (x) the one-year anniversary of the Effective Date and (y) the date of the Annual Meeting (as defined below) for calendar year 2026, subject to continued service through the applicable vesting date.

c. Annual Awards. An Eligible Director who is serving on the Board as of the date of the annual meeting of the Company's stockholders (the "***Annual Meeting***") each calendar year beginning with calendar year 2026 shall be granted a Restricted Stock Unit award with a value of $75,000 (an " ***Annual Award***"). The number of Restricted Stock Units subject to an Annual Award will be determined by dividing $75,000 by the closing price for the Company's Class A common stock on the applicable grant date. Each Annual Award shall be granted on the applicable Annual Meeting date, and shall vest in full on the earlier to occur of (x) the one-year anniversary of the applicable grant date and (y) the date of the next Annual Meeting following the grant date, subject to continued service through the applicable vesting date.

d. Additional Annual Awards. In addition, an Eligible Director serving as Non-Executive Chair, Lead Independent Director or Chair of the Audit Committee, the Culture and Compensation Committee or the Nominating and Governance Committee of the Board as of the date of the Annual Meeting each calendar year beginning with calendar year 2026 shall be granted a Restricted Stock Unit award with a value of $15,000 (an "***Additional Annual Award*** " and together with the 2025 Award and the Annual Award, the "***Equity Awards***"). The number of Restricted Stock Units subject to an Additional Annual Award will be determined by dividing $15,000 by the closing price for the Company's Class A common stock on the applicable grant date. Each Additional Annual Award shall be granted on the applicable Annual Meeting date, and shall vest in full on the earlier to occur of (x) the one-year anniversary of the applicable grant date and (y) the date of the next Annual Meeting following the grant date, subject to continued service through the applicable vesting date.

e. Accelerated Vesting Events. Notwithstanding the foregoing, an Eligible Director's Equity Award(s) shall vest in full immediately prior to the occurrence of a Change in Control, to the extent outstanding at such time.

3. Compensation Limits. Notwithstanding anything to the contrary in this Program, all compensation payable under this Program will be subject to any limits on the maximum amount of non-employee Director compensation set forth in the Equity Plan, as in effect from time to time.

BLACK ROCK COFFEE BAR, INC.
EXECUTIVE SEVERANCE PLAN

Black Rock Coffee Bar, Inc., a Texas corporation (the " Company"), has adopted this Black Rock Coffee Bar, Inc. Executive Severance Plan, including the attached Exhibits (the "Plan"), for the benefit of Participants (as defined below) on the terms and conditions hereinafter stated. The Plan, as set forth herein, is intended to provide severance protections to a select group of management or highly compensated employees (within the meaning of ERISA (as defined below)) in connection with qualifying terminations of employment.

1. **Defined Terms**. Capitalized terms used but not otherwise defined herein shall have the meanings indicated below:

1.1 "Annual Bonus" means the Participant's cash performance bonus, if any, for the year in which the Date of Termination occurs.

1.2 "Base Salary" means the Participant's annual base salary rate in effect immediately prior to a Qualifying Termination, disregarding any reduction which gives rise to Good Reason.

1.3 "Board" means the Board of Directors of the Company.

1.4 "Cash Severance" shall have the meaning set forth in Section 4.3(a) hereof.

1.5 "Cause" means, in respect of a Participant:

(a) the Participant's unauthorized use or disclosure of confidential information or trade secrets of the Company or any of its subsidiaries or any material breach of a written agreement between the Participant and the Company or any of its subsidiaries, including without limitation a material breach of any employment, confidentiality, non-compete, non-solicit or similar agreement;

(b) the Participant's commission of, indictment for or the entry of a plea of guilty or nolo contendere by the Participant to, a felony under the laws of the United States or any state thereof or any crime involving dishonesty or moral turpitude (or any similar crime in any jurisdiction outside the United States);

(c) the Participant's negligence or willful misconduct in the performance of the Participant's duties or the Participant's willful or repeated failure or refusal to substantially perform assigned duties;

(d) any act of fraud, embezzlement, material misappropriation or dishonesty committed by the Participant against the Company or any of its subsidiaries; or

(e) any acts, omissions or statements by a Participant which the Company determines to be materially detrimental or damaging to the reputation, operations, prospects or business relations of the Company or any of its subsidiaries.

The findings and decision of the Administrator with respect to any Cause determination will be final and binding for all purposes.

1.6 "Change in Control" shall have the meaning set forth in the Company's 2025 Incentive Award Plan, as may be amended from time to time.

1.7 "CIC Protection Period" means the period beginning on the date of a Change in Control and ending on and including the two-year anniversary of the date of a Change in Control.

1.8 "CIC Termination" means a Qualifying Termination which occurs during the CIC Protection Period.

1.9 "Claimant" shall have the meaning set forth in Section 1.2 of Exhibit D attached hereto.

1.10 "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985.

1.11 "COBRA Premium Payment" shall have the meaning set forth in Section 4.2(d) hereof.

1.12 "Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor thereto.

1.13 "Committee" means the Culture and Compensation Committee of the Board, or such other committee as may be appointed by the Board to administer the Plan.

1.14 "Date of Termination" means the effective date of the termination of the Participant's employment.

1.15 "Disability" means that the Participant has become entitled to receive benefits under an applicable Company long-term disability plan or, if no such plan covers the Participant, then under the applicable definition provided by Code Section 409A, as determined in the reasonable discretion of the Board.

1.16 "Effective Date" shall have the meaning set forth in Section 2 hereof.

1.17 "Employee" means an individual who is an employee of the Company or any of its subsidiaries (including Black Rock Coffee Holdings, LLC).

1.18 "Equity Award" means a Company equity award granted under the Company's 2025 Incentive Award Plan, as may be amended from time to time, or a successor equity compensation plan adopted by the Company.

1.19 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and the regulations promulgated thereunder.

1.20 "Excise Tax" shall have the meaning set forth in Section 7.1 hereof.

1.21 "Good Reason" means the occurrence of any one or more of the following events without the Participant's prior written consent, unless the Company fully corrects the circumstances constituting Good Reason (provided such circumstances are capable of correction) as provided below:

(a) a material diminution in Base Salary in effect immediately prior to the Participant's resignation for Good Reason; or

(b) a transfer of the Participant's primary workplace by more than fifty (50) miles from its existing location by action of the Company; or

(c) a material diminution in title, authority, responsibilities or duties, excluding for this purpose any isolated, insubstantial or inadvertent actions not taken in bad faith and which are remedied by the Company promptly after receipt of notice thereof given by the Participant.

Notwithstanding the foregoing, the Participant will not be deemed to have resigned for Good Reason unless (1) the Participant provides written notice to the Company setting forth in reasonable detail the facts and circumstances claimed by the Participant to constitute Good Reason within 90 days after the date of the occurrence of any event that the Participant knows or should reasonably have known to constitute Good Reason; (2) the Company fails to cure such acts or omissions within 30 days following its receipt of such notice; and (3) the effective date of the Participant's termination for Good Reason occurs no later than 60 days after the expiration of the Company's cure period. With respect to the foregoing definition, the term "Company" will be interpreted to include any subsidiary, parent, affiliate, or any successor thereto, if appropriate.

1.22 "Independent Advisors" shall have the meaning set forth in Section 7.2 hereof.

1.23 "Participant" means each Employee who is selected by the Administrator to participate in the Plan and is provided with (and, if applicable, countersigns) a Participation Notice in accordance with the Plan, other than any Employee who, at the time of his or her termination of employment, is covered by a plan or agreement with the Company or a subsidiary that explicitly supersedes and/or replaces the payments and benefits provided under this Plan.

1.24 "Participation Notice" shall have the meaning set forth in Section 2 hereof.

1.25 "Performance-Vesting Award " means an outstanding Equity Award (or portion thereof) held by the Participant that remains subject to the achievement of individual and/or Company performance goals as of the Date of Termination.

1.26 "Prior Year Bonus" means the Participant's cash performance bonus, if any, for the year preceding the year in which the Date of Termination occurs.

1.27 "Pro-Rata Annual Bonus" shall have the meaning set forth in Section 4.2(b) hereof.

1.28 "Pro-Rata Target Bonus" shall have the meaning set forth in Section 4.3(b) hereof.

1.29 "Qualifying Termination" means a termination of the Participant's employment by (i) the Company or its subsidiary without Cause, (ii) the Participant for Good Reason or (iii) solely with respect to the Participants under Tier 1 in this Plan, due to the Participant's death or Disability. Notwithstanding anything contained herein, in no event shall a Participant be deemed to have experienced a Qualifying Termination (a) if such Participant is offered and/or accepts a comparable employment position (with comparable compensation opportunity) with the Company or any subsidiary, or (b) if in connection with a Change in Control or any other corporate transaction or sale of assets involving the Company or any subsidiary, such Participant is offered and accepts a comparable employment position with the successor or purchaser entity (or an affiliate thereof), as applicable. A Qualifying Termination shall not include a termination of employment due to the Participant's death or disability.

1.30 "Release" shall have the meaning set forth in Section 4.4 hereof.

1.31 "Salary Severance" shall have the meaning set forth in Section 4.2(a) hereof.

1.32 "Severance Benefits" means the severance payments and benefits to which a Participant may become entitled pursuant to Section 4 of the Plan and Exhibit A or Exhibit B, as applicable and each as attached hereto.

1.33 "Severance Period" means the number of months of Salary Severance and COBRA Premium Payment that a Participant is entitled to receive, as determined in accordance with Exhibit A or Exhibit B attached hereto.

1.34 "Target Bonus" means the Participant's target cash performance bonus, if any, for the year in which the Date of Termination occurs.

1.35 "Total Payments" shall have the meaning set forth in Section 7.1 hereof.

2. **Effectiveness of the Plan; Notification**. The Plan became effective on [_____], 2025[1] (the "Effective Date"). The Administrator shall, pursuant to a written notice to any Employee (a "Participation Notice"), notify each Participant that such Participant has been selected to participate in the Plan.

3. **Administration**. Subject to Section 13.3 hereof, the Plan shall be interpreted, administered and operated by the Committee (the "Administrator"), which shall have complete authority, subject to the express provisions of the Plan, to interpret the Plan, to prescribe, amend and rescind rules and regulations relating to the Plan, and to make all other determinations necessary or advisable for the administration of the Plan. The Administrator may delegate any of its duties hereunder to a subcommittee, or to such person or persons from time to time as it may designate other than to any Participant in the Plan, and the Administrator may delegate (other than to any Participant in the Plan) its duty to provide a Participation Notice to a Participant in the Plan. All decisions, interpretations and other actions of the Administrator (including with respect to whether a Qualifying Termination has occurred) shall be final, conclusive and binding on all parties who have an interest in the Plan.

4. **Severance Benefits**.

4.1 Eligibility. Each Employee who qualifies as a Participant and who experiences a Qualifying Termination (including a CIC Termination) is eligible to receive Severance Benefits under the Plan.

4.2 Qualifying Termination Payment. If a Participant experiences a Qualifying Termination (other than a CIC Termination), then, subject to the Participant's execution and, to the extent applicable, non-revocation of a Release in accordance with Section 4.4 hereof, and subject to any additional requirements specified in the Plan, the Company shall pay or provide to the Participant the following, subject to Section 6.2 hereof:

(a) Salary Severance. The Company shall pay to the Participant an amount equal to the Participant's Base Salary that the Participant would have received had the Participant remained employed during the Severance Period (as set forth on Exhibit A), payable in substantially equal installments during the Severance Period, but commencing on the 60th day following the Date of Termination (and amounts otherwise payable prior to such 60th day shall be paid on such date without interest thereon) (the "Salary Severance").

[1] NTD: To be IPO closing date.

(b) Prior Year Bonus. If the Participant is a Tier 1 Participant in this Plan, the Company shall pay to such Participant any earned but unpaid the Prior Year Bonus, payable in accordance with the applicable bonus program.

(c) Pro-Rata Annual Bonus. The Participant shall remain eligible to be paid an Annual Bonus for the calendar year in which the Date of Termination occurs in accordance with the terms of such Annual Bonus (other than a continued employment or service requirement) on the date on which annual bonuses are paid generally to the Company's similarly-situated executives, but in no event later than March 15th of the calendar year following the calendar year in which the Date of Termination occurs; provided, however, that such Annual Bonus, to the extent earned, shall be *multiplied* by a fraction, the numerator of which is the number of days during the calendar year that the Participant was employed through the Date of Termination and the denominator of which is the total number of days in the applicable calendar year (the "Pro-Rata Annual Bonus").

(d) COBRA. Subject to the requirements of the Code, if the Participant is eligible for and properly elects healthcare continuation coverage under the Company's group health plans pursuant to COBRA, then the Company shall pay the COBRA premiums for the Participant and the Participant's covered dependents until the end of the Severance Period (as set forth on Exhibit A) (the "COBRA Premium Payment"); provided, however, that the Company shall not pay COBRA premiums for any health flexible savings accounts or health reimbursement arrangements. Such payment shall be made by direct payment or, at the Company's election, by reimbursement to the Participant, and shall equal the COBRA premium the Participant would owe to continue the Participant's benefit elections in effect on the Date of Termination. Notwithstanding the foregoing, (i) if any plan pursuant to which such benefits are provided is not, or ceases prior to the expiration of the period of continuation coverage to be, exempt from the application of Code Section 409A under Treasury Regulation Section 1.409A-1(a)(5), or (ii) the Company is otherwise unable to continue to cover the Participant under its group health plans without penalty under applicable law (including without limitation, Section 2716 of the Public Health Service Act), then, in either case, an amount equal to each remaining Company reimbursement shall thereafter be paid to the Participant in substantially equal monthly installments over the Severance Period (or the remaining portion thereof).

(e) Equity Award Treatment. Except to the extent otherwise set forth in an applicable award agreement, the unvested portion, if any, of each outstanding Equity Award held by the Participant as of the Participant's Date of Termination shall be automatically cancelled for no consideration and the Participant shall have no further rights with respect to such unvested portion of the Equity Award.

4.3 CIC Termination Payment. If a Participant experiences a CIC Termination, then, subject to the Participant's execution and, to the extent applicable, non-revocation of a Release in accordance with Section 4.4 hereof, and subject to any additional requirements specified in the Plan, the Company shall pay or provide to the Participant the following, subject to Section 6.2 hereof:

(a) Cash Severance. The Company shall pay to the Participant an amount equal to the sum of (i) the Participant's Base Salary that the Participant would have received had the Participant remained employed during the Severance Period (as set forth on Exhibit B) and (ii) the Participant's Target Bonus *multiplied* by the Severance Multiplier (as set forth on Exhibit B), payable in substantially equal installments during the Severance Period set forth on Exhibit B, but commencing on the 60th day

following the Date of Termination (and amounts otherwise payable prior to such 60th day shall be paid on such date without interest thereon) (the "Cash Severance").

(b) Pro-Rata Target Bonus. The Company shall pay to the Participant the Target Bonus for the calendar year in which the Date of Termination occurs in a lump sum on the 60th day following the Date of Termination; provided, however, that such Target Bonus shall be *multiplied* by a fraction, the numerator of which is the number of days during the calendar year that the Participant was employed through the Date of Termination and the denominator of which is the total number of days in the applicable calendar year (the "Pro-Rata Target Bonus").

(c) Prior Year Bonus. If the Participant is a Tier 1 Participant in this Plan, the Company shall pay to such Participant any earned but unpaid the Prior Year Bonus, payable in accordance with the applicable bonus program.

(d) COBRA. The Company shall provide to the Participant the COBRA Premium Payment set forth in Section 4.2(d) hereof; provided, however, that the Severance Period shall be determined in accordance with Exhibit B attached hereto (instead of in accordance with Exhibit A).

(e) Equity Award Treatment. Each outstanding Equity Award held by the Participant as of the Participant's Date of Termination shall become fully vested and, to the extent applicable, earned and/or exercisable as of the Date of Termination (and, with respect to Performance-Vesting Awards, assuming the greater of target performance and actual level of performance through the Date of Termination).

4.4 Release. Notwithstanding anything herein to the contrary, no Participant shall be eligible or entitled to receive or retain any Severance Benefits under the Plan unless he or she executes a general release of claims substantially in the form attached hereto as Exhibit C (the "Release") and, to the extent such Release includes a post-signing revocation period (including if required by applicable law), does not revoke such Release in accordance with its terms, within 52 days after the Date of Termination.

5. **Limitations**. Notwithstanding any provision of the Plan to the contrary, if a Participant's status as an Employee is terminated for any reason other than due to a Qualifying Termination (including a CIC Termination), the Participant shall not be entitled to receive any Severance Benefits under the Plan, and the Company shall not have any obligation to such Participant under the Plan.

6. **Section 409A**.

6.1 General. To the extent applicable, the Plan shall be interpreted and applied consistent and in accordance with Code Section 409A and Department of Treasury regulations and other interpretive guidance issued thereunder. Notwithstanding any provision of the Plan to the contrary, to the extent that the Administrator determines that any payments or benefits under the Plan may not be either compliant with or exempt from Code Section 409A and related Department of Treasury guidance, the Administrator may in its sole discretion adopt such amendments to the Plan or take such other actions that the Administrator determines are necessary or appropriate to (a) exempt the compensation and benefits payable under the Plan from Code Section 409A and/or preserve the intended tax treatment of such compensation and benefits, or (b) comply with the requirements of Code Section 409A and related Department of Treasury guidance; *provided*, *however*, that this Section 6.1 shall not create any obligation on the part of the Administrator to adopt any such amendment or take any other action, nor shall the Company have any liability for failing to do so.

6.2 Potential Six-Month Delay. Notwithstanding anything to the contrary in the Plan, no amounts shall be paid to any Participant under the Plan during the six-month period following such Participant's "separation from service" (within the meaning of Code Section 409A(a)(2)(A)(i) and Treasury Regulation Section 1.409A-1(h)) to the extent that the Administrator determines that paying such amounts at the time or times indicated in the Plan would result in a prohibited distribution under Code Section 409A(a)(2)(B)(i). If the payment of any such amounts is delayed as a result of the previous sentence, then on the first business day following the end of such six-month period (or such earlier date upon which such amount can be paid under Code Section 409A without resulting in a prohibited distribution, including as a result of the Participant's death), the Participant shall receive payment of a lump-sum amount equal to the cumulative amount that would have otherwise been payable to the Participant during such six-month period without interest thereon.

6.3 Separation from Service. A termination of employment shall not be deemed to have occurred for purposes of any provision of the Plan providing for the payment of any amounts or benefits that constitute "nonqualified deferred compensation" under Code Section 409A upon or following a termination of employment unless such termination is also a "separation from service" within the meaning of Code Section 409A and, for purposes of any such provision of the Plan, references to a "termination," "termination of employment" or like terms shall mean "separation from service".

6.4 Reimbursements. To the extent that any payments or reimbursements provided to a Participant under the Plan are deemed to constitute compensation to the Participant to which Treasury Regulation Section 1.409A-3(i)(1)(iv) would apply, such amounts shall be paid or reimbursed reasonably promptly, but not later than December 31st of the year following the year in which the expense was incurred. The amount of any such payments eligible for reimbursement in one year shall not affect the payments or expenses that are eligible for payment or reimbursement in any other taxable year, and the Participant's right to such payments or reimbursement of any such expenses shall not be subject to liquidation or exchange for any other benefit.

6.5 Installments. For purposes of applying the provisions of Code Section 409A to the Plan, each separately identified amount to which a Participant is entitled under the Plan shall be treated as a separate payment. In addition, to the extent permissible under Code Section 409A, the right to receive any installment payments under the Plan shall be treated as a right to receive a series of separate payments and, accordingly, each such installment payment shall at all times be considered a separate and distinct payment as permitted under Treasury Regulation Section 1.409A-2(b)(2)(iii). Whenever a payment under the Plan specifies a payment period with reference to a number of days, the actual date of payment within the specified period shall be within the sole discretion of the Company.

7. **Limitation on Payments**.

7.1 Best Pay Cap. Notwithstanding any other provision of the Plan, in the event that any payment or benefit received or to be received by a Participant (including any payment or benefit received in connection with a termination of the Participant's employment, whether pursuant to the terms of the Plan or any other plan, arrangement or agreement) (all such payments and benefits, including the Severance Benefits, being hereinafter referred to as the "Total Payments") would be subject (in whole or part), to the excise tax imposed under Code Section 4999 (the "Excise Tax"), then, after taking into account any reduction in the Total Payments provided by reason of Code Section 280G in such other plan, arrangement or agreement, the cash severance payments under the Plan shall first be reduced, and any noncash severance payments shall thereafter be reduced, to the extent necessary so that no portion of the Total Payments is subject to the Excise Tax but only if (a) the net amount of such Total Payments, as so reduced (and after subtracting the net amount of federal, state and local income taxes on such reduced

Total Payments and after taking into account the phase out of itemized deductions and personal exemptions attributable to such reduced Total Payments) is greater than or equal to (b) the net amount of such Total Payments without such reduction (but after subtracting the net amount of federal, state and local income taxes on such Total Payments and the amount of Excise Tax to which the Participant would be subject in respect of such unreduced Total Payments and after taking into account the phase out of itemized deductions and personal exemptions attributable to such unreduced Total Payments).

7.2 Certain Exclusions. For purposes of determining whether and the extent to which the Total Payments will be subject to the Excise Tax, (a) no portion of the Total Payments, the receipt or retention of which the Participant has waived at such time and in such manner so as not to constitute a "payment" within the meaning of Code Section 280G(b), will be taken into account; (b) no portion of the Total Payments will be taken into account which, in the written opinion of an independent, nationally recognized accounting firm (the "Independent Advisors") selected by the Company, does not constitute a "parachute payment" within the meaning of Code Section 280G(b)(2) (including by reason of Code Section 280G(b)(4)(A)) and, in calculating the Excise Tax, no portion of such Total Payments will be taken into account which, in the opinion of Independent Advisors, constitutes reasonable compensation for services actually rendered, within the meaning of Code Section 280G(b)(4)(B), in excess of the "base amount" (as defined in Code Section 280G(b)(3)) allocable to such reasonable compensation; and (c) the value of any non-cash benefit or any deferred payment or benefit included in the Total Payments shall be determined by the Independent Advisors in accordance with the principles of Code Sections 280G(d)(3) and (4).

8. **No Mitigation**. No Participant shall be required to seek other employment or attempt in any way to reduce or mitigate any Severance Benefits payable under the Plan and the amount of any such Severance Benefits shall not be reduced by any other compensation paid or provided to any Participant following such Participant's termination of employment.

9. **Successors**.

9.1 Company Successors. The Plan shall inure to the benefit of and shall be binding upon the Company and its successors and assigns. Any successor (whether direct or indirect and whether by purchase, lease, merger, consolidation, liquidation or otherwise) to all or substantially all of the Company's business and/or assets shall assume and agree to perform the obligations of the Company under the Plan.

9.2 Participant Successors. The Plan shall inure to the benefit of and be enforceable by each Participant's personal or legal representatives, executors, administrators, successors, heirs, distributees, devisees, legatees or other beneficiaries. If a Participant dies while any amount remains payable to such Participant hereunder, all such amounts shall be paid in accordance with the terms of the Plan to the executors, personal representatives or administrators of such Participant's estate.

10. **Notices**. All communications relating to matters arising under the Plan shall be in writing and shall be deemed to have been duly given when hand delivered, faxed, emailed or mailed by reputable overnight carrier or United States certified mail, return receipt requested, addressed, if to a Participant, to the address or email address on file with the Company or to such other address or email address as the Participant may have furnished to the other in writing in accordance herewith and, if to the Company, to such address or email address as may be specified from time to time by the Administrator, except that notice of change of address shall be effective only upon actual receipt.

11. **Claims Procedure; Arbitration**. The Administrator has adopted procedures for considering claims (which are set forth in Exhibit D attached hereto), which it may amend or modify from time to time, as it sees fit. These procedures shall comply with all applicable legal requirements. These procedures may provide that final and binding arbitration shall be the ultimate means of contesting a denied claim (even if the Administrator or its delegates have failed to follow the prescribed procedures with respect to the claim). The right to receive benefits under the Plan is contingent on a Claimant using the prescribed claims and appeal procedures to resolve any claim.

12. **Covenants.**

12.1 Restrictive Covenants. A Participant's right to receive and/or retain the Severance Benefits payable under this Plan is conditioned upon and subject to the Participant's continued compliance with any restrictive covenants (e.g., confidentiality, invention assignment, non-solicitation, non-disparagement) contained in any other written agreement between the Participant and the Company or any of its subsidiaries or affiliates, as in effect on the date of the Participant's Qualifying Termination (including CIC Termination).

12.2 Return of Property. A Participant's right to receive and/or retain the Severance Benefits payable under the Plan is conditioned upon the Participant's return to the Company of all Company documents (and all copies thereof) and other Company property (in each case, whether physical, electronic or otherwise) in the Participant's possession or control.

12.3 Ongoing Cooperation. Following Participant's termination of employment for any reason, Participant agrees to cooperate in good faith with the Company and use Participant's best efforts in responding to all reasonable requests by the Company for assistance and advice relating to matters and procedures in which Participant was involved or which Participant managed or was responsible for while Participant was employed by the Company (or any subsidiary thereof). Participant agrees to reasonably cooperate with and make himself or herself available to the Company and its representatives and legal advisors in connection with any matters in which Participant is or was involved or any existing or future claims, investigations, administrative proceedings, lawsuits and other legal matters, as reasonably requested by the Company.

13. **Miscellaneous.**

13.1 Entire Plan; Relation to Other Agreements . The Plan, together with any Participation Notice issued in connection with the Plan, contains the entire understanding of the parties relating to the subject matter hereof and supersedes any prior agreement, arrangement and understanding between any Participant, on the one hand, and the Company and/or any subsidiary, on the other hand, with respect to the subject matter hereof. Severance payable under the Plan is not intended to duplicate any other cash and/or healthcare severance benefits payable to a Participant by the Company (for the avoidance of doubt, sign-on bonus payments, retention bonus payments, transaction bonus payments and other similar cash payments shall not constitute "other cash severance" for purposes of this Plan).

13.2 No Right to Continued Service. Nothing contained in the Plan shall (a) confer upon any Participant any right to continue as an employee of the Company or any subsidiary, (b) constitute any contract of employment or agreement to continue employment for any particular period, or (c) interfere in any way with the right of the Company to terminate a service relationship with any Participant, with or without Cause.

13.3 Termination and Amendment of Plan. The Plan may not be amended, modified, suspended or terminated except with the express written consent of each Participant who would be adversely affected by any such amendment, modification, suspension or termination.

13.4 Survival. Section 7 (Limitation on Payments), Section 11 (Claims Procedure; Arbitration) and Section 12 (Covenants) hereof shall survive the termination or expiration of the Plan and shall continue in effect.

13.5 Severance Benefit Obligations. Notwithstanding anything contained herein, Severance Benefits paid or provided under the Plan may be paid or provided by the Company or any subsidiary employer, as applicable.

13.6 Withholding. The Company and its subsidiaries shall have the authority and the right to deduct and withhold an amount sufficient to satisfy federal, state, local and foreign taxes required by law to be withheld with respect to any Severance Benefits payable under the Plan.

13.7 Benefits Not Assignable. Except as otherwise provided herein or by law, no right or interest of any Participant under the Plan shall be assignable or transferable, in whole or in part, either directly or by operation of law or otherwise, including without limitation by execution, levy, garnishment, attachment, pledge or in any manner; no attempted assignment or transfer thereof shall be effective; and no right or interest of any Participant under the Plan shall be liable for, or subject to, any obligation or liability of such Participant. When a payment is due under the Plan to a Participant who is unable to care for his or her affairs, payment may be made directly to his or her legal guardian or personal representative.

13.8 Applicable Law. The Plan is intended to be an unfunded "top hat" pension plan within the meaning of U.S. Department of Labor Regulation Section 2520.104-23 and shall be interpreted, administered, and enforced as such in accordance with ERISA. To the extent that state law is applicable, the statutes and common law of the State of Texas, excluding any that mandate the use of another jurisdiction's laws, will apply.

13.9 Validity. The invalidity or unenforceability of any provision of the Plan shall not affect the validity or enforceability of any other provision of the Plan, which shall remain in full force and effect.

13.10 Captions. The captions contained in the Plan are for convenience only and shall have no bearing on the meaning, construction or interpretation of the Plan's provisions.

13.11 Expenses. The expenses of administering the Plan shall be borne by the Company or its successor, as applicable.

13.12 Unfunded Plan. The Plan shall be maintained in a manner to be considered "unfunded" for purposes of ERISA. The Company shall be required to make payments only as benefits become due and payable. No person shall have any right, other than the right of an unsecured general creditor against the Company, with respect to the benefits payable hereunder, or which may be payable hereunder, to any Participant, surviving spouse or beneficiary hereunder. If the Company, acting in its sole discretion, establishes a reserve or other fund associated with the Plan, no person shall have any right to or interest in any specific amount or asset of such reserve or fund by reason of amounts which may be payable to such person under the Plan, nor shall such person have any right to receive any payment under the Plan except

as and to the extent expressly provided in the Plan. The assets in any such reserve or fund shall be part of the general assets of the Company, subject to the control of the Company.

* * * * *

I hereby certify that the foregoing Plan was duly adopted by the Board of Directors of Black Rock Coffee Bar, Inc. on [_____], 2025.

Signature: _____

Name:

Title:

EXHIBIT A

CALCULATION OF QUALIFYING TERMINATION SEVERANCE AMOUNTS

Tier	Severance Period
1	24 months
2	12 months
3	6 months

EXHIBIT B

CALCULATION OF CIC TERMINATION SEVERANCE AMOUNTS

Tier	Severance Period	Severance Multiplier
1	24 months	2
2	12 months	1
3	6 months	0.5

EXHIBIT C

FORM OF RELEASE

1 . Release. For valuable consideration, including the payments or benefits under Section 4 of the Black Rock Coffee Bar, Inc. Executive Severance Plan (the "***Severance Plan***"), the receipt and adequacy of which are hereby acknowledged, the undersigned does hereby release and forever discharge the "***Releasees***" hereunder, consisting of Black Rock Coffee Bar, Inc., a Texas corporation (the "***Company***"), Providence Administrative Consulting Services, Inc., and the Company's partners, subsidiaries, associates, affiliates, successors, heirs, assigns, agents, directors, officers, employees, representatives, lawyers, insurers, and all persons acting by, through, under or in concert with them, or any of them, of and from any and all manner of action or actions, cause or causes of action, in law or in equity, suits, debts, liens, contracts, agreements, promises, liability, claims, demands, damages, losses, costs, attorneys' fees or expenses, of any nature whatsoever, known or unknown, fixed or contingent (hereinafter called "***Claims***"), which the undersigned now has or may hereafter have against the Releasees, or any of them, by reason of any matter, cause, or thing whatsoever from the beginning of time to the date hereof. The Claims released herein include, without limiting the generality of the foregoing, any Claims in any way arising out of, based upon, or related to the employment or termination of employment of the undersigned by the Releasees, or any of them; any alleged breach of any express or implied contract of employment; any alleged torts or other alleged legal restrictions on Releasees' right to terminate the employment of the undersigned; any alleged violation of any federal, state or local statute or ordinance including, without limitation, Title VII of the Civil Rights Act of 1964, the Age Discrimination In Employment Act, the Americans With Disabilities Act, the Colorado Anti-Discrimination Act, Colo. Rev. Stat. Ann. §§ 24-34-401 to 24-34-406, the Workplace Accommodations for Nursing Mothers Act, the Pregnant Workers Fairness Act, the Lawful Off-Duty Activities Statute, the Personnel Files Employee Inspection Right Statute, the Colorado Labor Peace Act, Colo. Rev. Stat. Ann. §§ 8-3-101 to 8-3-123, the Colorado Labor Relations Act, Colo. Rev. Stat. Ann. §§ 8-2-101 to 8-2-205, the Colorado Equal Pay Act, the Colorado Minimum Wage Order, 7 Colo. Code Regs. §§ 1103-1:1 to 1103-1:22, the Colorado Genetic Information Non-Disclosure Act.[2]

2 . Claims Not Released. Notwithstanding the foregoing, this general release (the "***Release***") shall not operate to release any rights or claims of the undersigned (i) to payments or benefits under Section 4 of the Severance Plan, with respect to the payments and benefits provided in exchange for this Release, [(ii) to payments or benefits under any equity award agreement between the undersigned and the Company,][3] (iii) to accrued or vested benefits the undersigned may have, if any, as of the date hereof under any applicable plan, policy, practice, program, contract or agreement with the Company, (iv) to any Claims, including claims for indemnification and/or advancement of expenses arising under any indemnification agreement between the undersigned and the Company or under the bylaws, certificate of incorporation or other similar governing document of the Company, (v) to any Claims which cannot be waived by an employee under applicable law or (vi) with respect to the undersigned's right to communicate directly with, cooperate with, or provide information to, any federal, state or local government regulator.

[2] NTD: To be updated to reflect additional claims based on employee's state of employment (if outside of Colorado) as needed.
[3] NTD: Inclusion to be tailored to individual.

3. Unknown Claims.

[THE UNDERSIGNED ACKNOWLEDGES THAT THE UNDERSIGNED HAS BEEN ADVISED BY LEGAL COUNSEL AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

THE UNDERSIGNED, BEING AWARE OF SAID CODE SECTION, HEREBY EXPRESSLY WAIVES ANY RIGHTS THE UNDERSIGNED MAY HAVE THEREUNDER, AS WELL AS UNDER ANY OTHER STATUTES OR COMMON LAW PRINCIPLES OF SIMILAR EFFECT.]

4. Exceptions. Notwithstanding anything in this Release to the contrary, nothing contained in this Release shall prohibit the undersigned from (i) filing a charge with, reporting possible violations of federal law or regulation to, participating in any investigation by, or cooperating with any governmental agency or entity or making other disclosures that are protected under the whistleblower provisions of applicable law or regulation and/or (ii) communicating directly with, cooperating with, or providing information (including trade secrets) in confidence to, any federal, state or local government regulator (including, but not limited to, the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the U.S. Department of Justice or the National Labor Relations Board (the "***NLRB***")) for the purpose of reporting or investigating a suspected violation of law, or from providing such information to the undersigned's attorney or in a sealed complaint or other document filed in a lawsuit or other governmental proceeding. Pursuant to 18 USC Section 1833(b), the undersigned will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret that is made: (x) in confidence to a federal, state, or local government official, either directly or indirectly, or to an attorney, and solely for the purpose of reporting or investigating a suspected violation of law; or (y) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Nothing in this Release prevents the undersigned from participating in an activity permitted by Section 7 of the National Labor Relations Act or from filing an unfair labor practice charge with the NLRB, or from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that the undersigned has reason to believe is unlawful.

5. Representations. The undersigned represents and warrants that there has been no assignment or other transfer of any interest in any Claim which the undersigned may have against Releasees, or any of them, and the undersigned agrees to indemnify and hold Releasees, and each of them, harmless from any liability, Claims, demands, damages, costs, expenses and attorneys' fees incurred by Releasees, or any of them, as the result of any such assignment or transfer or any rights or Claims under any such assignment or transfer. It is the intention of the parties that this indemnity does not require payment as a condition precedent to recovery by the Releasees against the undersigned under this indemnity.

6. No Action. The undersigned agrees that if the undersigned hereafter commences any suit arising out of, based upon, or relating to any of the Claims released hereunder or in any manner asserts against Releasees, or any of them, any of the Claims released hereunder, then the undersigned agrees to

pay to Releasees, and each of them, in addition to any other damages caused to Releasees thereby, all attorneys' fees incurred by Releasees in defending or otherwise responding to said suit or Claim. Notwithstanding the foregoing, this provision shall not apply to any suit or Claim to the extent it challenges the effectiveness of this Release with respect to a claim under the Age Discrimination in Employment Act.

7. No Admission. The undersigned further understands and agrees that neither the payment of any sum of money nor the execution of this Release shall constitute or be construed as an admission of any liability whatsoever by the Releasees, or any of them, who have consistently taken the position that they have no liability whatsoever to the undersigned.

8. [OWBPA.[4] The undersigned agrees and acknowledges that this Release constitutes a knowing and voluntary waiver and release of all Claims the undersigned has or may have against the Company and/or any of the Releasees as set forth herein, including, but not limited to, all Claims arising under the Older Worker's Benefit Protection Act and the Age Discrimination in Employment Act. In accordance with the Older Worker's Benefit Protection Act, the undersigned is hereby advised as follows:

(i) the undersigned has read the terms of this Release, and understands its terms and effects, including the fact that the undersigned agreed to release and forever discharge the Company and each of the Releasees, from any Claims released in this Release;

(ii) the undersigned understands that, by entering into this Release, the undersigned does not waive any Claims that may arise after the date of the undersigned's execution of this Release, including without limitation any rights or claims that the undersigned may have to secure enforcement of the terms and conditions of this Release;

(iii) the undersigned has signed this Release voluntarily and knowingly in exchange for the consideration described in this Release, which the undersigned acknowledges is adequate and satisfactory to the undersigned and which the undersigned acknowledges is in addition to any other benefits to which the undersigned is otherwise entitled;

(iv) the Company advises the undersigned to consult with an attorney prior to executing this Release;

(v) the undersigned has been given at least [21 / 45] days in which to review and consider this Release. To the extent that the undersigned chooses to sign this Release prior to the expiration of such period, the undersigned acknowledges that the undersigned has done so voluntarily, had sufficient time to consider the Release, to consult with counsel and that the undersigned does not desire additional time and hereby waives the remainder of the [21 / 45]-day period;

(vi) [the undersigned understands that Attachment 1 to this Release is a list of the job titles and ages for all individuals in the undersigned's decisional unit who have been selected for the program, as well as the job titles and ages of all individuals in the undersigned's decisional unit who have not been selected for the program, as of [_____], the date the Company provided this Release to the undersigned;][5] and

[4] NTD: Use for employees 40 years of age or older. The consideration period will be 21 days for a non-group termination and 45 days for a group termination.
[5] NTD: To be included for group termination.

(vii) the undersigned may revoke this Release within seven days from the date the undersigned signs this Release and this Release will become effective upon the expiration of that revocation period if the undersigned has not revoked this Release during such seven-day period. If the undersigned revokes this Release during such seven-day period, this Release will be null and void and of no force or effect on either the Company or the undersigned and the undersigned will not be entitled to any of the payments or benefits which are expressly conditioned upon the execution and non-revocation of this Release. Any revocation must be in writing and sent to [*name*], via electronic mail at [*email address*], on or before [11:59 p.m. Mountain time] on the seventh day after this Release is executed by the undersigned.]

9. [Certain Rights.[6] The undersigned is hereby advised as follows:

(i) the undersigned has read the terms of this Release, and understands its terms and effects, including the fact that the undersigned agreed to release and forever discharge the Company and each of the Releasees, from any Claims released in this Release;

(ii) the undersigned understands that, by entering into this Release, the undersigned does not waive any Claims that may arise after the date of the undersigned's execution of this Release, including without limitation any rights or claims that the undersigned may have to secure enforcement of the terms and conditions of this Release;

(iii) the undersigned has signed this Release voluntarily and knowingly in exchange for the consideration described in this Release, which the undersigned acknowledges is adequate and satisfactory to the undersigned and which the undersigned acknowledges is in addition to any other benefits to which the undersigned is otherwise entitled;

(iv) the undersigned has a right to, and the Company advises the undersigned to, consult with an attorney prior to executing this Release; and

(v) [the undersigned has been given at least five business days in which to review and consider this Release.] [7] To the extent that the undersigned chooses to sign this Release [prior to the expiration of such period], the undersigned acknowledges that the undersigned has done so voluntarily, had sufficient time to consider the Release, to consult with counsel and that the undersigned does not desire additional time to review and consider this Release [and hereby waives the remainder of the period].]

10. Governing Law. This Release is deemed made and entered into in the State of [____], [8] and in all respects shall be interpreted, enforced and governed under the internal laws of the State of [____], to the extent not preempted by federal law.

[6] NTD: Use for employees younger than 40.
[7] NTD: Bracketed text in this section to be included for employees in California.
[8] NTD: To be the employee's state of employment.

IN WITNESS WHEREOF, the undersigned has executed this Release this ____ day of _____, ____.

_____
[_____]

ATTACHMENT 1 TO EXHIBIT C

[OLDER WORKER BENEFIT PROTECTION ACT DISCLOSURE]

[To be included if applicable]

EXHIBIT D

DETAILED CLAIMS PROCEDURES

Section 1.1. Claim Procedure. Claims for benefits under the Plan shall be administered in accordance with Section 503 of ERISA and the Department of Labor Regulations and guidance thereunder. The Administrator shall have the right to delegate its duties under this Exhibit and all references to the Administrator shall be a reference to any such delegate, as well. The Administrator shall make all determinations as to the rights of any Claimant. A Claimant may authorize a representative to act on his or her behalf with respect to any claim under the Plan.

Section 1.2. Claims. Generally, Participants are not required to present a formal claim in order to receive benefits under the Plan. If, however, any person believes that benefits are being denied improperly, that the Plan is not being operated properly, or that their legal rights are being violated with respect to the Plan (the "Claimant"), the Claimant must file a formal claim, in writing, with the Administrator in accordance with this Exhibit D. This requirement applies to all claims that any Claimant has with respect to the Plan, except to the extent the Administrator determines, in its sole discretion that it does not have the power to grant all relief reasonably being sought by the Claimant. A formal claim must be filed within 90 days after the date the Claimant first knew or should have known of the facts on which the claim is based, unless the Administrator consents otherwise in writing. All written claims shall be submitted to Sr. Director of Human Resources at hr@br.coffee or 9170 E. Bahia Drive, Suite 101, Scottsdale, Arizona 85260, telephone number (458) 256-9668. The Administrator shall provide a Claimant, on request, with a copy of the claims procedures established under this Exhibit D.

Section 1.3. Timing of Claim Denial. If the Administrator denies a claim in whole or in part (an "initial adverse benefit determination"), then the Administrator will provide notice of the decision to the Claimant within a reasonable period of time, not to exceed 90 days after the Administrator receives the claim, unless the Administrator determines that any extension of time for processing is required. In the event that the Administrator determines that such an extension is required, written notice of the extension will be furnished to the Claimant before the end of the initial 90 day review period. The extension will not exceed a period of 90 days from the end of the initial 90 day period, and the extension notice will indicate the special circumstances requiring such extension of time and the date by which the Administrator expects to render the benefit decision.

Section 1.4. Contents of Claim Denial Notice. The Administrator shall provide every Claimant who is denied a claim for benefits with a written or electronic notice of its initial adverse benefit determination. The notice will set forth, in a manner to be understood by the Claimant:

(1) the specific reason or reasons for the initial adverse benefit determination;

(2) reference to the specific Plan provisions on which the determination is based;

(3) a description of any additional material or information necessary for the Claimant to perfect the claim and an explanation as to why such information is necessary; and

(4) an explanation of the Plan's appeal procedure and the time limits applicable to such procedures, including a statement of the Claimant's right to bring an action under Section 502(a) of ERISA after receiving a final adverse benefit determination upon appeal.

Section 1.5. Appeal Procedures. The Claimant may appeal an initial adverse benefit determination by submitting a written appeal to the Administrator within 60 days of receiving notice of the denial of the claim. The Claimant:

(1) may submit written comments, documents, records and other information relating to the claim for benefits;

(2) will be provided, upon request and without charge, reasonable access to and copies of all documents, records and other information relevant to the Claimant's claim for benefits; and

(3) will receive a review that takes into account all comments, documents, records and other information submitted by the Claimant relating to the appeal, without regard to whether such information was submitted or considered in the initial benefit determination.

Section 1.6. Decision on Appeal. The Administrator will conduct a full and fair review of the claim and the initial adverse benefit determination. The Administrator holds regularly scheduled meetings at least quarterly. The Administrator shall make a benefit determination no later than the date of the regularly scheduled meeting that immediately follows the Administrator's receipt of an appeal request, unless the appeal request is filed within 30 days preceding the date of such meeting. In such case, a benefit determination may be made by no later than the date of the second regularly scheduled meeting following the Administrator's receipt of the appeal request. If special circumstances require a further extension of time for processing, a benefit determination shall be rendered no later than the third regularly scheduled meeting of the Administrator following the Administrator's receipt of the appeal request. If such an extension of time for review is required, the Administrator shall provide the Claimant with written notice of the extension, describing the special circumstances and the date as of which the benefit determination will be made, prior to the commencement of the extension. The Administrator generally cannot extend the review period any further unless the Claimant voluntarily agrees to a longer extension. The Administrator shall notify the Claimant of the benefit determination as soon as possible but not later than five days after it has been made.

Section 1.7. Notice of Determination on Appeal. If the appeal is denied, the Administrator shall provide the Claimant with written or electronic notification of its denial ("final adverse benefit determination"), which shall set forth, in a manner intended to be understood by the Claimant:

(1) the specific reason or reasons for the final adverse benefit determination;

(2) reference to the specific Plan provisions on which the final adverse benefit determination is based;

(3) a statement that the Claimant is entitled to receive, upon request and without charge, reasonable access to, and copies of, all documents, records and other information relevant to the claim for benefits;

(4) a statement describing any voluntary appeal procedures offered by the Plan and the Claimant's right to obtain the information about such procedures; and

(5) a statement of the Claimant's right to bring an action under Section 502(a) of ERISA.

Section 1.8. Exhaustion; Judicial Proceedings. No action at law or in equity shall be brought to recover benefits under the Plan until the claim and appeal rights described in the Plan have been exercised and the Plan benefits requested in such appeal have been denied in whole or in part. If any judicial

proceeding is undertaken to appeal the denial of a claim or bring any other action under ERISA, the evidence presented may be strictly limited to the evidence timely presented to the Administrator. Any such judicial proceeding must be filed by the earlier of: (a) one year after the final adverse benefit determination or (b) one year after the Participant or other Claimant commenced payment of the Plan benefits at issue in the judicial proceeding.

Section 1.9. Administrator's Decision is Binding. Benefits under the Plan shall be paid only if the Administrator decides in its sole discretion that a Claimant is entitled to them. In determining claims for benefits, the Administrator has the authority to interpret the Plan, to resolve ambiguities, to make factual determinations, and to resolve questions relating to eligibility for and amount of benefits. Subject to applicable law, any decision made in accordance with the above claims procedures is final and binding on all parties and shall be given the maximum possible deference allowed by law. A misstatement or other mistake of fact shall be corrected when it becomes known and the Administrator shall make such adjustment on account thereof as it considers equitable and practicable.

Exhibit 10.19

INDEMNIFICATION AND ADVANCEMENT AGREEMENT

This Indemnification and Advancement Agreement ("Agreement") is made as of September [ ], 2025 by and between Black Rock Coffee Bar, Inc., a Texas corporation (the "Company"), and _____, [a member of the Board of Directors/an officer/an employee/an agent] of the Company ("Indemnitee"). This Agreement supersedes and replaces any and all previous agreements between the Company and Indemnitee covering indemnification and advancement of expenses.

RECITALS

WHEREAS, the Board of Directors of the Company (the "Board") believes that highly competent persons have become more reluctant to serve publicly-held corporations as directors, officers, or in other capacities unless they are provided with adequate protection through insurance or adequate indemnification and advancement of expenses against inordinate risks of claims and actions against them arising out of their service to and activities on behalf of the corporation, or both;

WHEREAS, the Board has determined that, in order to attract and retain qualified individuals, the Company will attempt to maintain on an ongoing basis, at its sole expense, liability insurance to protect persons serving the Company and its subsidiaries from certain liabilities. Although the furnishing of such insurance has been a customary and widespread practice among United States-based corporations and other business enterprises, the Company believes that, given current market conditions and trends, such insurance may be available to it in the future only at higher premiums and with more exclusions. At the same time, directors, officers, and other persons in service to corporations or business enterprises are being increasingly subjected to expensive and time-consuming litigation relating to, among other things, matters that traditionally would have been brought only against the Company or business enterprise itself. The Company's Amended and Restated Bylaws (the "Bylaws") and Amended and Restated Certificate of Formation (the "Certificate of Formation") permit or require the Company to provide for the indemnification of the officers and directors of the Company. Indemnitee may also be entitled to mandatory indemnification pursuant to the Texas Business Organizations Code (as amended from time to time, the "TBOC"). The indemnification provisions set forth in the Bylaws, the Certificate of Formation, and the TBOC are not exclusive, and thereby contemplate that contracts may be entered into between the Company and its directors, officers, and other persons with respect to indemnification and advancement of expenses;

WHEREAS, the uncertainties relating to such insurance, to indemnification, and to advancement of expenses may increase the difficulty of attracting and retaining such persons;

WHEREAS, the Board has determined that the increased difficulty in attracting and retaining such persons is detrimental to the best interests of the Company and its shareholders and that the Company should act to assure such persons that there will be increased certainty of such protection in the future;

WHEREAS, it is reasonable, prudent and necessary for the Company contractually to obligate itself to indemnify, and to advance expenses on behalf of, such persons to the fullest extent permitted by applicable law so that they will serve or continue to serve the Company free from undue concern that they will not be so indemnified;

WHEREAS, this Agreement is a supplement to, and in furtherance of, the Bylaws, the Certificate of Formation and any resolutions adopted pursuant thereto, as well as any rights of Indemnitee under the TBOC and under any directors' and officers' liability or other insurance policy, and is not a substitute therefor, and does not diminish or abrogate any rights of Indemnitee thereunder; and

WHEREAS, Indemnitee does not regard the protection available under the Bylaws, the Certificate of Formation, the TBOC, and available insurance as adequate in the present circumstances, and may not be willing to serve or continue to serve as [a/an] [officer/director/employee/agent] without adequate additional protection, and the Company desires Indemnitee to [serve/continue to serve] in such capacity. Indemnitee is willing to [serve/continue to serve] and to take on additional service for or on behalf of the Company on the condition that Indemnitee be so indemnified and be advanced expenses.

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. Services to the Company. Indemnitee agrees to [serve/continue to serve] as [a/an] [director/officer/employee/agent] of the Company. Indemnitee may at any time and for any reason resign from such position (subject to any other contractual obligation or any obligation imposed by operation of law). This Agreement does not create any obligation on the Company to continue Indemnitee in such position and is not an employment contract between the Company (or any of its subsidiaries or any Enterprise (as defined below)) and Indemnitee.

Section 2. Definitions. As used in this Agreement:

(a) "Agent" means any person who is authorized by the Company or an Enterprise to act for or represent the interests of the Company or an Enterprise, respectively.

(b) "Beneficial Owner" has the meaning given to such term in Rule 13d-3 under the Exchange Act (as defined below); provided, however, that Beneficial Owner excludes any Person otherwise becoming a Beneficial Owner by reason of the shareholders of the Company approving a merger of the Company with another entity.

(c) "Business Court" means the Business Court in the First Business Court Division of the State of Texas located in Dallas, Texas.

(d) A "Change in Control" means the occurrence after the date of this Agreement of any of the following events:

i. Acquisition of Stock by Third Party. Any Person (as defined below), other than Viking Cake BR, LLC and its affiliates, is or becomes the Beneficial Owner, directly or indirectly, of securities of the Company representing fifteen percent (15%) or more of the combined voting power of the Company's then outstanding securities unless the change in relative beneficial ownership of the Company's securities by any Person results solely from (i) a reduction in the aggregate number of outstanding shares of securities entitled to vote generally in the election of directors, or (ii) the conversion or exchange of of Class C Common Stock to Class B Common Stock or Class A Common Stock;

ii. Change in Board of Directors. During any period of two (2) consecutive years (not including any period prior to the execution of this Agreement), individuals who at the beginning of such period constitute the Board, and any new director (other than a director designated by a person who has entered into an agreement with the Company to effect a transaction described in Sections 2(d)(i), 2(d)(iii) or 2(d)(iv) of this Agreement) whose election by the Board or nomination for election by the Company's shareholders was approved by a vote of at least a majority of the directors then still in office who either were directors at the beginning of the period or whose election or nomination for election was previously so approved, cease for any reason to constitute at least a majority of the members of the Board;

iii. Corporate Transactions. The effective date of a merger or consolidation of the Company with any other entity, other than a merger or consolidation that would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than fifty percent (50%) of the combined voting power of the voting securities of the surviving entity outstanding immediately after such merger or consolidation and with the power to elect at least a majority of the board of directors or other governing body of such surviving entity;

iv. Liquidation. The approval by the shareholders of the Company of a complete liquidation of the Company or an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets; and

v. Other Events. There occurs any other event of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or a response to any similar item on any similar schedule or form) promulgated under the Exchange Act, whether or not the Company is then subject to such reporting requirement.

(e) "Corporate Status" describes the status of a person who is or was acting as a director, officer, employee, or Agent of the Company or an Enterprise.

(f) "Disinterested Director" means a director of the Company who is both "disinterested" and "independent" as such terms are defined in Sections 1.003 and 1.004 of the TBOC.

(g) "Enterprise" means any other corporation, limited liability company, partnership, joint venture, trust, other enterprise or non-profit entity, including any employee benefit plan, for which Indemnitee is or was serving at the request of the Company as a director, officer, employee, or Agent.

(h) "Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time.

(i) "Expenses" includes all reasonable attorneys' fees and all judgments, penalties, settlements, fines, retainers, court costs, transcript costs, fees and other costs of experts and other professionals, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, any federal, state, local or foreign taxes imposed on Indemnitee as a result of the actual or deemed receipt of any payments under this Agreement, excise taxes and penalties, including excise taxes assessed against Indemnitee with respect to an employee benefit plan, and all other disbursements, obligations, or expenses of the types customarily incurred in connection with preparing for or participating in a Proceeding (as defined below). Expenses also include (i) Expenses incurred in connection with any appeal resulting from any Proceeding, including without limitation the premium, security for, and other costs relating to any cost bond, supersedeas bond, or other appeal bond or its equivalent, and (ii) for purposes of Section 14(e) of this Agreement only, Expenses incurred by Indemnitee in connection with the interpretation, enforcement or defense of Indemnitee's rights under this Agreement, by litigation or otherwise.

(j) "Independent Counsel" means a law firm, or a member of a law firm, that is experienced in matters of corporation law and neither presently is, nor in the five years prior to its, his or her selection or appointment has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party (other than with respect to matters concerning the Indemnitee under this Agreement, or of other indemnitees under similar indemnification agreements) or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" does not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. The Company agrees to pay the reasonable fees and expenses of the Independent Counsel.

(k) "Person" has the meaning as set forth in Sections 13(d) and 14(d) of the Exchange Act; provided, however, that Person excludes (i) the Company, (ii) any trustee or other fiduciary holding securities under an employee benefit plan of the Company, and (iii) any entity owned, directly or indirectly, by the shareholders of the Company in substantially the same proportions as their ownership of stock of the Company.

(l) "Proceeding" includes any threatened, pending or completed action, suit, claim, counterclaim, cross claim, arbitration, mediation, alternate dispute resolution mechanism, investigation, inquiry, administrative hearing, or any other actual, threatened or completed proceeding, whether brought in the right of the Company or otherwise and whether of a civil, criminal, administrative, legislative, regulatory, or investigative (formal or informal) nature,

including any appeal therefrom, in which Indemnitee was, is, or will be involved as a party, potential party, non-party witness, or otherwise by reason of Indemnitee's Corporate Status or by reason of any action taken by Indemnitee (or a failure to take action by Indemnitee) or of any action (or failure to act) on Indemnitee's part while acting pursuant to Indemnitee's Corporate Status, in each case whether or not serving in such capacity at the time any liability or Expense is incurred for which indemnification, reimbursement, or advancement of Expenses can be provided under this Agreement. A Proceeding also includes a situation the Indemnitee believes in good faith may lead to, or culminate in, the institution of a Proceeding.

(m) "Sponsor Entities" means The Cynosure Group, LLC and its affiliates.

Section 3. Indemnity in Third-Party Proceedings. Subject to Section 9 and Section 12 of this Agreement, to the greatest extent permitted by applicable law, the Company will indemnify Indemnitee in accordance with the provisions of this Section 3 if Indemnitee is, or is threatened to be made, a respondent or defendant in any Proceeding, other than a Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 3, the Company will indemnify Indemnitee to the fullest extent permitted by applicable law against all Expenses, judgments, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with, or in respect of, such Expenses, judgments, fines and amounts paid in settlement) actually incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue, or matter therein, if Indemnitee acted in good faith and reasonably believed that Indemnitee's conduct in his or her official capacity was in the Company's best interests or that Indemnitee's conduct was otherwise not opposed to the Company's best interests, as applicable, and, in the case of a criminal Proceeding, did not have a reasonable cause to believe that Indemnitee's conduct was unlawful.

Section 4. Indemnity in Proceedings by or in the Right of the Company. Subject to Section 9 and Section 12 of this Agreement, to the greatest extent permitted by applicable law, the Company will indemnify Indemnitee in accordance with the provisions of this Section 4 if Indemnitee is, or is threatened to be made, a respondent or defendant in any Proceeding by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 4, the Company will indemnify Indemnitee to the fullest extent permitted by applicable law against all Expenses actually incurred by Indemnitee or on Indemnitee's behalf in connection with such Proceeding or any claim, issue or matter therein, if Indemnitee acted in good faith and reasonably believed that Indemnitee's conduct in his or her official capacity was in the Company's best interests or, in the case of a Proceeding concerning the Indemnitee's Corporate Status as an Enterprise, that Indemnitee's conduct was otherwise not opposed to the Company's best interests, as applicable. The Company will not indemnify Indemnitee for Expenses under this Section 4 related to any claim, issue, or matter in a Proceeding for which Indemnitee has been finally adjudged by a court to be liable to the Company for (i) willful or intentional misconduct in the performance of Indemnitee's duty to the Company, (ii) breach of Indemnitee's duty of loyalty owed to the Company or (iii) an act or omission not committed in good faith that constitutes a breach of a duty owed by Indemnitee to the Company, and all appeals have been exhausted or foreclosed by law.

Section 5. Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provisions of this Agreement, to the fullest extent permitted by applicable law, the Company will indemnify Indemnitee against all Expenses actually incurred by Indemnitee in connection with any Proceeding to the extent that Indemnitee is wholly successful, on the merits or otherwise, in the defense of the Proceeding. If Indemnitee is not wholly successful in the defense of such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues, or matters in such Proceeding, the Company will indemnify Indemnitee against all Expenses actually incurred by Indemnitee or on Indemnitee's behalf in connection with or related to each successfully resolved claim, issue or matter to the fullest extent permitted by law. For purposes of this Section 5 and without limitation, the termination of any claim, issue, or matter in such a Proceeding by dismissal, with or without prejudice, will be deemed to be a successful result as to such claim, issue, or matter.

Section 6. Indemnification for Expenses of a Witness. Notwithstanding any other provisions of this Agreement, to the fullest extent permitted by applicable law, the Company will indemnify Indemnitee against all Expenses actually and reasonably incurred by Indemnitee or on Indemnitee's behalf in connection with any Proceeding to which Indemnitee is not a party but to which Indemnitee is a witness, deponent, interviewee, or otherwise asked to participate or provide information.

Section 7. Partial Indemnification. If Indemnitee is entitled under any provision of this Agreement to indemnification by the Company for some or a portion of Expenses, but not, however, for the total amount thereof, the Company will indemnify Indemnitee for the portion thereof to which Indemnitee is entitled.

Section 8. Additional Indemnification. Notwithstanding any limitation in Sections 3, 4, or 5 of this Agreement, for the avoidance of doubt, the Company will indemnify Indemnitee to the fullest extent permitted by applicable law (including but not limited to, the TBOC and any amendments to or replacements of the TBOC adopted after the date of this Agreement that expand the Company's ability to indemnify its officers and directors) if Indemnitee is a party to, or threatened to be made a party to, any Proceeding (including a Proceeding by or in the right of the Company to procure a judgment in its favor).

Section 9. Exclusions. Notwithstanding any other provision in this Agreement, the Company is not obligated under this Agreement to indemnify Indemnitee for:

(a) any amount actually paid to or on behalf of Indemnitee under any insurance policy or other indemnity provision, subject to the Company's compliance with Section 15(b) of this Agreement (for the avoidance of doubt, excluding any excess beyond the amount paid under any insurance policy or other indemnity provision, which shall be subject to indemnification);

(b) an accounting of profits made from the purchase and sale (or sale and purchase) by Indemnitee of securities of the Company within the meaning of Section 16(b) of the Exchange Act or similar provisions of state statutory law or common law;

(c) reimbursement of the Company by the Indemnitee of any bonus or other incentive-based or equity-based compensation or of any profits realized by the Indemnitee from the sale of securities of the Company, as required in each case under the Exchange Act (including any such reimbursements that arise from an accounting restatement of the Company pursuant to Section 304 of the Sarbanes-Oxley Act of 2002 (the "Sarbanes-Oxley Act"), or the payment to the Company of profits arising from the purchase and sale by Indemnitee of securities in violation of Section 306 of the Sarbanes-Oxley Act);

(d) reimbursement of the Company by Indemnitee of any compensation pursuant to any compensation recoupment or clawback policy adopted by the Board or the compensation committee of the Board, including but not limited to any such policy adopted to comply with stock exchange listing requirements implementing Section 10D of the Exchange Act;

(e) any Expenses, judgments, fines and amounts paid in settlement (including all interest, assessments and other charges paid or payable in connection with, or in respect of, such Expenses, judgments, fines and amounts paid in settlement) incurred by Indemnitee in a Proceeding in which Indemnitee has been found liable to the Company or because Indemnitee improperly received a personal benefit (as established by an order, including a judgment or decree of a court, and all appeals of the order are exhausted or foreclosed by law) for:

i. willful or intentional misconduct in the performance of Indemnitee's duty to the Company;

ii. breach of Indemnitee's duty of loyalty owed to the Company; or

iii. an act or omission not committed in good faith that constitutes a breach of a duty owed by Indemnitee to the Company;

(f) any Proceeding initiated by Indemnitee, including any Proceeding (or any part of any Proceeding) initiated by Indemnitee against the Company or its directors, officers, employees or other indemnitees, unless (i) the Proceeding or part of any Proceeding is to enforce Indemnitee's rights to indemnification or advancement of Expenses under this Agreement, including a Proceeding (or any part of any Proceeding) initiated pursuant to Section 14 of this Agreement or (ii) the Board authorized the Proceeding (or any part of any Proceeding) prior to its initiation; or

(g) any Proceeding initiated by the Company against Indemnitee involving the enforcement by the Company of any confidentiality, non-competition, non-solicitation, non-disclosure, non-disparagement or similar restrictive covenant agreements, or the confidentiality, non-competition, non-solicitation, non-disclosure, non-disparagement or similar restrictive covenant provisions of employment, consulting, severance, equity award or similar agreements, in each case to which Indemnitee may be a party with the Company or any of its subsidiaries or any other applicable Enterprise.

Section 10. Advances of Expenses.

(a) Following receipt of a written affirmation by Indemnitee that Indemnitee had a good faith belief the Indemnitee has met the standard of conduct necessary for indemnification under the TBOC and this Agreement, the Company will advance, to the extent not prohibited by law, the Expenses reasonably incurred by Indemnitee in connection with any Proceeding.

(b) The Company will advance the Expenses within thirty (30) days after the receipt by the Company of a statement or statements requesting such advances from time to time, whether prior to or after final disposition of any Proceeding eligible for advancement of expenses.

(c) Advances will be unsecured and interest free. Indemnitee hereby undertakes to repay any and all amounts so advanced (without interest) to the extent that it is finally determined that Indemnitee has not met the required standard of conduct or that indemnification is prohibited by Section 8.102 of the TBOC. No other form of undertaking is required other than the execution of this Agreement. The Company will make advances without regard to Indemnitee's ability to repay the Expenses and without regard to Indemnitee's ultimate entitlement to indemnification under the other provisions of this Agreement.

Section 11. Procedures for Notification of Claim for Indemnification or Advancement; Settlements.

(a) Indemnitee will notify the Chief Legal Officer or Secretary of the Company in writing of any Proceeding with respect to which Indemnitee intends to seek indemnification or advancement of Expenses hereunder as soon as reasonably practicable following the receipt by Indemnitee of written notice thereof. Indemnitee will include in the written notification to the Company a description of the nature of the Proceeding and the facts underlying the Proceeding and provide such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification following the final disposition of such Proceeding or to advancement of Expenses. Indemnitee's failure to notify the Company will not relieve the Company from any obligation it may have to Indemnitee under this Agreement, and any delay in so notifying the Company will not constitute a waiver by Indemnitee of any rights under this Agreement. The Chief Legal Officer or Secretary of the Company will, promptly upon receipt of such a request for indemnification or advancement, advise the Board in writing that Indemnitee has requested indemnification or advancement.

(b) The Company will be entitled to participate in the Proceeding at its own expense.

(c) The Company shall have no obligation to indemnify Indemnitee under this Agreement for amounts paid in settlement of a Proceeding without the Company's prior written consent. The Company shall not settle any Proceeding in any manner that would impose any fine, Expense, limitation or other obligation on Indemnitee, or disparage Indemnitee or contain

an admission of wrongdoing by Indemnitee, without Indemnitee's prior written consent. Neither the Company nor Indemnitee shall unreasonably withhold consent to any proposed settlement (it being agreed that Indemnitee's refusal to consent to a proposed settlement that would in any manner impose any fine, Expense, limitation or other obligation on Indemnitee, or disparage Indemnitee or contain an admission of wrongdoing by Indemnitee, would not be unreasonable).

Section 12. Procedure Upon Application for Indemnification.

(a) Unless a Change in Control has occurred, the determination of Indemnitee's entitlement to indemnification will be made[by the Board][1]:

i. [by a majority vote of the Disinterested Directors, even though such Disinterested Directors may constitute less than a quorum of the Board;

ii. by a committee of one or more Disinterested Directors designated by a majority vote of the Disinterested Directors, even though such committee may constitute less than a quorum of the Board;

iii. if there are no such Disinterested Directors or, if such Disinterested Directors so direct, by written opinion provided by Independent Counsel selected by the Board or a committee thereof, by vote in accordance with subsection(a)(i) or (a)(ii); or

iv. if so directed by the Board, by vote of the shareholders of the Company, excluding any directors of the Company who are not Disinterested Directors.][2]

(b) If a Change in Control has occurred, the determination of Indemnitee's entitlement to indemnification will be made by written opinion provided by Independent Counsel selected by Indemnitee (unless Indemnitee requests such selection be made by the Board).

(c) The party selecting Independent Counsel pursuant to subsection (a)(iii) or (b) of this Section 12 will provide written notice of the selection to the other party. The notified party may, within ten (10) days after receiving written notice of the selection of Independent Counsel, deliver to the selecting party a written objection to such selection; provided, however, that such objection may be asserted only on the ground that the Independent Counsel so selected does not meet the requirements of "Independent Counsel" as defined in Section 2 of this Agreement, and the objection will set forth with particularity the factual basis of such assertion. Absent a proper and timely objection, the person so selected will act as Independent Counsel. If such written objection is so made and substantiated, the Independent Counsel so selected may not serve as Independent Counsel unless and until such objection is withdrawn or the Business Court (or the Alternative Courts) has determined that such objection is without merit. If, within thirty (30) days after the later of submission by Indemnitee of a written request for indemnification pursuant to Section 11(a) of this Agreement and the final disposition of the Proceeding, Independent Counsel has not been selected or, if selected, any objection to such selection has not been resolved, either the Company or Indemnitee may petition the Business

[1] **NTD**: Applicable for indemnitees other than directors.
[2] **NTD**: Applicable for indemnitees that are directors.

Court (or the Alternative Courts) for resolution of any objection made by the Company or Indemnitee to the other's selection of Independent Counsel or for the appointment as Independent Counsel of a person selected by such court or by such other person as such court designates. Upon the due commencement of any judicial proceeding or arbitration pursuant to Section 14(a) of this Agreement, Independent Counsel will be discharged and relieved of any further responsibility in such capacity (subject to the applicable standards of professional conduct then prevailing).

(d) Indemnitee will cooperate with the person, persons or entity making the determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons, or entity upon reasonable advance request any documentation or information that is not privileged or otherwise protected from disclosure and that is reasonably available to Indemnitee and reasonably necessary to such determination. The Company will advance and pay any Expenses incurred by Indemnitee in so cooperating with the person, persons or entity making the indemnification determination irrespective of the determination as to Indemnitee's entitlement to indemnification, and the Company hereby indemnifies and agrees to hold Indemnitee harmless therefrom. The Company promptly will advise Indemnitee in writing of the determination that Indemnitee is or is not entitled to indemnification, including a description of any reason or basis for which indemnification has been denied and providing a copy of any written opinion provided to the Board by Independent Counsel.

(e) If it is determined that Indemnitee is entitled to indemnification, the Company will make payment to Indemnitee within thirty (30) days after such determination.

Section 13. Presumptions and Effect of Certain Proceedings.

(a) In making a determination with respect to entitlement to indemnification under this Agreement, the person, persons, or entity making such determination will, to the fullest extent not prohibited by law, presume Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 11(a) of this Agreement, and the Company will, to the fullest extent not prohibited by law, have the burden of proof to overcome that presumption. Neither the failure of the Company (including by its directors or Independent Counsel) to have made a determination prior to the commencement of any action pursuant to this Agreement that indemnification is proper under the circumstances because Indemnitee has met the applicable standard of conduct, nor an actual determination by the Company (including by its directors or Independent Counsel) that Indemnitee has not met such applicable standard of conduct, will be a defense to the action or create a presumption that Indemnitee has not met the applicable standard of conduct.

(b) If the determination of the Indemnitee's entitlement to indemnification has not been made pursuant to Section 12 of this Agreement within sixty (60) days after the later of (i) receipt by the Company of Indemnitee's request for indemnification pursuant to Section 11(a) of this Agreement and (ii) the final disposition of the Proceeding for which Indemnitee requested indemnification (the "Determination Period"), the requisite determination of entitlement to indemnification will, to the fullest extent not prohibited by law, be deemed to have been made and Indemnitee will be entitled to such indemnification absent (i) a misstatement by Indemnitee

of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification or (ii) a prohibition of such indemnification under applicable law; provided, that the Determination Period may be extended for a reasonable time, not to exceed an additional thirty (30) days, if the person, persons or entity making the determination with respect to entitlement to indemnification in good faith requires such additional time for the obtaining or evaluating of documentation or information relating thereto[; and provided, further, that the Determination Period will not apply if the determination of entitlement to indemnification is to be made by the shareholders pursuant to Section 12(a)(iv) of this Agreement and if (A) within fifteen (15) days after receipt by the Company of the request for such determination the Board has resolved to submit such determination to the shareholders for their consideration at an annual meeting thereof to be held within seventy-five (75) days after such receipt and such determination is made thereat, or (B) a special meeting of shareholders is called within fifteen (15) days after such receipt for the purpose of making such determination, such meeting is held for such purpose within sixty (60) days after having been so called and such determination is made thereat][3].

(c) The termination of any Proceeding or of any claim, issue, or matter therein by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, will not (except as otherwise expressly provided in this Agreement) in and of itself adversely affect the right of Indemnitee to indemnification or create a presumption that Indemnitee did not act in good faith and in a manner which Indemnitee reasonably believed to be in or not opposed to the best interests of the Company or, with respect to any criminal Proceeding, that Indemnitee had reasonable cause to believe that Indemnitee's conduct was unlawful.

(d) For purposes of any determination of good faith, Indemnitee will be deemed to have acted in good faith if Indemnitee acted based on (i) the records or books of account of the Company, its subsidiaries, or an Enterprise, including financial statements, (ii) information supplied to Indemnitee by the directors or officers of the Company, its subsidiaries, or an Enterprise in the course of their duties, (iii) the advice of legal counsel for the Company, its subsidiaries, or an Enterprise or (iv) information or records given or reports made to the Company or an Enterprise by an independent certified public accountant or by an appraiser, financial advisor or other expert selected with reasonable care by or on behalf of the Company, its subsidiaries, or an Enterprise. Further, Indemnitee will be deemed to have acted in a manner "not opposed to the best interests of the Company," as referred to in this Agreement if Indemnitee acted in good faith and in a manner Indemnitee reasonably believed to be in the best interests of the participants and beneficiaries of an employee benefit plan. The provisions of this Section 13(d) are not exclusive and do not limit in any way the other circumstances in which the Indemnitee may be deemed to have met the applicable standard of conduct set forth in this Agreement.

(e) The knowledge or actions, or failure to act, of any other person affiliated with the Company or an Enterprise (including, but not limited to, a director, officer, trustee, partner, managing member, Agent or employee) may not be imputed to Indemnitee for purposes of determining Indemnitee's right to indemnification under this Agreement.

[3] **NTD**: Applicable for indemnitees that are directors.

Section 14. Remedies of Indemnitee.

(a) Indemnitee may commence litigation against the Company in the Business Court (or, in the event that the Business Court is not then accepting filings or determines that it lacks jurisdiction, the United States District Court for the Northern District of Texas, or, if that court lacks jurisdiction, the state district courts of Dallas County, Texas (the "Alternative Courts")) to obtain indemnification or advancement of Expenses provided by this Agreement in the event that (i) a determination is made pursuant to Section 12 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) the Company does not advance Expenses pursuant to Section 10 of this Agreement, (iii) the determination of entitlement to indemnification is not made pursuant to Section 12 of this Agreement within the Determination Period, (iv) the Company does not indemnify Indemnitee pursuant to Section 5 or 6 or the second to last sentence of Section 12(d) of this Agreement within thirty (30) days after receipt by the Company of a written request therefor, (v) the Company does not indemnify Indemnitee pursuant to Section 3, 4, 7, or 8 of this Agreement within thirty (30) days after a determination has been made that Indemnitee is entitled to indemnification, or (vi) in the event that the Company or any other person takes or threatens to take any action to declare this Agreement void or unenforceable, or institutes any litigation or other action or Proceeding designed to deny, or to recover from, the Indemnitee the benefits provided or intended to be provided to the Indemnitee hereunder. Alternatively, Indemnitee, at Indemnitee's option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Indemnitee must commence such Proceeding seeking an adjudication or an award in arbitration within one hundred and eighty (180) days following the date on which Indemnitee first has the right to commence such Proceeding pursuant to this Section 14(a); provided, however, that the foregoing clause does not apply in respect of a Proceeding brought by Indemnitee to enforce Indemnitee's rights under Section 5 of this Agreement. The Company will not oppose Indemnitee's right to seek any such adjudication or award in arbitration.

(b) If a determination is made pursuant to Section 12 of this Agreement that Indemnitee is not entitled to indemnification, any judicial proceeding or arbitration commenced pursuant to this Section 14 will be conducted in all respects as a *de novo* trial or arbitration on the merits, and Indemnitee may not be prejudiced by reason of that adverse determination. In any judicial proceeding or arbitration commenced pursuant to this Section 14 the Company will have the burden of proving Indemnitee is not entitled to indemnification or advancement of Expenses, as the case may be, and will not introduce evidence of the determination made pursuant to Section 12 of this Agreement.

(c) If a determination is made pursuant to Section 12 of this Agreement that Indemnitee is entitled to indemnification, the Company will be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 14 unless (i) Indemnitee made a misstatement of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with Indemnitees' request for indemnification, or (ii) the Company is prohibited from indemnifying Indemnitee under applicable law.

(d) The Company is, to the fullest extent not prohibited by law, precluded from asserting in any judicial proceeding or arbitration commenced pursuant to this Section 14 that the procedures and presumptions of this Agreement are not valid, binding, or enforceable and will stipulate in any such court or before any such arbitrator that the Company is bound by all the provisions of this Agreement.

(e) It is the intent of the Company that, to the fullest extent permitted by law, the Indemnitee not be required to incur legal fees or other Expenses associated with the interpretation, enforcement, or defense of Indemnitee's rights under this Agreement, by litigation or otherwise, because the cost and expense thereof would substantially detract from the benefits intended to be extended to the Indemnitee under this Agreement. The Company, to the fullest extent permitted by law, will (within thirty (30) days after receipt by the Company of a written request therefor) advance to Indemnitee such Expenses which are incurred by Indemnitee in connection with a Proceeding concerning this Agreement, Indemnitee's other rights to indemnification or advancement of Expenses from the Company, or concerning any directors' and officers' liability or other insurance policies maintained by the Company, and will indemnify Indemnitee against any and all such Expenses unless the court determines that Indemnitee's claims in such action were made in bad faith or frivolous, or that the Company is prohibited by law from indemnifying Indemnitee for such Expenses.

Section 15. Non-exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The indemnification and advancement of Expenses provided by this Agreement are not exclusive of any other rights to which Indemnitee may at any time be entitled under the TBOC or other applicable law, the Certificate of Formation, the Bylaws, any agreement, a vote of shareholders or Disinterested Directors or a resolution of the Board, or otherwise. The indemnification and advancement of Expenses provided by this Agreement may not be limited or restricted by any amendment, alteration or repeal of this Agreement in any way with respect to any action taken or omitted by Indemnitee in Indemnitee's Corporate Status occurring prior to any amendment, alteration or repeal of this Agreement. To the extent that a change in Texas law, whether by statute or judicial decision, permits greater indemnification or advancement of Expenses than would be afforded currently under the Bylaws, the Certificate of Formation, or this Agreement, it is the intent of the parties hereto that Indemnitee enjoy by this Agreement the greater benefits so afforded by such change. No right or remedy herein conferred is intended to be exclusive of any other right or remedy, and every other right and remedy is cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, will not prevent the concurrent assertion or employment of any other right or remedy.

(b) The Company hereby acknowledges that Indemnitee may have certain rights to indemnification, advancement of Expenses and/or insurance provided by one or more other Persons with whom or which Indemnitee may be associated (including, without limitation, any Sponsor Entities). The relationship between the Company and such other Persons, other than an Enterprise, with respect to Indemnitee's rights to indemnification, advancement of

Expenses, and insurance is described by this subsection, subject to the provisions of subsection (d) of this Section 15 with respect to a Proceeding concerning Indemnitee's Corporate Status with an Enterprise.

i. The Company hereby acknowledges and agrees:

1) the Company's obligations to Indemnitee are primary and any obligation of any other Persons, other than an Enterprise, are secondary (i.e., the Company is the indemnitor of first resort) with respect to any request for indemnification or advancement of Expenses made pursuant to this Agreement concerning any Proceeding;

2) the Company is primarily liable for all indemnification or advancement of Expenses obligations for any Proceeding, whether created by law, the Bylaws, the Certificate of Formation, contract (including this Agreement) or otherwise;

3) any obligation of any other Persons with whom or which Indemnitee may be associated (including, without limitation, any Sponsor Entities) to indemnify Indemnitee and/or advance Expenses to Indemnitee in respect of any proceeding are secondary to the Company's obligations; and

4) the Company will indemnify Indemnitee and advance Expenses to Indemnitee hereunder to the fullest extent provided herein without regard to any rights Indemnitee may have against any other Person with whom or which Indemnitee may be associated (including, any Sponsor Entities) or an insurer of any such Person.

ii. the Company irrevocably waives, relinquishes and releases (A) any other Person with whom or which Indemnitee may be associated (including, without limitation, any Sponsor Entities) from any claim of contribution, subrogation, reimbursement, exoneration or indemnification, or any other recovery of any kind in respect of amounts paid by the Company to Indemnitee pursuant to this Agreement and (B) any right to participate in any claim or remedy of Indemnitee against any Person (including, without limitation, any Sponsor Entities), whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from any Person (including, without limitation, any Sponsor Entities), directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right.

iii. In the event any other Person with whom or which Indemnitee may be associated (including, without limitation, any Sponsor Entities) or their insurers advances or extinguishes any liability or loss for Indemnitee, the payor has a right of subrogation against the Company or its insurers for all amounts so paid which would otherwise be payable by the Company or its insurers under this Agreement. In no event will payment by any other Person with whom or which Indemnitee may be associated (including, without limitation, any Sponsor Entities) or their insurers affect the obligations of the Company hereunder or shift primary liability for the Company's obligation to indemnify or advance Expenses to any other Person with whom or which Indemnitee may be associated (including, without limitation, any Sponsor Entities).

iv. Any indemnification or advancement of Expenses provided by any other Person with whom or which Indemnitee may be associated (including, without limitation, any Sponsor Entities) is specifically in excess over the Company's obligation to indemnify and advance Expenses or any valid and collectible insurance (including but not limited to any malpractice insurance or professional errors and omissions insurance) provided by the Company.

(c) To the extent that the Company maintains an insurance policy or policies providing liability insurance for directors, officers, employees, or Agents of the Company, the Company will obtain a policy or policies covering Indemnitee to the maximum extent of the coverage available for any such director, officer, employee or Agent under such policy or policies, including coverage in the event the Company does not or cannot, for any reason, indemnify or advance Expenses to Indemnitee as required by this Agreement. If, at the time of the receipt of a notice of a claim pursuant to this Agreement or the commencement of a Proceeding, the Company has directors' and officers' liability or other applicable insurance in effect, the Company will give prompt notice of such claim or of the commencement of a Proceeding, as the case may be, to the insurers in accordance with the procedures set forth in the respective policies. The Company will thereafter take all necessary or desirable action to cause such insurers to pay, on behalf of Indemnitee, all amounts payable as a result of such claim or Proceeding in accordance with the terms of such policies. Indemnitee agrees to assist the Company's efforts to cause the insurers to pay such amounts and will comply with the terms of such policies, including selection of approved panel counsel, if required.

(d) The Company's obligation to indemnify or advance Expenses hereunder to Indemnitee for any Proceeding concerning Indemnitee's Corporate Status with an Enterprise will be reduced by any amount Indemnitee has actually received as indemnification or advancement of Expenses from such Enterprise or such Enterprise's insurers. The Company and Indemnitee intend that any such Enterprise (and its insurers) be the indemnitor of first resort with respect to indemnification and advancement of Expenses for any Proceeding related to or arising from Indemnitee's Corporate Status with such Enterprise. The Company's obligation to indemnify and advance Expenses to Indemnitee is secondary to the obligations the Enterprise or its insurers owe to Indemnitee. Indemnitee agrees to take all reasonably necessary and desirable action to obtain from an Enterprise or its insurers indemnification and advancement of Expenses for any Proceeding related to, or arising from, Indemnitee's Corporate Status with such Enterprise.

(e) In the event of any payment made by the Company under this Agreement, the Company will be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee from any Enterprise or its insurance carrier. Indemnitee will execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

Section 16. Duration of Agreement. The indemnification and advancement of Expenses rights provided by or granted pursuant to this Agreement: (i) are binding upon and be enforceable by the parties hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of

the business or assets of the Company), (ii) continue as to an Indemnitee who has ceased to be a director, officer, employee or Agent of the Company or of any Enterprise, and (iii) inure to the benefit of Indemnitee and Indemnitee's spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

Section 17. Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) will not in any way be affected or impaired thereby and will remain enforceable to the fullest extent permitted by law; (b) such provision will be deemed reformed to the extent necessary to conform to applicable law and to give the maximum effect to the intent of the parties hereto; and (c) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) will be construed so as to give effect to the intent manifested thereby.

Section 18. Interpretation. Any ambiguity in the terms of this Agreement will be resolved in favor of Indemnitee and in a manner to provide the maximum indemnification and advancement of Expenses permitted by law. The Company and Indemnitee intend that this Agreement provide to the fullest extent permitted by law for indemnification and advancement of Expenses in excess of that expressly provided, without limitation, by the Certificate of Formation, the Bylaws, vote of the Company's shareholders or Disinterested Directors or a resolution of the Board, or applicable law.

Section 19. Enforcement.

(a) The Company expressly confirms and agrees that it has entered into this Agreement and assumed the obligations imposed on it hereby in order to induce Indemnitee to [continue to] serve as a director, officer, employee, or Agent of the Company, and the Company acknowledges that Indemnitee is relying upon this Agreement in [serving / continuing to serve] as director, officer, employee, or Agent of the Company.

(b) This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral, written and implied, between the parties hereto with respect to the subject matter hereof (including any agreements regarding the arbitration of disputes regarding the subject matter of this Agreement); provided, however, that this Agreement is a supplement to and in furtherance of the Certificate of Formation, the Bylaws, any directors' and officers' or other insurance maintained by the Company, and applicable law, is not a substitute therefor, and does not diminish or abrogate any rights of Indemnitee thereunder.

Section 20. Modification and Waiver. No supplement, modification or amendment of this Agreement is binding unless executed in writing by the parties hereto. No waiver of any of the provisions of this Agreement will be valid unless executed in writing by the party entitled to

enforce the provision to be waived and any such waiver will not be deemed or constitute a waiver of any other provisions of this Agreement nor will any waiver constitute a continuing waiver.

Section 21. Notice by Indemnitee. Indemnitee agrees to promptly notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter that may be subject to indemnification or advancement of Expenses covered hereunder. The failure of Indemnitee to so notify the Company does not relieve the Company of any obligation that it may have to the Indemnitee under this Agreement or otherwise.

Section 22. Notices. All notices, requests, demands and other communications under this Agreement will be in writing and will be deemed to have been duly given if (a) delivered by hand to the other party, (b) sent by reputable overnight courier to the other party or (c) sent by electronic mail, with receipt of oral or written confirmation that such communication has been received:

(a) If to Indemnitee, at the address indicated on the signature page of this Agreement, or such other address as Indemnitee provides to the Company.

(b) If to the Company to:

Name: Black Rock Coffee Bar, Inc.
Address: 9170 E. Bahia Drive, Suite 101
Scottsdale, Arizona 85260
Attention: Chief Legal Officer
Email:

or to any other address as may have been furnished to Indemnitee by the Company.

Section 23. Contribution. To the fullest extent permissible under applicable law, if the indemnification provided for in this Agreement is unavailable to Indemnitee for any reason whatsoever, the Company, in lieu of indemnifying Indemnitee, will contribute to the amount incurred by Indemnitee, whether for judgments, fines, penalties, excise taxes, amounts paid or to be paid in settlement or for Expenses, in connection with any claim relating to an indemnifiable event under this Agreement, in such proportion as is deemed fair and reasonable in light of all of the circumstances of such Proceeding in order to reflect (a) the relative benefits received by the Company and Indemnitee as a result of the event(s) or transaction(s) giving cause to such Proceeding; or (b) the relative fault of the Company (and its directors, officers, employees and Agents) and Indemnitee in connection with such event(s) and/or transaction(s).

Section 24. Applicable Law and Consent to Jurisdiction. This Agreement and the legal relations among the parties are governed by, and shall be construed and enforced in accordance with, the laws of the State of Texas, without regard to its conflict of laws rules. Except with respect to any arbitration commenced by the Indemnitee pursuant to Section 14(a) of this Agreement, the Company and Indemnitee hereby irrevocably and unconditionally (a) agree

that any action, claim, or proceeding between the parties arising out of or in connection with this Agreement may be brought only in the Business Court (or the Alternative Courts in the event the Business Court does not have jurisdiction over such matter) and not in any other state or federal court in the United States of America or any court in any other country, (b) consent to submit to the exclusive jurisdiction of the Business Court (and the Alternative Courts if applicable) for purposes of any action, claim, or proceeding arising out of or in connection with this Agreement, (c) waive any objection to the laying of venue of any such action, claim, or proceeding in the Business Court (or the Alternative Courts if applicable), and (d) waive, and agree not to plead or to make, any claim that any such action, claim, or proceeding brought in the Business Court (or the Alternative Courts if applicable) has been brought in an improper or inconvenient forum.

Section 25. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which will for all purposes be deemed to be an original but all of which together constitute one and the same Agreement. Counterparts may be delivered via electronic mail (including any electronic signature covered by the U.S. federal ESIGN Act of 2000, Uniform Electronic Transactions Act, the Electronic Signatures and Records Act or other applicable law, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes. Only one such counterpart signed by the party against whom enforceability is sought needs to be produced to evidence the existence of this Agreement.

Section 26. Headings. The headings of this Agreement are inserted for convenience only and do not constitute part of this Agreement or affect the construction thereof.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed as of the day and year first above written.

BLACK ROCK COFFEE BAR, INC.

By: _____
Name:
Title:

INDEMNITEE

_____
Name:
Address:

Exhibit 23.1

KPMG LLP
Suite 3800
1300 South West Fifth Avenue
Portland, OR 97201

Consent of Independent Registered Public Accounting Firm

We consent to the use of our report dated May 19, 2025, with respect to the financial statements of Black Rock Coffee Bar, Inc., included herein, and to the reference to our firm under the heading "Experts" in the prospectus.

/s/ KPMG LLP

Portland, Oregon
September 2, 2025

KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.

Exhibit 23.2

KPMG LLP
Suite 3800
1300 South West Fifth Avenue
Portland, OR 97201

Consent of Independent Registered Public Accounting Firm

We consent to the use of our report dated May 19, 2025, except for Note 2, under the heading *Revision to the 2024 and 2023 Consolidated Statements of Cash Flows*, as to which the date is July 25, 2025, with respect to the consolidated financial statements of Black Rock Coffee Holdings, LLC and subsidiaries, included herein, and to the reference to our firm under the heading "Experts" in the prospectus.

/s/ KPMG LLP

Portland, Oregon
September 2, 2025

KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee.

Exhibit 99.1

CONSENT TO BE NAMED AS A DIRECTOR NOMINEE

Black Rock Coffee Bar, Inc., a Texas corporation (the "Company"), is filing a Registration Statement on Form S-1 (the "Registration Statement") with the Securities and Exchange Commission under the Securities Act of 1933, as amended (the "Securities Act"), in connection with a public offering (the "Public Offering") of its Class A common stock. In connection with the Public Offering, I hereby consent, pursuant to Rule 438 of the Securities Act, to being named as a nominee to the board of directors of the Company in the Registration Statement, and any amendments and supplements thereto. I also consent to the filing of this consent as an exhibit to the Registration Statement and any amendments and supplements thereto.

/s/ Kristina Cashman

Name: Kristina Cashman

Date: September 2, 2025