Table of Contents

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-K

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

For The Fiscal Year Ended December 31, 2022

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

VECTOR GROUP LTD.

(Exact name of registrant as specified in its charter)

Delaware	**1-5759**	**65-0949535**
(State or other jurisdiction of incorporation incorporation or organization)	*Commission File Number*	*(I.R.S. Employer Identification No.)*

4400 Biscayne Boulevard
Miami, Florida 33137
305-579-8000
(Address, including zip code and telephone number, including area code, of the principal executive offices)

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

Title of each class:	Trading Symbol(s)	Name of each exchange on which registered:
Common stock, par value $0.10 per share	**VGR**	**New York Stock Exchange**

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

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

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

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

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

Indicate by check mark whether the Registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

☑ Large accelerated filer ☐ Accelerated filer ☐ Non-accelerated filer ☐ Smaller reporting company ☐ Emerging Growth Company

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

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements. ☐

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to § 240.10D-1(b) ☐

Indicate by check mark whether the Registrant is a shell company as defined in Rule 12b-2 of the Exchange Act. ☐ Yes ☑ No

The aggregate market value of the common stock held by non-affiliates of Vector Group Ltd. as of June 30, 2022 was approximately $1.53 billion.

At February 17, 2023, Vector Group Ltd. had 156,173,968 shares of common stock outstanding.

DOCUMENTS INCORPORATED BY REFERENCE:

Part III (Items 10, 11, 12, 13 and 14) from the definitive Proxy Statement for the 2023 Annual Meeting of Stockholders to be filed with the Securities and Exchange Commission no later than 120 days after the end of the Registrant's fiscal year covered by this report.

VECTOR GROUP LTD.
FORM 10-K

TABLE OF CONTENTS

PART I

ITEM 1. *BUSINESS*

Basis of Presentation

The Consolidated Financial Statements included in this annual report present the financial position of Vector Group Ltd., a Delaware corporation, as of December 31, 2022 and 2021 and the results of our operations for the years ended December 31, 2022, 2021 and 2020. Our financial position and results of operations as of and for the years ended December 31, 2021 and 2020 give effect to the distribution to our stockholders (including Vector common stock underlying outstanding stock options awards and restricted stock awards) of the common stock of Douglas Elliman Inc. (the "Distribution") with the historical financial results of Douglas Elliman reflected as discontinued operations. The cash flows and comprehensive income related to Douglas Elliman have not been segregated and are included in the Consolidated Statements of Cash Flows and Consolidated Statements of Comprehensive Income, respectively, for the 2021 and 2020 periods presented. Unless otherwise indicated, the information in the Notes to the Consolidated Financial Statements related to the 2021 and 2020 periods refer only to Vector Group's continuing operations and do not include discussion of balances or activity of Douglas Elliman.

Distribution of and Relationship with Douglas Elliman

On December 29, 2021, at 11:59 p.m., New York City time, we completed the Distribution. Following the Distribution, Douglas Elliman is a separate public company listed on the New York Stock Exchange trading under the symbol "DOUG" and owns the real estate services and property technology investment business formerly owned by Vector Group through Vector Group's subsidiary New Valley LLC, a Delaware limited liability company. Vector Group and Douglas Elliman entered into a Distribution Agreement and several ancillary agreements for the purpose of accomplishing the distribution of Douglas Elliman common stock to Vector Group's stockholders. These agreements also govern our relationship with Douglas Elliman after the Distribution and provide for the allocation of employee benefits, tax and additional liabilities and obligations attributable to periods before and after the distribution. These agreements also include a Transition Services Agreement with respect to transition services and several ongoing commercial relationships. The Distribution Agreement includes an agreement that Vector Group and Douglas Elliman will provide each other with appropriate indemnities with respect to liabilities arising out of their businesses. We also entered into a Tax Disaffiliation Agreement with Douglas Elliman that governs each of our respective rights, responsibilities and obligations with respect to taxes and tax benefits, the filing of tax returns, the control of audits and other tax matters. Douglas Elliman is party to other arrangements with Vector Group and its subsidiaries.

Overview

Vector Group is a holding company and is engaged principally in two business segments:

- Tobacco: the manufacture and sale of discount cigarettes in the United States through our Liggett Group LLC and Vector Tobacco LLC subsidiaries, and
- Real Estate: the real estate investment business through our subsidiary, New Valley LLC, which (i) has interests in numerous real estate projects across the United States and (ii) is seeking to acquire or invest in additional real estate properties or projects.

Strategy

Our strategy is to maximize stockholder value by increasing the profitability of our subsidiaries in the following ways:

Liggett and Vector Tobacco

- Continue to offer excellent value propositions in the U.S. cigarette industry by consistently delivering high quality products within the discount segment;
- Capitalize on our tobacco subsidiaries' cost advantage in the United States cigarette market under the Master Settlement Agreement ("MSA");
- Focus marketing and selling efforts on the discount segment, continue to build volume and margin in focus discount brands (*Montego*, *Eagle 20's*, and *Pyramid*) and utilize core brand equity to selectively build distribution;
- Selectively expand the portfolio of partner brands and private label brands utilizing a pricing strategy that offers long-term price stability for customers;
- Increase operational efficiency by developing and adopting an organizational structure to maximize profit potential; and
- Identify, develop and launch relevant new tobacco products to the market in the future.

New Valley

- Continue to leverage our expertise as direct investors by actively pursuing real estate investments; and
- Invest our excess funds opportunistically in real estate situations that we believe can maximize stockholder value.

Tobacco Operations

General. Our Tobacco segment operates through our two discount cigarette manufacture subsidiaries, Liggett and Vector Tobacco. Liggett is the operating successor to Liggett & Myers Tobacco Company, which was founded in 1873. In this report, certain references to "Liggett" refer to our tobacco operations, including the business of Liggett and Vector Tobacco, unless otherwise specified.

For the year ended December 31, 2022, Liggett was the fourth-largest manufacturer of cigarettes in the United States in terms of unit sales. Liggett's manufacturing facilities are in Mebane, North Carolina, where it also manufactures most of Vector Tobacco's cigarettes pursuant to a contract manufacturing agreement. At present, Liggett and Vector Tobacco have no international operations.

The U.S. cigarette market consists of premium cigarettes, which are generally marketed under well-recognized brand names at higher retail prices to adult smokers with a strong preference for branded products, and discount cigarettes, which are marketed at lower retail prices to adult smokers who are more value conscious. In recent years, however, the discounting of premium cigarettes has become far more significant in the marketplace. Since 2004, Liggett has only produced discount cigarettes and all of its units sold in 2022, 2021 and 2020 were in the discount segment.

According to data from Management Science Associates, Inc., the discount segment represented 29.4% of the total U.S. cigarette market in 2022 compared to 28.3% in 2021 and 28.6% in 2020. Liggett's domestic shipments of approximately 10.4 billion cigarettes during 2022 accounted for 5.4% of the total cigarettes shipped in the United States during such year. Liggett's market share was 4.1% in 2021 and 2020, respectively. According to Management Science Associates, Liggett held a share of approximately 18.5% of the overall discount market segment for 2022 compared to 14.4% for 2021 and 14.2% for 2020.

Liggett's value propositions. Liggett produces cigarettes in approximately 100 combinations of length, style and packaging. Liggett's current brand portfolio includes:

- *Montego* — From August 2020 to February 2022, Liggett expanded the distribution of its *Montego* deep discount brand nationally. *Montego* became Liggett's largest brand by volume during the second quarter of 2022. Prior to August 2020, *Montego* was sold in select targeted markets in four states. *Montego*'s unit volume represented 47% of Liggett's total unit volume sales in 2022, 16% in 2021 and 6% in 2020.
- *Eagle 20's* — A brand positioned in the discount segment for long-term growth re-launched as a national brand in 2013; *Eagle 20's* represented 35% of Liggett's unit volume in 2022, 57% in 2021 and 62% in 2020. *Eagle 20's* is Liggett's second largest brand.
- *Pyramid* — A brand re-launched in the second quarter of 2009 as a deep discount product; *Pyramid*, Liggett's third-largest brand, represented 13% of Liggett's unit volume in 2022, 20% in 2021 and 23% in 2020.
- *Grand Prix, Liggett Select, Eve, USA* and various partner brands and private label brands.

Cost advantage under the Master Settlement Agreement. Under the MSA reached in November 1998 with 46 states and various territories, cigarette manufacturers selling product in the U.S. must make settlement payments to the states and territories based on how many cigarettes they sell annually. Liggett, however, is not required to make any payments unless its market share exceeds its grandfathered market share established under the MSA of approximately 1.65% of the U.S. cigarette market. Additionally, Vector Tobacco has no payment obligation unless its market share exceeds approximately 0.28% of the U.S. cigarette market. We believe our tobacco subsidiaries have gained a sustainable cost advantage over their competitors as a result of the settlement.

Liggett's and Vector Tobacco's payments under the MSA are based on each respective company's incremental market share above the grandfathered market share applicable to each respective company. Thus, if Liggett's total market share is 3%, its MSA payment is based on 1.35%, which is the difference between Liggett's total market share of 3% and its approximate applicable grandfathered market share of 1.65%. We anticipate that both Liggett's and Vector Tobacco's payment exemptions will be fully utilized for the foreseeable future.

The source of industry data in this report is Management Science Associates, Inc., an independent third-party data management organization that collects wholesale and retail shipment data from various cigarette manufacturers and distributors and provides analysis of market share and unit sales volume. Management Science Associates, Inc.'s information relating to

unit sales volume and market share of certain smaller, primarily deep discount, cigarette manufacturers is based on estimates developed by Management Science Associates, Inc.

Sales, Marketing and Distribution. Liggett's products are distributed from a central distribution center in Mebane, North Carolina to 14 public warehouses located throughout the United States by third-party trucking companies. These warehouses serve as local distribution centers for Liggett's customers.

Liggett's customers are primarily wholesalers and distributors of tobacco and convenience products as well as large variety, grocery, convenience and drug store chains. Two customers accounted for 15% and 11% of Liggett's revenues in 2022, 14% and 12% of Liggett's revenues in 2021 and 18% and 12% of Liggett's revenues in 2020. Concentrations of credit risk with respect to trade receivables are generally limited due to Liggett's large number of customers. Liggett's two largest customers represented approximately 4% and 37%, respectively, of net accounts receivable at December 31, 2022, 0% and 2%, respectively, at December 31, 2021 and 5% and 4%, respectively, at December 31, 2020. Ongoing credit evaluations of customers' financial condition are performed and, generally, no deposit is required. Liggett maintains appropriate reserves for potential credit losses and such losses, in the aggregate, have not exceeded management's expectations.

Trademarks. All major trademarks used by Liggett are federally registered or are in the process of being registered in the United States and other markets. Trademark registrations typically have a duration of ten years and can be renewed at Liggett's option prior to their expiration date.

In view of the significance of cigarette brand awareness among consumers, management believes that the protection afforded by these trademarks is material to the conduct of its business. These trademarks are pledged as collateral for certain of our senior secured debt.

Manufacturing. Liggett purchases and maintains leaf tobacco inventory to support its cigarette manufacturing requirements. Liggett believes that there is a sufficient worldwide supply of tobacco to satisfy its current production requirements. Liggett stores its leaf tobacco inventory in warehouses in North Carolina and Virginia. There are several different types of leaf tobacco, including flue-cured, burley, Maryland, oriental, cut stems and reconstituted sheet. Leaf components of American-style cigarettes are generally the flue-cured and burley tobaccos. While premium and discount brands use many of the same tobacco products, input ratios of these products may vary between premium and discount products. Liggett purchases its tobacco requirements from both domestic and international leaf dealers, much of it under long-term purchase commitments. As of December 31, 2022, the majority of Liggett's commitments were for the purchase of tobacco from domestic and international leaf dealers.

Liggett's cigarette manufacturing facility was designed for the execution of short production runs in a cost-effective manner, which enables Liggett to manufacture and market approximately 100 different cigarette brand styles. Liggett's facility produced approximately 10.1 billion cigarettes in 2022 and maintains the capacity to produce approximately 17.6 billion cigarettes per year. Vector Tobacco has contracted with Liggett to produce most of its cigarettes at Liggett's manufacturing facility in Mebane.

Competition. Liggett's competition is divided into two segments. The first segment consists of the three largest manufacturers of cigarettes in the United States: Philip Morris USA Inc., which is owned by Altria Group, Inc., RJ Reynolds Tobacco Company, which is owned by British American Tobacco Plc, and ITG Brands LLC, which is owned by Imperial Brands Plc. These three manufacturers, while primarily premium cigarette-based companies, also produce and sell discount cigarettes. The second segment of competition is comprised of a group of smaller manufacturers and importers, most of which sell deep discount cigarettes.

Historically, there have been substantial barriers to entry into the cigarette business, including extensive distribution organizations, large capital outlays for sophisticated production equipment, substantial inventory investment, costly promotional spending, regulated advertising and, for premium brands, strong brand loyalty. However, after the MSA was signed, some smaller manufacturers and importers that are not parties to the MSA ("Non-Participating Manufacturers") were able to overcome these competitive barriers due to an unintended cost advantage resulting from the MSA. These Non-Participating Manufacturers were subsequently impacted by the state statutes enacted pursuant to the MSA; however, these companies still have significant market share in the aggregate through competitive pricing in the discount segment.

In the cigarette business, Liggett competes on dual fronts. Philip Morris and RJ Reynolds, the two largest cigarette manufacturers, compete among themselves for premium brand market share based on advertising, promotional activities, trade rebates and incentives. They compete with Liggett and others for discount market share, primarily on the basis of price and in store merchandising. These competitors have substantially greater financial resources than Liggett, and most of their brands have greater sales and consumer recognition than Liggett's products. Liggett's discount brands must also compete in the marketplace with the deep discount brands of smaller manufacturers and importers.

According to Management Science Associates Inc.'s data, the unit sales of Philip Morris and RJ Reynolds accounted in the aggregate for 71.8% of the domestic cigarette market in 2022. Liggett's domestic shipments of approximately 10.4 billion

cigarettes during 2022 accounted for 5.4% of the approximately 191 billion cigarettes shipped in the United States, compared to 8.6 billion cigarettes in 2021 (4.1%) and 9.2 billion cigarettes in 2020 (4.1%).

In 2022 industry wide shipments in the United States decreased by 9.9% (approximately 20.9 billion units) and for the five-year period 2017 to 2022, industry-wide shipments of cigarettes in the United States have declined by approximately 5.0% per annum. Liggett's management believes that industry-wide shipments of cigarettes in the United States will continue to decline as a result of numerous factors. These factors include health considerations, diminishing social acceptance of smoking, and a wide variety of federal, state and local laws limiting smoking in public places, as well as increases in federal and state excise taxes and settlement-related expenses which have contributed to higher cigarette prices in recent years.

Philip Morris and RJ Reynolds' domination of the domestic cigarette market makes it more difficult for Liggett to compete for shelf space in retail outlets and could impact price competition in the market, either of which could have a material adverse effect on its sales volume, operating income and cash flows.

Historically, Philip Morris and RJ Reynolds have been able to determine cigarette prices for the various pricing tiers within the industry. Market pressures have historically caused other cigarette manufacturers to bring their prices in line with the levels established by these two major manufacturers. Off-list price discounting and similar promotional activity by manufacturers, however, has substantially affected the average price differential at retail, which can be significantly less than the manufacturers' list price gap. In addition, in recent years, the discount segment has experienced increased price competition from smaller manufacturers which has led to more aggressive price discounting of certain "deep discount" brands when compared to "traditional discount" brands. Consequently, changes in the price gap of products at retail between "deep discount" and "traditional discount" has led to shifts in price segment performance.

Legislation and Regulation

In the United States, tobacco products are subject to substantial and increasing legislation, regulation, taxation, and litigation, which have a negative effect on revenue and profitability.

The cigarette industry continues to be challenged on numerous fronts. The industry faces increased pressure from anti-smoking groups and continued smoking and health litigation, the effects of which, at this time, we are unable to quantify. Product liability litigation continues to adversely affect the cigarette industry. See Item 1A. "*Risk Factors*", Item 3. "*Legal Proceedings*" and Note 15 to our consolidated financial statements, which contain a description of litigation.

The harmful physical effects of cigarette smoking have been publicized for many years and, in the opinion of Liggett's management, have had and will continue to have an adverse effect on cigarette sales. Since 1964, the Surgeon General of the United States and the Secretary of Health and Human Services have released a number of reports stating that cigarette smoking is a causative factor with respect to a variety of health hazards, including certain cancers and heart and lung disease and have recommended various government actions to reduce the incidence of smoking. In 1997, Liggett publicly acknowledged that, as the Surgeon General and respected medical researchers have found, smoking causes health problems, including lung cancer, heart and vascular disease, and emphysema.

On June 22, 2009, the Family Smoking Prevention and Tobacco Control Act (the "TCA") became law. The law grants the U.S. Food and Drug Administration ("FDA") broad authority over the manufacture, sale, marketing and packaging of tobacco products, although FDA is prohibited from banning all cigarettes or all smokeless tobacco products. Among other measures, the law (under various deadlines):

- requires FDA to develop graphic warnings for cigarette packages and grants FDA authority to require new warnings;
- imposes new restrictions on the sale and distribution of tobacco products, including significant new restrictions on tobacco product advertising and promotion, as well as the use of brand and trade names;
- bans the use of "light," "mild," "low" or similar descriptors on tobacco products;
- bans the use of "characterizing flavors" in cigarettes other than tobacco or menthol;
- gives FDA the authority to impose tobacco product standards that are appropriate for the protection of the public health (by, for example, requiring reduction or elimination of the use of particular constituents or components, requiring product testing, or addressing other aspects of tobacco product construction, constituents, properties or labeling);
- requires manufacturers to obtain FDA review and authorization for the marketing of certain new or modified tobacco products which could ultimately result in FDA prohibiting Liggett from selling certain of its products;
- requires pre-market approval by FDA for tobacco products represented (through labels, labeling, advertising, or other means) as presenting a lower risk of harm or tobacco-related disease;

- requires manufacturers to report ingredients and harmful constituents and requires FDA to disclose certain constituent information to the public;
- mandates that manufacturers test and report on ingredients and constituents identified by FDA as requiring such testing to protect the public health and allows FDA to require the disclosure of testing results to the public;
- requires manufacturers to submit to FDA certain information regarding the health, toxicological, behavioral or physiological effects of tobacco products;
- requires FDA to establish "good manufacturing practices" to be followed at tobacco manufacturing facilities;
- authorizes FDA to require the reduction of nicotine (although it may not require the reduction of nicotine yields of a tobacco product to zero) and the potential reduction or elimination of other constituents, including menthol;
- imposes (and allows FDA to impose) various recordkeeping and reporting requirements on tobacco product manufacturers; and
- grants FDA broad regulatory authority to impose additional restrictions.

The TCA imposes user fees on certain tobacco product manufacturers in order to fund tobacco-related FDA activities. User fees are allocated among tobacco product classes according to a formula set out in the statute, and then among manufacturers and importers within each class based on market share. FDA user fees for 2022 were $30,686 for Liggett and Vector Tobacco combined and will likely increase in the future.

The law also required establishment of a Tobacco Products Scientific Advisory Committee ("TPSAC") to provide advice, information and recommendations with respect to safety, dependence and health issues related to tobacco products.

Menthol and Flavorings

In May 2022, FDA published a proposed rule to prohibit menthol as a characterizing flavor in cigarettes and FDA has indicated it may publish a final rule by the end of 2023. For the year ended December 31, 2022, approximately 20% of our cigarette unit sales were menthol flavored. We cannot predict how a restriction on the sale and distribution of tobacco products with menthol, if ultimately issued by FDA, will impact product sales, whether it will have a material adverse effect on Liggett or Vector Tobacco, or whether it will impact Liggett and Vector Tobacco to a greater degree than other companies in the industry. In addition to FDA, California, Massachusetts and some cities have, or are considering, a ban on the sale of menthol cigarettes.

In August 2020, the California legislature passed a law banning the sale of menthol cigarettes and other flavored tobacco products, which became effective on December 21, 2022, following a voter referendum in November 2022 approving the ban. On November 9, 2022, a group of tobacco companies filed a lawsuit in the United States District Court, Southern District of California challenging the legality of the flavor ban. While the menthol ban in Massachusetts and California have not had a material impact on Liggett or Vector Tobacco's product sales to date, we cannot predict whether additional states or cities will enact similar bans on the sale of menthol cigarettes and whether they will impact product sales or have a material adverse effect on Liggett or Vector Tobacco.

Advertising and Warnings on Packaging

The TCA imposed significant new restrictions on the advertising and promotion of tobacco products. As written, these regulations significantly limit the ability of manufacturers, distributors and retailers to advertise and promote tobacco products, by, for example, restricting the use of color and graphics in advertising, limiting the use of outdoor advertising, restricting the sale and distribution of non-tobacco items and services, gifts, and sponsorship of events, and imposing restrictions on the use for cigarette or smokeless tobacco products of trade or brand names that are used for non-tobacco products.

On March 18, 2020, FDA issued a final rule to require new health warnings on cigarette packages and in cigarette advertisements. This rule requires each cigarette package and advertisement to bear one of eleven textual warning statements accompanied by a corresponding graphic image covering 50% of the area of the front and rear panels of cigarette packages and at least 20% of the area at the top of cigarette advertisements. In December 2022, the district court granted plaintiffs' motion for summary judgment finding that the graphic warning final rule violated the rights of the tobacco companies under the First Amendment. The final rule has been vacated and on February 1, 2023, FDA filed a notice indicating it would appeal the ruling.

Product Review

The TCA requires premarket review of "new tobacco products." A "new tobacco product" is one that was not commercially marketed in the United States as of February 15, 2007 or that was modified after that date. In general, before a company may commercially market a "new tobacco product," it must either (a) submit an application and obtain an order from

FDA permitting the product to be marketed; or (b) submit an application and receive an FDA order finding the product to be "substantially equivalent" to a "predicate" tobacco product that was commercially marketed in the U.S. as of February 15, 2007. A "substantially equivalent" tobacco product is one that has the "same characteristics" as the predicate or one that has "different characteristics" but does not raise "different questions of public health."

Manufacturers of products first introduced after February 15, 2007 and before March 22, 2011 who submitted a substantial equivalence application to FDA prior to March 23, 2011 may continue to market the tobacco product unless FDA issues an order that the product is not substantially equivalent ("NSE"). Failure to timely submit the application, or FDA's conclusion that such a "new tobacco product" is not substantially equivalent, will cause the product to be deemed misbranded and/or adulterated. After March 22, 2011, a "new tobacco product" may not be marketed without an FDA substantial equivalence determination. Prior to the deadline, Liggett and Vector Tobacco submitted substantial equivalence applications to FDA for each of their respective cigarette brand styles.

To date, Liggett has received NSE orders relating to 20 cigarette brand styles. Liggett has elected to pursue administrative appeals with FDA for 14 of the 20 cigarette brand styles and discontinued six brand styles. Sales of these 14 cigarette brand styles accounted for approximately 0.4% of the tobacco segment's annual revenue in 2022. Liggett is continuing to sell the affected cigarette brand styles during the administrative appeal process. Vector Tobacco received NSE orders relating to three cigarette brand styles in November 2017. Sales of these three cigarette brand styles accounted for approximately 0.3% of the tobacco segment's annual revenue in 2022. Vector Tobacco elected to pursue administrative appeals with FDA and is continuing to sell the affected cigarette brand styles during the administrative appeal process.

On April 5, 2018, FDA announced a change in its process for reviewing "provisional" substantial equivalence applications. Both Liggett and Vector Tobacco submitted provisional substantial equivalence applications for all of their respective cigarette brand styles. FDA announced that it will continue to review the approximately 1,000 pending provisional applications that were determined to have the greatest potential to raise different questions of public health and will remove from review the approximately 1,500 provisional applications that were determined less likely to do so.

As a result, Vector Tobacco received a letter from FDA in April 2018, advising that FDA does not intend to conduct further review of Vector Tobacco's remaining substantial equivalence applications that have not yet received a substantial equivalence determination unless one of the following occurs: (i) the new tobacco product that is the subject of the provisional application is also the subject of another pending application submitted by the same manufacturer; (ii) FDA receives new information (e.g., from inspectional findings) suggesting that the new tobacco product that is the subject of a provisional application is more likely to have the potential to raise different questions of public health than previously determined; or (iii) FDA has reason to believe that the new tobacco product was not introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after February 15, 2007, and prior to March 22, 2011 ((i), (ii) and (iii) are collectively, the "Conditions").

On May 21, 2018, FDA sent a letter to Liggett stating that the products identified in the letter would be removed from review unless one of the Conditions occurs.

We cannot predict whether FDA will deem Liggett's and Vector Tobacco's outstanding applications to be sufficient to support determinations of substantial equivalence for the products covered by these substantial equivalence reports. It is possible that FDA could determine that some, or all, of these products are "not substantially equivalent" to a preexisting tobacco product, as the agency has already done for 20 of Liggett's applications. NSE orders for other cigarette styles may require us to stop the sale of the applicable cigarettes and other cigarette styles and could have a material adverse effect on us.

Nicotine

On June 21, 2022, FDA indicated it plans to publish a proposed rule in May 2023 that establishes a tobacco product standard reducing the level of nicotine in cigarettes to non-addictive levels. FDA subsequently changed the anticipated publication date to October 2023. At this time, we cannot predict the specific regulations FDA will enact, the timeframe for such regulations, or the effect of such regulations. We cannot predict how a tobacco product standard reducing nicotine, if ultimately issued by FDA, will impact product sales, whether it will have a material adverse effect on Liggett or Vector Tobacco, or whether it will impact Liggett and Vector Tobacco to a greater degree than other companies in the industry.

State Minimum Price Legislation

In 2020, voters in the State of Colorado approved Proposition EE, increasing taxes on cigarettes, tobacco and nicotine products. In addition to raising the Colorado state excise tax on cigarettes, Proposition EE included a provision that fixed the minimum retail price of cigarettes in Colorado at $7.00 per pack as of January 1, 2021, and thus reduced the competitive advantage of our Company's deep discount priced cigarettes in the Colorado marketplace. We were unsuccessful in litigation against Colorado challenging the legality of the minimum price provision contained in Proposition EE. Although no other state has adopted a fixed minimum retail price law for cigarettes, other states may attempt to do so. In the event that other states pass

minimum price legislation, the result could have a material adverse effect on our financial condition, results of operations and cash flows.

The MSA and Other State Settlement Agreements

In March 1996, March 1997, and March 1998, Liggett entered into settlements of tobacco-related litigation with 45 states and territories. The settlements released Liggett from all tobacco-related claims within those states and territories, including claims for health care cost reimbursement and claims concerning sales of cigarettes to minors.

In November 1998, Philip Morris, R.J. Reynolds and two other companies (the "Original Participating Manufacturers" or "OPMs") and Liggett (together with any other tobacco product manufacturer that becomes a signatory, the "Subsequent Participating Manufacturers" or "SPMs"), (the OPMs and SPMs are hereinafter referred to jointly as the "Participating Manufacturers") entered into the MSA with 46 states and various territories (collectively, the "Settling States") to settle the asserted and unasserted healthcare cost recovery and certain other claims of those Settling States. The MSA received final judicial approval in each Settling State.

As a result of the MSA, the Settling States released Liggett and Vector Tobacco from:

- all claims of the Settling States and their respective political subdivisions and other recipients of state health care funds, relating to: (i) past conduct arising out of the use, sale, distribution, manufacture, development, advertising and marketing of tobacco products; and (ii) the health effects of the exposure to, or research, statements or warnings about, tobacco products; and
- all monetary claims of the Settling States and their respective subdivisions and other recipients of state health care funds, relating to future conduct arising out of the use of, or exposure to, tobacco products that have been manufactured in the ordinary course of business.

The MSA restricts tobacco product advertising and marketing within the Settling States and otherwise restricts the activities of Participating Manufacturers. Among other things, the MSA prohibits the targeting of youth in the advertising, promotion or marketing of tobacco products; bans the use of cartoon characters in all tobacco advertising and promotion; limits each Participating Manufacturer to one tobacco brand name sponsorship during any 12-month period; bans all outdoor advertising, with certain limited exceptions; prohibits payments for tobacco product placement in various media; bans gift offers based on the purchase of tobacco products without sufficient proof that the intended recipient is an adult; prohibits Participating Manufacturers from licensing third parties to advertise tobacco brand names in any manner prohibited under the MSA; and prohibits Participating Manufacturers from using as a tobacco product brand name any nationally recognized non-tobacco brand or trade name or the names of sports teams, entertainment groups or individual celebrities.

The MSA also requires Participating Manufacturers to affirm corporate principles to comply with the MSA and to reduce underage usage of tobacco products and imposes restrictions on lobbying activities conducted on behalf of Participating Manufacturers. In addition, the MSA provides for the appointment of an independent auditor to calculate and determine the amounts of payments owed pursuant to the MSA.

Under the payment provisions of the MSA, the Participating Manufacturers are required to make annual payments of $9.0 billion (subject to applicable adjustments, offsets and reductions). These annual payments are allocated based on unit volume of domestic cigarette shipments. The payment obligations under the MSA are the several, and not joint, obligations of each Participating Manufacturer and are not the responsibility of any parent or affiliate of a Participating Manufacturer.

Liggett has no payment obligations under the MSA except to the extent its market share exceeds a market share exemption of approximately 1.65% of total cigarettes sold in the United States. Vector Tobacco has no payment obligations under the MSA except to the extent its market share exceeds a market share exemption of approximately 0.28% of total cigarettes sold in the United States. Liggett and Vector Tobacco's domestic shipments accounted for 5.4% of the total cigarettes sold in the United States in 2022. If Liggett's or Vector Tobacco's market share exceeds their respective market share exemption in a given year, then on April 15 of the following year, Liggett and/or Vector Tobacco must pay on each excess unit an amount equal (on a per-unit basis) to that due from the OPMs for that year.

Liggett may have additional payment obligations under the MSA and its other settlement agreements with the states. See Item 1A. "*Risk Factors*" and Note 15 to our consolidated financial statements.

New Valley

New Valley is our real estate investment business. We have invested in numerous real estate projects in different asset classes, including planned communities, condominium and mixed–use developments, apartment buildings, hotels and commercial properties.

Real Estate Investments

We own and seek to acquire investment interests in various domestic and international real estate projects through debt and equity investments. Our current real estate investments include the following projects (as of December 31, 2022):

Condominium and Mixed-Use Development

As of December 31, 2022, we owned investments in condominium and mixed-use development real estate ventures, recorded at $94.0 million. We had condominium and mixed-use development real estate ventures, recorded at $16.8 million as of December 31, 2022, in the New York City Standard Metropolitan Statistical Area ("SMSA"). Of the six condominium and mixed-use development real estate ventures in the New York City SMSA, four were closing on units or completed as of December 31, 2022, and the remaining two had projected construction completion dates in 2023. We had condominium and mixed-use development real estate ventures with projected construction completion dates between March 2023 and April 2025 recorded at $77.2 million in other U.S. areas as of December 31, 2022.

Apartment Buildings

As of December 31, 2022, we owned an investment in a venture that owns an apartment building located in Hoover, AL, which was recorded at $9.5 million. The investment was operating as of December 31, 2022.

Hotels

As of December 31, 2022, we owned investments in hotels recorded at $2.5 million, with ventures recorded at $0.8 million located in the New York City SMSA and the remainder located in Bermuda. The hotels were operating as of December 31, 2022.

Commercial

As of December 31, 2022, we owned investments in commercial real estate ventures recorded at $15.3 million, one located in the New York City SMSA and one located in Las Vegas, Nevada. Both commercial real estate ventures were operating as of December 31, 2022.

In our real estate investment business, we seek to acquire investment interests in domestic and international real estate projects through debt and equity investments. We and our partners seek to enhance the cash flows and returns from our investments by using varying levels of leverage. In addition, we and our partners may earn incentives on certain investments if the investments achieve rates of return that exceed targeted thresholds. We may pursue growth in new markets where we identify attractive opportunities to invest in or acquire assets and to achieve strong risk-adjusted returns. We strive to invest at attractive valuations, capitalize on distressed situations where possible, create opportunities for superior valuation gains and cash flow returns and monetize assets at appropriate times to realize value. As of December 31, 2022, our real estate investment business held interests in joint ventures recorded on our financial statements at approximately $121.7 million.

For additional information concerning these investments, see Note 10 to our consolidated financial statements and Item 7. "*Management's Discussion and Analysis of Financial Condition and Results of Operations. Summary of Real Estate Investments.*"

Human Capital

We have long believed that the diversity and talent of our people provide a competitive advantage to Vector Group and its subsidiaries. As of December 31, 2022, we employed 536 employees, of which 509 were employed by Liggett, and 27 were employed at Vector Group's corporate headquarters.

Approximately 30% of the Liggett workforce has been employed by the Company for more than 15 years. Liggett has maintained long relationships with its employees due to its philosophy of listening to their comments and concerns and regularly engaging them to enhance its human capital management objectives.

Historically, this has occurred with frequent communication across all levels of Liggett and in-person events with senior management. We believe this philosophy served Liggett well in recent years.

The health and safety of our employees is foundational to achieving our human capital objectives.

Liggett also offers comprehensive benefit programs to its employees which provide them with, among other things, medical, dental, and vision healthcare; 401(k) matching contributions; paid parental leave; tuition assistance; and paid vacation time.

Of the 509 employees at Liggett as of December 31, 2022, 298 were employed at Liggett's Mebane factory, 154 were employed throughout the United States in sales positions and the remaining 57 were employed in administrative functions supporting and coordinating sales and marketing efforts.

Of the employees at Liggett's factory, 218 were hourly employees who are represented by four unions affiliated with either the AFL-CIO or the Teamsters. Liggett has not experienced any significant work stoppages since 1977.

We will continue to listen, while engaging and connecting with employees at Liggett to further our human capital management objectives.

Available Information

Our website address is www.vectorgroupltd.com. We make available free of charge on the Investor Relations section of our website (http://www.vectorgroupltd.com/investor-relations/) our Annual Report on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and all amendments to those reports as soon as reasonably practicable after such material is electronically filed with the Securities and Exchange Commission ("SEC"). We also make available through our website other reports filed with the SEC under the Exchange Act, including our proxy statements and reports filed by officers and directors under Section 16(a) of that Act. Copies of these filings are also available on the SEC's website. Copies of our Code of Business Conduct and Ethics, Corporate Governance Guidelines, Audit Committee charter, Compensation Committee charter and Corporate Responsibility and Nominating Committee charter have been posted on the Investor Relations section of our website and are also available in print to any stockholder who requests it. We do not intend for information contained in, or available through, our website to be part of this Annual Report on Form 10-K.

ITEM 1A. *RISK FACTORS*

Our business faces many risks. We have described below the known material risks that we and our subsidiaries face. There may be additional risks that we do not yet know of or that we do not currently perceive to be significant that may also impact our business or the business of our subsidiaries. Each of the risks and uncertainties described below could lead to events or circumstances that have a material adverse effect on the business, results of operations, cash flows, financial condition or equity of us or one or more of our subsidiaries, which in turn could negatively affect the value of our common stock. You should carefully consider and evaluate all information included in this report and any subsequent reports that we may file with the SEC or make available to the public before investing in any securities issued by us.

Risks Relating to Our Tobacco Business

Liggett faces intense competition in the domestic tobacco industry.

Liggett is considerably smaller and has fewer resources than its major competitors, and, as a result, has in certain circumstances a more limited ability to respond to market developments. Further, all of Liggett's unit volume is generated in the discount segment, which is highly competitive, with consumers having less brand loyalty and placing greater emphasis on price. Management Science Associates' data indicate that in 2022, Philip Morris and RJ Reynolds, the two largest cigarette manufacturers, controlled 71.8% of the United States cigarette market. Philip Morris is the largest manufacturer in the market, and its profits are derived principally from its sale of premium cigarettes. Philip Morris had 58.8% of the premium segment and 44.4% of the total domestic market during 2022. During 2022, all of Liggett's sales were in the discount segment, and its share of the total domestic cigarette market was 5.4%. Historically, because of their dominant market share, Philip Morris and RJ Reynolds have been able to determine cigarette prices for the various pricing tiers within the industry.

Further consolidation in the industry could adversely affect our ability to compete in the U.S. cigarette market.

Liggett's business is highly dependent on the discount cigarette segment and to maintain market share, it may be required to take steps to reduce prices.

All of Liggett's unit volume is generated in the discount segment, which is highly competitive. While Philip Morris, RJ Reynolds, and ITG Brands compete with Liggett in the discount segment of the market, Liggett also faces intense competition for market share in the discount segment from a group of smaller manufacturers and importers, most of which sell low quality deep discount cigarettes. While Liggett's share of the discount market was 18.5% in 2022, 14.4% in 2021 and 14.2% in 2020, Management Science Associates' data indicate that the discount market share of these other smaller manufacturers and

importers was approximately 30.3% in 2022, 34.2.% in 2021 and 35.5% in 2020. If pricing in the discount market continues to be impacted by these smaller manufacturers and importers, margins in Liggett's only market segment could be negatively affected and, to maintain market share, Liggett may be required to take steps to reduce prices. Thus, Liggett's sales volume, operating income and cash flows would be materially adversely affected, which in turn could negatively affect the value of our common stock.

The domestic cigarette industry has experienced declining unit sales in recent periods, which could result in lower sales or higher costs for us.

Management Science Associates' data indicated that domestic industry-wide shipments of cigarettes declined by approximately 9.9% in 2022 and 6.5% in 2021 and increased by 1.5% in 2020. Since 1995, industry-wide shipments of cigarettes have declined in all years except 2020. We believe the 2020 increase in shipments was a COVID-19 related anomaly and that industry-wide shipments of cigarettes in the United States will continue to decline in future years as a result of numerous factors. These factors include health considerations, diminishing social acceptance of smoking, and a wide variety of federal, state and local laws limiting smoking in restaurants, bars and other public places, as well as increases in federal and state excise taxes and settlement-related expenses which have contributed to higher cigarette prices in recent years. In addition to a declining market impacting our sales volume, operating income and cash flows, our annual cost advantage from our payment exemption under the MSA declines by approximately $1.8 million for each percentage point decline in shipment volumes in the U.S. market and approximately $2.6 million for each percentage point increase in inflation (with the MSA rate increasing each year by the greater of three percent or the Consumer Price Index increase). If this decline in industry-wide shipments continues and Liggett is unable to capture market share from its competitors, or if the industry as a whole is unable to offset the decline in unit sales with price increases, or if Liggett's market share percentage falls below its MSA payment exemption percentage, or if prevailing inflation rates continue, Liggett's sales volume, operating income and cash flows could be negatively affected, which in turn could negatively affect the value of our common stock.

Our tobacco operations are subject to substantial and increasing legislation, regulation and taxation, which have a negative effect on revenue and profitability.

Cigarettes are subject to substantial regulation and taxation at the federal, state and local levels, which has had and may continue to have an adverse effect on our business. For a more complete discussion of the material regulations and taxation applicable to our Business, see Item 1. "*Business. Legislation and Regulation.*" For instance:

- Federal, state and local laws have limited the advertising, sale and use of cigarettes in the United States, such as laws prohibiting smoking in restaurants and other public places. Private businesses have also implemented prohibitions on the use of cigarettes. Further regulations or rules limiting advertising, sale or use of cigarettes or ingredients or flavorings could negatively impact sales of cigarettes, which would have an adverse effect on our results of operations.
- The federal government, as well as certain state, city and county governments, impose excise taxes on cigarettes, which has had, and is expected to continue to have, an adverse effect on sales of cigarettes. Since certain of these excise taxes were proportionately smaller on other types of tobacco products, a dramatic increase in the sale of mislabeled pipe tobacco occurred, which took away market share from traditional cigarette products.
- Various state and local government regulations have, among other things, increased the minimum age to purchase tobacco products, banned the sale of menthol cigarettes, restricted or banned sampling and advertising and required ingredient and constituent disclosure. Significantly, the federal government increased the minimum age of sale for tobacco products from 18 to 21 years of age in December 2019. Further regulations that limit the group of individuals able to purchase cigarettes in the United States or other regulations that limit the types of products we can offer, such as limitations on use of flavoring or nicotine content, could have a material adverse effect on demand for our products, our results of operations and our business. FDA and other organizations have also conducted anti-tobacco media campaigns, which have and may continue to have an adverse effect on the demand for cigarettes.

There have also been adverse legislative and political decisions and other unfavorable developments concerning cigarette smoking and the tobacco industry, as well as restrictive actions by federal agencies, including the Environmental Protection Agency and FDA. Additionally, all states have enacted statutes requiring cigarettes to meet a reduced ignition propensity standard. These developments may negatively affect the perception of potential triers of fact with respect to the tobacco industry, possibly to the detriment of certain pending litigation, and may prompt the commencement of additional similar litigation or legislation. We are not able to evaluate the effect of these developing matters on pending litigation or the possible commencement of additional litigation, but our consolidated financial position, results of operations or cash flows could be materially adversely affected.

Additional federal, state or local regulations relating to the manufacture, sale, distribution, advertising, labeling, or information disclosure of tobacco products could further reduce sales, increase costs and have a material adverse effect on our business.

FDA Regulation under the Family Smoking Prevention and Tobacco Control Act may adversely affect our sales and operating profit.

In June 2009, the Family Smoking Prevention and Tobacco Control Act ("TCA") became law. The TCA grants FDA broad authority over the manufacture, sale, marketing and packaging of tobacco products, although FDA is prohibited from banning all cigarettes or all smokeless tobacco products. For a more complete discussion of the TCA, see Item 1. "*Business. Legislation and Regulation.*"

In July 2017, FDA announced a comprehensive plan for tobacco and nicotine regulation, proposing an increased focus on the impact of flavors (including menthol) and on reducing the level of nicotine in tobacco. In April 2021, FDA announced that it intends to issue a proposed rule to prohibit menthol as a characterizing flavor in cigarettes within the next year. FDA indicated that the proposed rule will be one of the agency's highest priorities. FDA indicated it may publish a final rule by the end of 2023. For the year ended December 31, 2022, approximately 20% of our cigarette unit sales were menthol flavored. Regulations under the TCA that restrict or prohibit the sale of menthol flavored cigarettes would reduce the demand for our cigarettes and may have an adverse effect on our business and results of operations. We cannot predict how a tobacco product standard or a restriction on the sale and distribution of tobacco products with menthol, if ultimately issued by FDA, will impact product sales, whether it will have a material adverse effect on Liggett or Vector Tobacco, or whether it will impact Liggett and Vector Tobacco to a greater degree than other companies in the industry.

As part of the comprehensive plan, FDA said it would focus on nicotine addiction, with the goal of lowering nicotine levels in combustible cigarettes through a product standard developed through notice and comment rule making, which FDA announced in March 2018. FDA indicated it plans to publish a proposed rule in October 2023. See Item 1. "*Business. Legislation and Regulation.*" At this time, we cannot predict the specific regulations FDA will enact, the timeframe for such regulations, or the effect of such regulations. The rule making process could take years and once a final rule is issued it typically does not take effect for at least one year. We cannot predict how a nicotine tobacco product standard, if ultimately issued by FDA, would impact product sales, whether it would have a material adverse effect on Liggett or Vector Tobacco, or whether it would impact Liggett and Vector Tobacco to a greater degree than other companies in the industry.

In April 2018, FDA announced a change in its process for reviewing "provisional" substantial equivalence applications. See Item 1. "*Business. Legislation and Regulation*" for additional information on the substantial equivalence process. Vector Tobacco received a letter from FDA in April 2018 advising that FDA does not intend to conduct further review of Vector Tobacco's remaining applications, with certain "conditions" (as described under Item 1. "*Business. Legislation and Regulation*"). Liggett received a letter from FDA in May 2018 advising that FDA does not intend to conduct further review for certain applications, also with certain "conditions" (as described under Item 1. "*Business. Legislation and Regulation*"). FDA has not indicated whether the applications relating to Liggett's other products, not covered by that May 2018 letter, would proceed through FDA review. We cannot predict whether FDA will deem Liggett's outstanding applications to be sufficient to support determinations of substantial equivalence for the products covered by these substantial equivalence reports. It is possible that FDA could determine that some, or all, of these products are "not substantially equivalent" to a preexisting tobacco product, as the agency has already done for 20 of Liggett's applications. NSE orders for other cigarette styles may require us to stop the sale of the applicable cigarettes and other cigarette styles and could have a material adverse effect on us.

In March 2020, FDA issued a final rule to require new health warnings on cigarette packages and in cigarette advertisements. This rule requires each cigarette package and advertisement to bear one of eleven textual warning statements accompanied by a corresponding graphic image covering 50% of the area of the front and rear panels of cigarette packages and at least 20% of the area at the top of cigarette advertisements. The rule establishes marketing requirements that include the random and equal display and distribution of the required warnings for cigarette packages and quarterly rotation of the required warnings for cigarette advertisements. In April 2020, Liggett, along with other tobacco companies, commenced an action against the FDA in the United States District Court, District of Texas (Tyler Division) challenging the legality of the graphic warning final rule. In December 2022, the district court granted the tobacco companies' motion for summary judgment finding that the graphic warning final rule violated the rights of the tobacco companies under the First Amendment. In February 2023, FDA filed a notice indicating it would appeal the ruling. The inclusion of new warnings and rotation requirements pursuant to the final rule would likely increase Liggett's production costs.

It is likely that the TCA and further regulatory efforts by FDA could result in a decline in cigarette sales in the United States, including sales of Liggett's and Vector Tobacco's brands. Compliance and related costs are not possible to predict and depend substantially on the future requirements imposed by FDA under the law. Costs, however, could be substantial and could have a material adverse effect on the companies' financial condition, results of operations, and cash flows. In addition, FDA has a number of investigatory and enforcement tools available to it. Failure to comply with the law and with FDA regulatory

requirements could result in significant financial penalties and could have a material adverse effect on the business, financial condition and results of operation of both Liggett and Vector Tobacco. At present, we are not able to predict whether the law will impact Liggett and Vector Tobacco to a greater degree than other companies in the industry, thus affecting our competitive position.

Additional states may pass minimum price legislation.

In 2020, voters in the state of Colorado approved Proposition EE, increasing taxes on cigarettes, tobacco and nicotine products. In addition to raising the Colorado state excise tax on cigarettes, Proposition EE included a provision that fixed the minimum retail price of cigarettes in Colorado at $7.00 per pack as of January 1, 2021, and thus reduced the competitive advantage of our Company's deep discount priced cigarettes in the Colorado marketplace. Although no other state has adopted a fixed minimum retail price law, other states may attempt to do so. In the event that other states pass similar legislation, the result could have a material adverse effect on our financial condition, results of operations and cash flows.

Litigation will continue to harm the tobacco industry, including Liggett.

Liggett could be subjected to substantial liabilities and bonding requirements from litigation relating to cigarette products. Adverse judgments could have a negative impact on our ability to operate due to their impact on cash flows. We and our Liggett subsidiary, as well as the entire cigarette industry, continue to be challenged on numerous fronts. New cases continue to be commenced against Liggett and other cigarette manufacturers. As of December 31, 2022, there were 53 individual product liability lawsuits, two purported class actions and one health care cost recovery action pending in the United States in which Liggett and/or we were named defendants. It is likely that similar legal actions, proceedings and claims will continue to be filed against Liggett. Punitive damages, often in amounts ranging into the billions of dollars, are specifically pleaded in certain cases, in addition to compensatory and other damages. It is possible that there could be adverse developments in pending cases including the certification of additional class actions. An unfavorable outcome or settlement of pending tobacco-related litigation could encourage the commencement of additional litigation. In addition, an unfavorable outcome in any tobacco-related litigation could have a material adverse effect on our consolidated financial position, results of operations or cash flows. Liggett could face difficulties in obtaining a bond to stay execution of a judgment pending appeal. As new product liability cases are commenced against Liggett, the costs associated with defending these cases and the risks relating to the inherent unpredictability of litigation continue to increase.

Individual tobacco-related cases resulting from the Florida Supreme Court's ruling in Engle could continue to harm Liggett.

In May 1994, the *Engle* case was filed as a class action against Liggett and others in Miami-Dade County, Florida. The class consisted of all Florida residents who, by November 21, 1996, "have suffered, presently suffer or have died from diseases and medical conditions caused by their addiction to cigarette smoking." A trial was held and the jury returned a verdict adverse to the defendants (approximately $145.0 billion in punitive damages, including $790.0 million against Liggett). Following an appeal to the Third District Court of Appeal, the Florida Supreme Court in July 2006 decertified the class on a prospective basis and affirmed the appellate court's reversal of the punitive damages award. Former class members had until January 2008 to file individual lawsuits. As a result, we and Liggett, and other cigarette manufacturers, were sued in thousands of *Engle* progeny cases in both federal and state courts in Florida. Although we were not named as a defendant in the *Engle* case, we were named as a defendant in substantially all of the *Engle* progeny cases where Liggett was named as a defendant. Notwithstanding Liggett's multi-plaintiff settlements, Liggett and Vector Group remain defendants in 21 state court *Engle* progeny cases. The costs associated with defending these cases continue to negatively impact our cash flows. We cannot predict the cash requirements related to any future settlements and judgments, including cash required to bond any appeals, and there is a risk that those requirements will not be able to be met.

Liggett may have additional payment obligations under the MSA.

NPM Adjustment. In March 2006, an economic consulting firm selected pursuant to the MSA determined that the MSA was a "significant factor contributing to" the loss of market share of Participating Manufacturers for 2003. This same determination has been made for additional years. This is known as the "NPM Adjustment." As a result, the Participating Manufacturers may be entitled to potential NPM Adjustments to their MSA payments.

As of December 31, 2022, the Participating Manufacturers had entered into agreements with 39 Settling States setting out terms for settlement of the NPM Adjustment and addressing the NPM Adjustment with respect to those states for future years.

The arbitration for 2004 found three states liable for the NPM Adjustment. Two of these states have challenged the determinations. As of December 31, 2022, Liggett and Vector Tobacco accrued approximately $11.1 million related to disputed amounts withheld from the non-settling states for 2004 - 2010, which may be subject to payment, with interest, if Liggett and Vector Tobacco lose the disputes for those years.

Liggett may have additional payment obligations under its individual state settlements.

In 2004, the Attorneys General of Mississippi and Texas advised Liggett that they believed Liggett had failed to make all required payments under the respective settlement agreements with these states. Liggett believes these allegations are without merit, based, among other things, on the language of the most favored nation provisions of the settlement agreements. No amounts have been accrued in our consolidated financial statements for any additional amounts that may be payable by Liggett under the settlement agreements with Mississippi and Texas.

In January 2016, the Attorney General for Mississippi filed a motion in Chancery Court in Jackson County, Mississippi to enforce the March 1996 settlement agreement (the "1996 Agreement"). In April 2017, the Chancery Court ruled that the 1996 Agreement should be enforced and referred the matter to a Special Master for further proceedings to determine the amount of damages, if any, to be awarded.

In April 2021, the parties stipulated that the unpaid principal (exclusive of interest) purportedly due from Liggett to Mississippi pursuant to the 1996 Agreement (from inception through 2019) is approximately $16.7 million, subject to Liggett's right to litigate and/or appeal the enforceability of the 1996 Agreement (and all issues other than the calculation of such principal amount). In September 2019, the Special Master held a hearing regarding Mississippi's claim for pre- and post-judgment interest. In August 2021, the Special Master issued a final report with proposed findings and recommendations that pre-judgment interest, in the amount of approximately $18.8 million, is due from Liggett from April 2005 - August 3, 2021. In April 2022, the Mississippi Chancery Court affirmed the Special Master's findings and a final judgment was entered by the court on June 1, 2022. Additional interest amounts will accrue if the judgment is not overturned on appeal. Liggett continues to assert that the April 2017 Chancery Court order is in error because the most favored nations provision in the 1996 Agreement eliminated all of Liggett's payment obligations to Mississippi. Liggett appealed the final judgment and posted a bond of $24 million in June 2022. Briefing on the appeal is underway.

Liggett may be required to make additional payments to Mississippi and Texas which could have a material adverse effect on the Company's consolidated financial position, results of operations and cash flows.

Our tobacco business faces multiple risks in today's economic environment. These risks have the potential to significantly affect our business operations as well as our profitability.

International trade disruptions, shipping container availability, climate change, inflation, geopolitical instability, government regulations and man-made or natural disasters could affect the cost, availability and supply of our tobacco, raw materials as well as component parts for our equipment.

Overall economic conditions, including but not limited to inflation, labor shortages and supply chain disruptions, all present significant challenges and obstacles to overcome to enable our operations to continue uninterrupted. Our tobacco business also operates a single manufacturing facility which could affect our ability to produce and distribute our product if there was a major disruption.

Risks Associated with Our New Valley Real Estate Business.

New Valley is subject to risks relating to the industries in which it operates.

The real estate industry is significantly affected by changes in economic and political conditions as well as real estate markets, which could adversely impact returns on our investments, trigger defaults in project financing, cause cancellations of property sales, reduce the value of our properties or investments and could affect our results of operations and liquidity. The real estate industry is cyclical and is significantly affected by changes in general and local economic conditions which are beyond our control.

These conditions include short-term and long-term interest rates, inflation, fluctuations in debt and equity capital markets, levels of unemployment, consumer confidence and the general economic condition of the United States and the global economy. The real estate market also depends upon the strength of financial institutions, which are sensitive to changes in the general macroeconomic environment. Lack of available credit or lack of confidence in the financial sector could impact the real estate market, which in turn could adversely affect our business, financial condition and results of operations.

Any of the following could be associated with cyclicality in the real estate market by halting or limiting a recovery in the residential and commercial real estate markets, and have an adverse effect on our business by causing periods of lower growth or a decline in the number of home sales and/or property prices which, in turn, could adversely affect our business and financial condition:

- periods of economic slowdown or recession;
- rising interest rates;

- the general availability of mortgage financing;
- a negative perception of the market for residential and commercial real estate;
- an increase in the cost of homeowners' insurance;
- weak credit markets;
- a low level of consumer confidence in the economy and/or the real estate market;
- instability of financial institutions;
- legislative, tax or regulatory changes that would adversely impact the real estate market, including but not limited to potential reform relating to Fannie Mae, Freddie Mac and other government sponsored entities that provide liquidity to the U.S. housing and mortgage markets, and potential limits on, or elimination of, the income tax deduction of certain mortgage interest expense and property taxes;
- adverse changes in economic and general business conditions in the areas we invest;
- declining demand for real estate;
- acts of God, such as hurricanes, earthquakes and other natural disasters, or acts or threats of war or terrorism; and/or
- adverse changes in global, national, regional and local economic and market conditions, particularly where our businesses operate, including those relating to pandemics and health crises.

Real estate development is a competitive industry, and competitive conditions may adversely affect our results of operations. The real estate development industry is highly competitive. Real estate developers compete not only for buyers, but also for desirable properties, building materials, labor and capital. We compete with other local, regional, national and international real estate asset managers, investors and property developers, which have significant financial resources and experience. Competitive conditions in the real estate development industry could result in difficulty in acquiring suitable investments in properties at acceptable prices, increased selling incentives, lower sales volumes and prices, lower profit margins, impairments in the value of our investments in real estate developments and other assets, and/or increased construction costs, delays in construction and increased carry costs. Development projects are subject to special risks including potential increase in costs, changes in market demand, inability to meet deadlines which may delay the timely completion of projects, reliance on contractors who may be unable to perform and the need to obtain various governmental and third party consents.

If the market value of our properties or investments decline, our results of operations could be adversely affected by impairments and write-downs. We acquire land and invest in real estate projects in the ordinary course of our business. There is an inherent risk that the value of our land and investments may decline after purchase, which also may affect the value of existing properties under construction. The valuation of property is inherently subjective and based on the individual characteristics of each property. The market value of our land and investments in real estate projects depends on general and local real estate market conditions. These conditions can change and thereby subject valuations to uncertainty. Moreover, all valuations are based on assumptions that may not prove to reflect economic or demographic reality. We may have acquired options to buy or bought and developed land at a cost we will not be able to recover fully or on which we cannot build and sell the property profitably. In addition, our deposits or investments in deposits for building lots controlled under option or similar contracts may be put at risk. If market conditions deteriorate, some of our assets may be subject to impairments and write-down charges which would adversely affect our operations and financial results.

If demand for residential or commercial real estate decreases below what was anticipated when we purchased interests in or developed such inventory, profitability may be adversely affected and we may not be able to recover the related costs when selling and building our properties and/or investments. We regularly review the value of our investments and will continue to do so on a periodic basis. Write-downs and impairments in the value of our properties and/or investments may be required, and we may in the future sell properties and/or investments at a loss, which could adversely affect our results of operations and financial condition.

We face risks associated with property acquisitions. We may be unable to finance acquisitions or investments on favorable terms or properties may fail to perform as expected. We may underestimate the costs necessary to bring an investment up to standards established for its intended market position. We may also acquire or invest in properties subject to liabilities and with recourse, with respect to unknown liabilities. New Valley's acquisition of real estate investments are subject to several risks including: underestimated operating expenses for a property, possibly making it uneconomical or unprofitable; a property may fail to perform in accordance with expectations, in which case New Valley may sustain lower-than-expected income or need to incur additional expenses for the property; and New Valley may not be able to sell, dispose or refinance the property at a favorable price or terms, or at all, as the case may be; in addition to any potential loss on a sale, New Valley may have no choice but to hold on to the property and continue to incur net operating losses if underperforming for an indefinite period of time, as well as incur continuing tax, environmental and other liabilities. Acquisition agreements will typically contain

conditions to closing, including completion of due diligence to our satisfaction or other conditions that are not within our control, which may not be satisfied. Each of these factors could have an adverse effect on our results of operations and financial condition.

Our success depends on the availability of suitable real estate investments at acceptable prices and having sufficient liquidity to acquire such investments. Our success in investing in real estate depends in part upon the continued availability of suitable real estate assets at acceptable prices. The availability of properties for investment at favorable prices depends on a number of factors outside of our control, including the risk of competitive over-bidding on real estate assets. Should suitable opportunities become less available, the number of properties we develop and invest in would be reduced, which would reduce revenue and profits. In addition, our ability to make investments will depend upon whether we have sufficient liquidity to fund such purchases and investments.

If we, or the entities we invest in, are not able to develop and market our real estate developments successfully or within expected timeframes or at projected pricing, our business and results of operations will be adversely affected. Before a property development generates any revenues, material expenditures are incurred to acquire land, obtain development approvals and construct significant portions of project infrastructure, amenities, model offices, showrooms, apartments or homes and sales facilities. It generally takes several years for a real estate development to achieve cumulative positive cash flow. If we, or the entities we invest in, are unable to develop and market our real estate developments successfully or to generate positive cash flows from these operations within expected timeframes, it could have a material adverse effect on our business and results of operations.

Because certain of our assets are illiquid, we may not be able to sell these assets when appropriate or when desired. Large real estate developments like the ones that we retain investments in can be hard to sell, especially if local market conditions are poor. Such illiquidity could limit our ability to diversify our assets promptly in response to changing economic or investment conditions. Additionally, financial difficulties of other property owners resulting in distressed sales could depress real estate values in the markets in which we operate in times of illiquidity. These restrictions reduce our ability to respond to changes in the performance of our assets and could adversely affect our financial condition and results of operations.

Guaranty risks; risks of joint ventures. New Valley has real estate-related investments in which other partners hold significant interests. New Valley must seek approval from these other parties for important actions regarding these joint ventures. Since the other parties' interests may differ from those of New Valley, a deadlock could arise that might impair the ability of the ventures to function. Such a deadlock could significantly harm a venture. Further, our minority interest in these joint ventures means that we may not be able to influence the outcome of a project, and our rights to obtain information may be limited to the contractual requirements. As a result, we may not have adequate insight into the financial condition of any of our joint ventures given that we do not oversee their financial reporting or decision making. If our partners face adverse financial conditions, it may impair their ability to fund capital calls or satisfy their share of any guarantees on project financing. In addition, we are typically obligated to execute guarantees or indemnify our partners for guarantees they may execute in connection with the acquisition or construction financing for our projects. The guarantees that we might be obligated to sign include guarantees for environmental liability at a project, improper acts committed by New Valley (otherwise known as a "bad boy" guaranty), as well as carry and completion guarantees for a project. In the event of a default, if a lender were to exercise its rights under these guarantees, it could have a material adverse effect on our business and results of operations.

The real estate developments we invest in may be subject to losses as a result of construction defects. Real estate developers are subject to construction defect and warranty claims arising in the ordinary course of their business. These claims are common in the real estate development industry and can be costly.

Claims may be asserted against the real estate developments we invest in for construction defects, personal injury or property damage caused by the developer, general contractor or subcontractors, and if successful, these claims may give rise to liability. Subcontractors are independent of the homebuilders that contract with them under normal management practices and the terms of trade contracts and subcontracts within the industry; however, if U.S. or other regulatory agencies or courts reclassify the employees of sub-contractors as employees of real estate developers, real estate developers using subcontractors could be responsible for wage, hour and other employment-related liabilities of their subcontractors.

In addition, where the real estate developments in which we invest hire general contractors, unforeseen events such as the bankruptcy of, or an uninsured or under-insured loss claimed against, the general contractor may sometimes result in the real estate developer becoming responsible for the losses or other obligations of the general contractor. The costs of insuring against construction defect and product liability claims are high, and the amount of coverage offered by insurance companies may be limited. There can be no assurance that this coverage will not be further restricted and become more costly. If the real estate developments in our real estate portfolio are not able to obtain adequate insurance against these claims in the future, our business and results of operations may be adversely affected.

Increasingly in recent years, individual and class action lawsuits have been filed against real estate developers asserting claims of personal injury and property damage caused by a variety of issues, including faulty materials and the presence of mold in residential dwellings. Furthermore, decreases in home values as a result of general economic conditions may result in an increase in both non-meritorious and meritorious construction defect claims, as well as claims based on marketing and sales practices. Insurance may not cover all of the claims arising from such issues, or such coverage may become prohibitively expensive. If real estate developments in our real estate portfolio are not able to obtain adequate insurance against these claims, they may experience litigation costs and losses that could reduce our revenues from these investments. Even if they are successful in defending such claims, we may incur significant losses.

Our real estate investments may face substantial damages as a result of existing or future litigation, arbitration or other claims. The real estate developments we invest in are exposed to potentially significant litigation, arbitration proceedings and other claims, including breach of contract, contractual disputes and disputes relating to defective title, property misdescription or construction defects. Class action lawsuits can be costly to defend, and if our assets were to lose any certified class action suit, it could result in substantial liability. With respect to certain general liability exposures, including construction defect and product liability claims, interpretation of underlying current and future trends, assessment of claims and the related liability and reserve estimation process requires us to exercise significant judgment due to the complex nature of these exposures, with each exposure exhibiting unique circumstances. Furthermore, once claims are asserted for construction defects, it is difficult to determine the extent to which the assertion of these claims will expand geographically. As a result, we may suffer losses on our investments which could adversely affect our business, financial condition and results of operations.

Our investments in real estate are susceptible to adverse weather conditions and natural and man-made disasters. Adverse weather conditions and natural and man-made disasters such as hurricanes, tornadoes, storms, earthquakes, floods, droughts, fires, snow, blizzards, as well as terrorist attacks, riots and electrical outages, can have a significant effect on the assets in our real estate portfolio. The severity and frequency of these adverse weather conditions are worsened by the effects of climate change. These adverse conditions can cause physical damage to work in progress and new developments, delays and increased costs in the construction of new developments and disruptions and suspensions of operations, whether caused directly or by disrupting or suspending operations of those upon whom our real estate developments rely in their operations. Such adverse conditions can mutually cause or aggravate each other, and their incidence and severity are unpredictable. If insurance is unavailable to the real estate developments we invest in or is unavailable on acceptable terms, or if insurance is not adequate to cover business interruptions or losses resulting from adverse weather or natural or man-made disasters, the real estate developments we invest in and our results of operations will be adversely affected. In addition, damage to properties in our real estate portfolio caused by adverse weather or a natural or man-made disaster may cause insurance costs for these properties to increase.

A major health and safety incident relating to our real estate investments could be costly in terms of potential liabilities and reputational damage. Building sites are inherently dangerous and operating in the real estate development industry poses certain inherent health and safety risks. Due to regulatory requirements, health and safety performance is critical to the success of our real estate investments. Any failure in health and safety performance may result in penalties for non-compliance with relevant regulatory requirements, and a failure that results in a major or significant health and safety incident is likely to be costly in terms of potential liabilities incurred as a result. Such a failure could generate significant negative publicity and have a corresponding impact on the reputation and relationships of the developer with relevant regulatory agencies or governmental authorities, which in turn could have an adverse effect on our investment and operating results.

Insurance may not cover some potential losses or may not be obtainable at commercially reasonable rates, which could adversely affect our financial condition and results of operations. Real estate properties in our real estate portfolio maintain insurance on their properties in amounts and with deductibles that we believe are comparable with what owners of similar properties carry; however, such insurance may not cover some potential losses or may not be obtainable at commercially reasonable rates in the future. There are also certain types of risks (such as war, environmental contamination such as toxic mold, and lease and other contract claims) which are either uninsurable or not economically insurable. Should any uninsured or underinsured loss occur, we could lose our investment in, and anticipated profits and cash flows from, one or more properties.

Risks Relating to the Distribution

In connection with the Distribution, we agreed to indemnify Douglas Elliman and Douglas Elliman agreed to indemnify us for certain liabilities, and if we are required to perform under these indemnities or if Douglas Elliman is unable to satisfy its obligations under these indemnities, our financial results could be negatively affected.

In connection with the Transition Services Agreement, we and Douglas Elliman, as parties receiving services under the agreement, agreed to indemnify the party providing services for losses incurred by such party that arise out of or are otherwise in connection with the provision by such party of services under the agreement, except to the extent that such losses result from the providing party’s gross negligence, willful misconduct or breach of its obligations under the agreement. Similarly, each

party providing services under the agreement agreed to indemnify the party receiving services for losses incurred by such party that arise out of or are otherwise in connection with the indemnifying party's provision of services under the agreement if such losses result from the providing party's gross negligence, willful misconduct or breach of its obligations under the agreement.

In connection with our tobacco business, from time to time Douglas Elliman may be named as a defendant in tobacco-related lawsuits, notwithstanding the completion of the Distribution. Pursuant to the Distribution Agreement we entered into with Douglas Elliman in connection with the Distribution, we and each of our subsidiaries agreed to indemnify Douglas Elliman for liabilities related to our tobacco business, including liabilities that Douglas Elliman may incur for tobacco-related litigation.

In connection with the Distribution, Douglas Elliman provided us with indemnities with respect to liabilities arising out of Douglas Elliman's business. If we are subject to an adverse decision in a lawsuit related to Douglas Elliman's business, and Douglas Elliman fails to satisfy its obligations, our financial condition could be materially adversely affected.

The Distribution and related transactions may expose us to potential liabilities arising out of state and federal fraudulent conveyance laws and legal distribution requirements.

The Distribution could be challenged under various state and federal fraudulent conveyance laws. An unpaid creditor could claim that we did not receive fair consideration or reasonably equivalent value in the Distribution, and that the Distribution left us insolvent or with unreasonably small capital or that we intended or believed we would incur debts beyond our ability to pay such debts as they mature. If a court were to agree with such a plaintiff, then such court could void the Distribution as a fraudulent transfer and could impose several different remedies, including without limitation, returning the assets or the shares of common stock in Douglas Elliman being distributed as part of the Distribution or providing us with a claim for money damages against the spun-off business in an amount equal to the difference between the consideration received by us and the fair market value of Douglas Elliman at the time of the Distribution.

Certain directors who serve on our Board of Directors currently serve as directors of Douglas Elliman following the Distribution, and ownership of shares of common stock of Douglas Elliman following the Distribution by our directors and executive officers may create, or appear to create, conflicts of interest.

Certain of our directors who serve on our Board of Directors currently serve on the board of directors of Douglas Elliman. This may create, or appear to create, conflicts of interest when our or Douglas Elliman's management and directors face decisions that could have different implications for us and Douglas Elliman, including the resolution of any dispute regarding the terms of the agreements governing the Distribution and the relationship between us and Douglas Elliman after the Distribution or any other commercial agreements entered into in the future between us and Douglas Elliman. For example, subsidiaries of Douglas Elliman have been engaged by certain developers as the sole broker or the co-broker for several of the real estate development projects that New Valley owns an interest in through its real estate venture investments. Douglas Elliman had gross commissions of approximately $1.7 million, $9.0 million and $10.8 million from these projects for the years ended December 31, 2022, 2021 and 2020, respectively.

In addition, all our executive officers and some of our non-employee directors currently own shares of the common stock of Douglas Elliman. The continued ownership of such common stock by our directors and executive officers following the Distribution creates or may create the appearance of a conflict of interest when these directors and executive officers are faced with decisions that could have different implications for us and Douglas Elliman

After the Distribution, certain of our executive officers do not devote their full time to Vector Group's affairs, and the overlap may give rise to conflicts.

Our Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Chief Technology Officer and General Counsel serve in the same roles at Douglas Elliman. Our management model has and continues to use holding company executives to focus on public company matters while delegating the operations of our subsidiaries, including Liggett, to experienced operating professionals and we believe it has created stockholder value. Nonetheless, our management team divides its time between Vector Group and Douglas Elliman and consequently, does not spend its full time on our business. From time to time, our overlapping executive officers may be required to spend a significant portion of their time and attention on Douglas Elliman's affairs, and there can be no assurance that they will be able to devote sufficient time to the Company's affairs.

Our overlapping executive officers may also face actual or apparent conflicts of interest with respect to matters involving or affecting each company. For example, the potential for a conflict of interest may arise when we, on the one hand, and Douglas Elliman, on the other hand, consider corporate opportunities that may be suitable for both companies.

If the distribution, together with certain related transactions, were to fail to qualify as a reorganization for U.S. federal income tax purposes under Sections 368(a)(1)(D) and 355 of the Internal Revenue Code of l986, as amended ("Code"), then our stockholders, we and Douglas Elliman might be required to pay substantial U.S. federal income taxes.

The distribution was conditioned upon our receipt of an opinion of our Distribution tax advisor to the effect that, subject to the assumptions and limitations described therein, the distribution of Douglas Elliman common stock to holders of our common stock (such distribution, excluding, for the avoidance of doubt, the distribution of Douglas Elliman common stock with respect to our stock option awards and restricted stock awards), together with certain related transactions, will qualify as a reorganization for U.S. federal income tax purposes under Sections 368(a)(1)(D) and 355 of the Code in which no gain or loss is recognized by us or our stockholders, except, in the case of our stockholders, for cash received in lieu of fractional shares. The opinion of our Distribution tax advisor was based on, among other things, certain assumptions as well as on the continuing accuracy of certain factual representations and statements that we and Douglas Elliman made to the Distribution tax advisor. In rendering its opinion, the Distribution tax advisor also relied on certain covenants that we and Douglas Elliman entered into, including the adherence by us and by Douglas Elliman to certain restrictions on future actions contained in the Tax Disaffiliation Agreement. If any of the representations or statements that we or Douglas Elliman made are or become inaccurate or incomplete, or if we or Douglas Elliman breach any of such covenants, the Distribution and such related transactions might not qualify for such tax treatment. The opinion of the Distribution tax advisor is not binding on the U.S. Internal Revenue Service ("IRS") or a court, and there can be no assurance that the IRS will not challenge the validity of the Distribution and such related transactions as a reorganization for U.S. federal income tax purposes under Sections 368(a)(1)(D) and 355 of the Code eligible for tax-free treatment, or that any such challenge ultimately will not prevail.

If the Distribution does not qualify as a tax-free transaction for any reason, including as a result of a breach of a representation or covenant, we would recognize a substantial gain attributable to Douglas Elliman for U.S. federal income tax purposes. Additionally, if the Distribution does not qualify as tax-free under Section 355 of the Code, our stockholders will be treated as having received a distribution equal to the fair market value of the stock distributed, which generally would be treated first as a taxable dividend to the extent of such holder's pro rata share of our current and accumulated earnings and profits, then as a non-taxable return of capital to the extent of such holder's tax basis in our common stock, and thereafter as capital gain with respect to any remaining value.

We are subject to continuing contingent tax-related liabilities of Douglas Elliman following the Distribution.

After the Distribution, there are several significant areas where the liabilities of Douglas Elliman may become our obligations, either in whole or in part. For example, to the extent that any subsidiary of ours was included in the consolidated tax reporting group of Vector Group for any taxable period or portion of any taxable period ending on or before the effective date of the Distribution, such subsidiary is jointly and severally liable for the U.S. federal income tax liability of the entire consolidated tax reporting group of Vector Group, as applicable, for such taxable period. In connection with the Distribution, we have entered into a Tax Disaffiliation Agreement with Douglas Elliman, that allocates the responsibility for prior period consolidated taxes to Vector Group. If we are unable to pay any prior period taxes for which we are responsible, however, Douglas Elliman could be required to pay the entire amount of such taxes, and such amounts could be significant. Other provisions of federal, state or local law may establish similar liability for other matters, including laws governing tax-qualified pension plans, as well as other contingent liabilities.

Our ability to engage in acquisitions and other strategic transactions is subject to limitations because we have agreed to certain restrictions intended to support the tax-free nature of the Distribution.

The U.S. federal income tax laws that apply to transactions like the Distribution generally create a presumption that the Distribution would be taxable to us (but not to our stockholders) if we engage in, or enter into an agreement to engage in, an acquisition of all or a significant portion of our common stock beginning two years before the distribution date, unless it is established that the transaction is not pursuant to a plan or series or transactions related to the Distribution. U.S. Treasury regulations currently in effect generally provide that whether an acquisition transaction and a distribution are part of a plan is determined based on all facts and circumstances, including specific factors listed in the Treasury regulations. In addition, these Treasury regulations provide several "safe harbors" for acquisition transactions that are not considered to be part of a plan that includes a distribution.

There are other restrictions imposed on us under current U.S. federal income tax laws with which we will need to comply for the Distribution and certain related transactions to qualify as a transaction that is tax-free under Sections 368(a)(1)(D) and 355 of the Code. For example, we will generally be required to continue to own and manage our business, and there will be limitations on issuances, redemptions and sales of our stock for cash or other property following the Distribution, except in connection with certain stock-for-stock acquisitions and other permitted transactions. If these restrictions are not followed, the Distribution could be taxable to us and our stockholders.

We entered into a Tax Disaffiliation Agreement with Douglas Elliman under which we have allocated, between Douglas Elliman and ourselves, responsibility for U.S. federal as well as state and local income and other taxes relating to taxable periods before and after the Distribution and provided for computing and apportioning tax liabilities and tax benefits between the parties. In the Tax Disaffiliation Agreement, we agreed that, among other things, we may not take, or fail to take, any action following the Distribution if such action, or failure to act: would be inconsistent with or prohibit the Distribution and certain related transactions from qualifying as a tax-free reorganization under Sections 368(a)(1)(D) and 355 and related provisions of the Code to us and our stockholders (except with respect to the receipt of cash in lieu of fractional shares of our stock).

In addition, we agreed that we may not, among other things, during the two-year period following the Distribution, except under certain specified circumstances, (i) redeem or otherwise repurchase our stock; (ii) liquidate, merge or consolidate with another person; (iii) sell or otherwise dispose of assets outside the ordinary course of business or materially change the manner of operating our business; or (iv) take any other action or actions that in the aggregate would have the effect that one or more persons acquire (or have the right to acquire), directly or indirectly, as part of a plan or series of related transactions, 35% of our stock. These restrictions could limit our strategic and operational flexibility, including our ability to finance our operations by issuing equity securities, make acquisitions using equity securities, repurchase our equity securities, or raise money by selling assets or enter into business combination transactions. We also agreed to indemnify Douglas Elliman for certain tax liabilities resulting from any such transactions. Further, our stockholders may consider these covenants and indemnity obligations unfavorable as they might discourage, delay or prevent a change of control.

Risks Relating to Our Indebtedness

We and our subsidiaries have a substantial amount of indebtedness and liquidity commitments.

We and our subsidiaries have significant indebtedness and debt service obligations. As of December 31, 2022, we and our subsidiaries had total outstanding indebtedness of $1.44 billion. In addition, subject to the terms of any future agreements, we and our subsidiaries may be able to incur additional indebtedness in the future. There is a risk that we will not be able to generate sufficient funds to repay our debt. If we cannot service our fixed charges, it would have a material adverse effect on our business and results of operations.

We have significant liquidity commitments.

During 2023, we will have significant liquidity commitments that will require the use of our existing cash resources. As of December 31, 2022, our corporate expenditures (exclusive of Liggett, Vector Tobacco and New Valley) and other potential liquidity requirements over the next 12 months include the following:

- cash interest expense of approximately $107.2 million,
- dividends of approximately $127.2 million based on the assumed quarterly cash dividend rate of $0.20 per share (based on payments on 156,173,968 common shares outstanding as of February 17, 2023 and 2,767,504 employee stock options), and
- other corporate expenses and taxes.

We will be required to use cash flows from operations as well as existing cash and cash equivalents to meet the above liquidity requirements as well as other liquidity needs in the normal course of business. Should these resources be insufficient to meet the upcoming liquidity needs, we may also be required to liquidate investment securities available for sale and other long-term investments, or, if available, draw on the Liggett Credit Facility. While there are actions we can take to reduce our liquidity needs, there can be no assurance that such measures will be successful.

Servicing our indebtedness requires a significant amount of cash and we may not generate sufficient cash flow from our businesses to pay our substantial indebtedness.

Our ability to make scheduled payments of the principal, to pay interest on, or to refinance our indebtedness, depends on our future performance, which is subject to economic, financial, competitive and regulatory factors, as well as other factors beyond our control. The cash flow from operations in the future may be insufficient to service our indebtedness because of factors beyond our control. If we are unable to generate the necessary cash flow, we may be required to adopt one or more alternatives, such as selling assets, restructuring debt or obtaining additional equity capital on terms that may be onerous or highly dilutive. Our ability to refinance our indebtedness will depend on the capital markets and our financial condition at such time. We may not be able to engage in any of these activities or engage in these activities on desirable terms, which could result in a default on our debt obligations.

Our high level of debt may adversely affect our ability to satisfy our obligations.

There can be no assurance that we will be able to meet our debt service obligations. A default in our debt obligations, including a breach of any restrictive covenant imposed by the terms of our indebtedness, could result in the acceleration of the affected debt as well as other of our indebtedness. In such a situation, it is unlikely that we would be able to fulfill our obligations under the debt or such other indebtedness or that we would otherwise be able to repay the accelerated indebtedness or make other required payments. Even in the absence of an acceleration of our indebtedness, a default under the terms of our indebtedness could have an adverse impact on our ability to satisfy our debt service obligations and on the trading price of our debt and our common stock.

Our high level of indebtedness, as well as volatility in the capital and credit markets, could have important consequences. For example, they could:

- make it more difficult for us to satisfy our other obligations with respect to our debt, including repurchase obligations, upon the occurrence of specified change of control events;
- increase our vulnerability to general adverse economic and industry conditions;
- limit our ability to obtain additional financing;
- require us to dedicate a substantial portion of our cash flow from operations to payments on our indebtedness, reducing the amount of our cash flow available for dividends on our common stock and other general corporate purposes;
- require us to sell other securities or to sell some or all of our assets, possibly on unfavorable terms, to meet payment obligations;
- restrict us from making strategic acquisitions, investing in new capital assets or taking advantage of business opportunities;
- limit our flexibility in planning for, or reacting to, changes in our business and industry; and
- place us at a competitive disadvantage compared to competitors that have less debt.

Our 5.75% Senior Secured Notes, 10.5% Senior Notes, and Liggett Credit Facility contain restrictive covenants, and the Liggett Credit Facility contains financial ratios, that limit our operating flexibility, and may limit our ability to pay dividends in the future.

The indenture governing our 5.75% Senior Secured Notes due 2029 (the "2029 Indenture"), the indenture governing our 10.5% Senior Notes due 2026 (the "2026 Indenture") and the Liggett Credit Facility contain covenants that, among other things, restrict our ability to take specific actions, even if we believe them to be in our best interest, including restrictions on our ability to:

- incur or guarantee additional indebtedness or issue certain preferred stock;
- pay dividends or distributions on, or redeem or repurchase, capital stock or subordinated indebtedness, or make other restricted payments;
- create or incur liens with respect to our assets;
- make investments, loans or advances;
- incur dividend or other payment restrictions;
- prepay subordinated indebtedness;
- enter into certain transactions with affiliates; and
- merge, consolidate, reorganize or sell our assets, or use asset sale proceeds.

Our ability to comply with the provisions of the 2029 Indenture, the 2026 Indenture, and the Liggett Credit Facility may be affected by changes in our operating and financial performance, changes in general business and economic conditions, adverse regulatory developments or other events beyond our control. The breach of any of these covenants could result in a default under our indebtedness, which could cause those and other obligations to become due and payable. If any of our indebtedness is accelerated, we may not be able to repay it. See Item 7. "*Management's Discussion and Analysis of Financial Condition and Results of Operations. Liquidity and Capital Resources"* for details of debt covenant compliance.

Changes in respect of the debt ratings of our notes may materially and adversely affect the availability, the cost and the terms and conditions of our debt.

Both we and several issues of our notes have been publicly rated by Moody's Investors Service, Inc., and Standard & Poor's Rating Services, independent rating agencies. In addition, future debt instruments may be publicly rated. These debt ratings may affect our ability to raise debt. Any future downgrading of the notes or our other debt by Moody's or S&P may affect the cost and terms and conditions of our financings and could adversely affect the value and trading of the notes.

The Tax Act may increase the after-tax cost of debt financings.

The Tax Act limits our interest expense deduction to 30% of taxable income before interest thereafter for non-excepted trade or businesses. One such excepted trade or business is any electing real property trade or business, of which portions of our New Valley real estate business may qualify. Interest expense allocable to an excepted trade or business is not subject to limitation. The Tax Act permits us to carry forward disallowed interest expense indefinitely. Due to our high degree of leverage, a portion of our interest expense in future years may not be deductible, which may increase the after-tax cost of any new debt financings as well as the refinancing of our existing debt. We evaluate the impact of the nondeductible interest on our operations and capital structure on an annual basis.

Risks Relating to Our Structure and Other Business Risks

We are a holding company and depend on cash payments from our subsidiaries, which are subject to contractual and other restrictions, to service our debt and to pay dividends on our common stock.

We are a holding company and have no operations of our own. We hold our interests in our various businesses through our wholly-owned subsidiaries, VGR Holding LLC ("VGR Holding") and New Valley. In addition to our own cash resources, our ability to pay interest on our debt and to pay dividends on our common stock depends on the ability of VGR Holding and New Valley to make cash available to us. VGR Holding's ability to pay dividends to us depends primarily on the ability of Liggett and Vector Tobacco, its wholly-owned subsidiaries, to generate cash and make it available to VGR Holding. The Liggett Credit Facility contains a restricted payments test that limits the ability of Liggett to pay cash dividends to VGR Holding. The ability of Liggett to meet the restricted payments test may be affected by factors beyond its control.

Our receipt of cash payments, as dividends or otherwise, from our subsidiaries is an important source of our liquidity and capital resources. If we do not have sufficient cash resources of our own and do not receive payments from our subsidiaries in an amount sufficient to repay our debts and to pay dividends on our common stock, we must obtain additional funds from other sources. There is a risk that we will not be able to obtain additional funds at all or on terms acceptable to us. Our inability to service these obligations and to continue to pay dividends on our common stock would significantly harm us and the value of our notes and our common stock.

Maintaining the integrity of our computer systems and protecting confidential information and personal identifying information has become increasingly costly, as cybersecurity incidents could disrupt business operations, result in the loss of critical and confidential information, and adversely impact our reputation and results of operations.

Global cybersecurity threats and incidents can range from uncoordinated individual attempts that gain unauthorized access to information technology systems both internally and externally, to sophisticated and targeted measures known as advanced persistent threats, directed at us and our stakeholders. In the ordinary course of our business, we collect and store sensitive data, including our proprietary business information and intellectual property, and personally identifiable information of our tobacco customers. Additionally, we increasingly rely on third-party service providers, including cloud storage solution providers. The secure processing, maintenance and transmission of this information are critical to our operations and with respect to information collected and stored by our third-party service providers, we are reliant upon their security procedures. Our systems and the confidential information on them may also be compromised by employee misconduct or employee error. We and our third-party service providers have experienced, and expect to continue to experience, these types of internal and external threats and incidents, which can result, and have resulted, in the misappropriation and unavailability of critical data and confidential or proprietary information (our own and that of third parties, including personally identifiable information), the disruption of business operations, and the loss of funds. Depending on their nature and scope, these incidents could potentially also result in the destruction or corruption of such data and information. Our business interruption insurance may be insufficient to compensate us for losses that may occur. The potential consequences of a material cybersecurity incident include reputational damage, litigation with third parties, diminution in the value of the services we provide to our customers, increased cybersecurity protection and remediation costs, business disruption, and the loss of funds or revenue, which in turn could adversely affect our competitiveness and results of operations. Developments in the laws and regulations governing the

handling and transmission of personal identifying information in the United States may require us to devote more resources to protecting such information, which could in turn adversely affect our results of operations and financial condition.

We depend on our key personnel.

We depend on the efforts of our executive officers and other key personnel as our named executive officers have been employed by us for an average of 29 years as of December 31, 2022. While we believe that we could find replacements for these key personnel, the loss of their services could have a significant adverse effect on our operations. Please see the Risk Factor, *"After the Distribution, certain of our executive officers do not devote their full time to Vector Group's affairs, and the overlap may give rise to conflicts."*

Failure to maintain effective internal control over financial reporting could adversely affect us.

The accuracy of our financial reporting depends on the effectiveness of our internal control over financial reporting, the implementation of which requires significant management attention. Internal control over financial reporting can provide only reasonable assurance with respect to the preparation and fair presentation of financial statements and may not prevent or detect misstatements because of its inherent limitations. These limitations include, among others, the possibility of human error, inadequacy or circumvention of controls and fraud. If we do not maintain effective internal control over financial reporting or design and implement controls sufficient to provide reasonable assurance with respect to the preparation and fair presentation of our financial statements, including in connection with controls executed for us by third parties, we might fail to timely detect any misappropriation of corporate assets or inappropriate allocation or use of funds and could be unable to file accurate financial reports on a timely basis. As a result, our reputation, results of operations and stock price could be materially adversely affected.

Risks Relating to our Common Stock

The price of our common stock may fluctuate significantly.

The trading price of our common stock has ranged between $8.64 and $14.39 per share over the past 52 weeks.

The market price of our common stock may fluctuate in response to numerous factors, many of which are beyond our control. These factors include the following:

- actual or anticipated fluctuations in our operating results;
- changes in expectations as to our future financial performance, including financial estimates by securities analysts and investors;
- the operating and stock performance of our competitors;
- our dividend payment ratio and level;
- announcements by us or our competitors of new products or services or significant contracts, acquisitions, strategic partnerships, joint ventures or capital commitments;
- the initiation or outcome of litigation;
- the failure or significant disruption of our operations from various causes related to our critical information technologies and systems including cybersecurity threats to our data and customer data as well as reputational or financial risks associated with a loss of any such data;
- changes in interest rates;
- general economic, market and political conditions;
- additions or departures of key personnel; and
- future sales of our equity or convertible securities.

We cannot predict the extent, if any, to which future sales of shares of common stock or the availability of shares of common stock for future sale, may depress the trading price of our common stock.

In addition, the stock market in recent years has experienced extreme price and trading volume fluctuations that often have been unrelated or disproportionate to the operating performance of individual companies. These broad market fluctuations may adversely affect the price of our common stock, regardless of our operating performance. Furthermore, stockholders may initiate securities class action lawsuits if the market price of our stock drops significantly, which may cause us to incur

substantial costs and could divert the time and attention of our management. These factors, among others, could significantly depress the price of our common stock.

ITEM 1B. *UNRESOLVED STAFF COMMENTS*

None.

ITEM 2. *PROPERTIES*

Our principal executive offices are in Miami, Florida. We lease 12,390 square feet of office space in an office building in Miami. The lease expires in April 2028, as amended in January 2023.

We lease approximately 9,000 square feet of office space in New York, New York under a lease that expires in 2025. New Valley's operating properties are discussed above under the description of New Valley's business and in Note 10 to our consolidated financial statements.

Liggett and LVB

Liggett's tobacco manufacturing facilities, and several of its distribution and storage facilities, are currently located in or near Mebane, North Carolina. Some of these facilities are owned and others are leased. Liggett's office, manufacturing complex and warehouse are pledged as collateral under its Revolving Credit Facility. As of December 31, 2022, the principal properties owned or leased by Liggett are as follows:

Type	Location	Owned or Leased	Approximate Total Square Footage
Storage Facilities	Danville, VA	Owned	578,000
Office and Manufacturing Complex	Mebane, NC	Owned	240,000
Warehouse	Mebane, NC	Owned	60,000
Warehouse	Mebane, NC	Leased	125,000
Warehouse	Mebane, NC	Leased	22,000

LVB leases approximately 22,000 square feet of office space in Morrisville, North Carolina. The lease expires in June 2026.

Liggett's management believes that its property, plant and equipment are well maintained and in good condition and that its existing facilities are sufficient to accommodate a substantial increase in production.

ITEM 3. *LEGAL PROCEEDINGS*

Liggett and other United States cigarette manufacturers have been named as defendants in various types of cases predicated on the theory, among other things, that they should be liable for damages from adverse health effects alleged to have been caused by cigarette smoking or by exposure to secondary smoke from cigarettes.

Reference is made to Note 15 to our consolidated financial statements included elsewhere in this report which is incorporated by reference and contains a general description of certain legal proceedings to which we, or our subsidiaries are a party and certain related matters. Reference is also made to Exhibit 99.1 for additional information regarding the pending smoking-related legal proceedings to which Liggett we are a party. A copy of Exhibit 99.1 will be furnished without charge upon written request to us at our principal executive offices, 4400 Biscayne Boulevard, 10th Floor, Miami, Florida 33137, Attn. Investor Relations.

ITEM 4. *MINE SAFETY DISCLOSURES*

Not applicable.

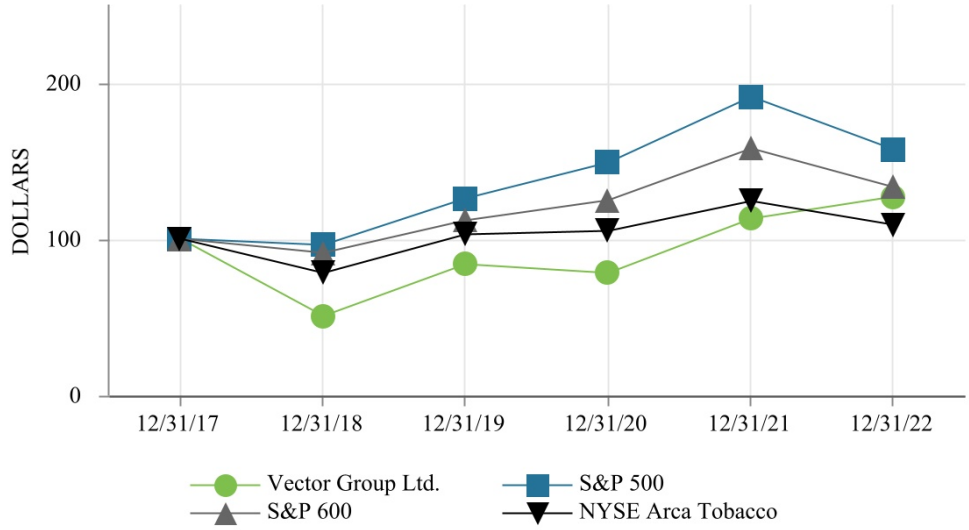
PART II

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

Our common stock is listed and traded on the New York Stock Exchange under the symbol "VGR." At February 6, 2023, there were approximately 1,472 holders of record of our common stock.

Performance Graph

The following graph compares the cumulative total annual return of our Common Stock, the S&P 500 Index, the S&P Small Cap 600 Index, and the NYSE Arca Tobacco Index for the five years ended December 31, 2022. The graph assumes that $100 was invested on December 31, 2017 in the Common Stock and each of the indices, and that all cash dividends and distributions were reinvested. The historical stock prices of Vector presented in the chart have been adjusted to reflect the impact of the distribution of Douglas Elliman Inc. on December 29, 2021. The chart does not reflect the Company's forecast of future financial performance.



	12/17	12/18	12/19	12/20	12/21	12/22
Vector Group Ltd.	100	51	84	78	113	127
S&P 500	100	96	126	149	191	157
S&P 600	100	91	112	125	158	133
NYSE Arca Tobacco	100	78	103	105	124	109

Unregistered Sales of Equity Securities and Use of Proceeds

No securities of ours which were not registered under the Securities Act of 1933 were issued or sold by us during the three months ended December 31, 2022.

Issuer Purchase of Equity Securities

We did not purchase our common stock during the three months ended December 31, 2022.

EXECUTIVE OFFICERS OF THE REGISTRANT

The table below, together with the accompanying text, presents certain information regarding all our current executive officers as of February 21, 2023. Each of the executive officers serves until the election and qualification of such individual's successor or until such individual's death, resignation or removal by the Board of Directors.

Name	Age	Position	Year Individual Became an Executive Officer
Howard M. Lorber	74	President and Chief Executive Officer	2001
Richard J. Lampen	69	Executive Vice President and Chief Operating Officer	1996
J. Bryant Kirkland III	57	Senior Vice President, Chief Financial Officer and Treasurer	2006
Marc N. Bell	62	Senior Vice President, General Counsel and Secretary	1998
J. David Ballard	55	Senior Vice President, Enterprise Efficiency and Chief Technology Officer	2020
Nicholas P. Anson	51	President and Chief Operating Officer of Liggett	2020

Howard M. Lorber has been our President and Chief Executive Officer since January 2006. He served as our President and Chief Operating Officer from January 2001 to December 2005 and has served as a director of ours since January 2001. From November 1994 to December 2005, Mr. Lorber served as the President and as a member of the Board of Directors of New Valley Corporation, the predecessor to our wholly owned subsidiary, New Valley LLC. Mr. Lorber also serves as Chairman of the Board of Directors, President and Chief Executive Officer of Douglas Elliman (NYSE:DOUG), and as Executive Chairman of its subsidiary, Douglas Elliman Realty, LLC. Mr. Lorber was Chairman of the Board of Hallman & Lorber Assoc., Inc., consultants and actuaries of qualified pension and profit sharing plans, and various of its affiliates from 1975 to December 2004 and has been a consultant to these entities since January 2005; Chairman of the Board of Directors since 1987 and Chief Executive Officer from November 1993 to December 2006 of Nathan's Famous, Inc., a chain of fast food restaurants; and a Director of Clipper Realty, Inc., a real estate investment trust, since July 2015. Mr. Lorber was Chairman of the Board of Ladenburg Thalmann Financial Services from May 2001 to July 2006 and Vice Chairman from July 2006 to February 2020. He is also a trustee of Long Island University.

Richard J. Lampen was appointed our Chief Operating Officer on January 14, 2021 and has served as our Executive Vice President since 1995. From October 1995 to December 2005, Mr. Lampen served as the Executive Vice President and General Counsel of New Valley Corporation, where he also served as a director. Mr. Lampen also serves as Executive Vice President and Chief Operating Officer and as a member of the Board of Directors of Douglas Elliman. From September 2006 to February 2020, he has served as President and Chief Executive Officer as well as a director of Ladenburg Thalmann Financial Services. Mr. Lampen also served as Chairman of Ladenburg Thalmann Financial Services from September 2018 to February 2020. From October 2008 to October 2019, Mr. Lampen served as President and Chief Executive Officer as well as a director of Castle Brands Inc.

J. Bryant Kirkland III has been our Chief Financial Officer and Treasurer since April 2006 and our Senior Vice President since May 2016. Mr. Kirkland served as a Vice President of ours from January 2001 to April 2016 and served as New Valley Corporation's Vice President and Chief Financial Officer from January 1998 to December 2005. He has served since July 1992 in various financial capacities with us, Liggett and New Valley. Mr. Kirkland also serves as Senior Vice President, Treasurer and Chief Financial Officer of Douglas Elliman. Mr. Kirkland has served as Chairman of the Board of Directors, President and Chief Executive Officer of Multi Soft II, Inc. and Multi Solutions II, Inc. since July 2012.

Marc N. Bell has been our General Counsel and Secretary since May 1994 and our Senior Vice President since May 2016 and the Senior Vice President and General Counsel of Vector Tobacco since April 2002. Mr. Bell served as a Vice President of ours from January 1998 to April 2016. From November 1994 to December 2005, Mr. Bell served as Associate General Counsel and Secretary of New Valley Corporation and from February 1998 to December 2005, as a Vice President of New Valley. Mr. Bell previously served as Liggett's General Counsel and currently serves as an officer, director or manager for many of Vector Group's or New Valley's subsidiaries. In addition, Mr. Bell serves as Senior Vice President, Secretary and General Counsel of Douglas Elliman.

J. David Ballard has been our Senior Vice President, Enterprise Efficiency and Chief Technology Officer since July 2020 and, from February 2020 to July 2020, served as a consultant to us. Mr. Ballard also serves as Senior Vice President, Enterprise Efficiency and Chief Technology Officer of Douglas Elliman. Prior to joining Vector Group, Mr. Ballard served as Senior Vice President, Enterprise Services of Ladenburg Thalmann Financial Services Inc. from April 2019 to February 2020. Prior to joining Ladenburg, he served as President and Chief Operating Officer for Docupace Technologies, a leading digital

operations technology provider in the wealth management space from March 2018 to April 2019. Mr. Ballard was Executive Vice President and Chief Operating Officer at Cetera Financial Group from April 2015 to March 2018. Prior to his role at Cetera, Mr. Ballard spent more than two decades working in executive and management positions at several firms in the independent financial advisory and asset management industries, including AIG Advisor Group, SunAmerica Mutual Funds and AIG Retirement Services.

Nicholas P. Anson was promoted to President and Chief Operating Officer of Liggett and Liggett Vector Brands in April 2020. Mr. Anson joined Liggett in 2001 and has served in numerous senior roles over his more than 20 years with Liggett. Previously, Mr. Anson served as Executive Vice President of Finance & Administration and Chief Financial Officer for Liggett Vector Brands from 2013 to 2020. Mr. Anson was responsible for Liggett Vector Brands' finance and human resources organizations. His duties included coordination with and certain indirect responsibilities for finance and human resources matters at Liggett and Vector Tobacco, which are affiliated companies of Liggett Vector Brands.

ITEM 6. RESERVED

Reserved.

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

(Dollars in Thousands, Except Per Share Amounts)

Overview

We are a holding company and are engaged principally in two business segments:

- Tobacco: the manufacture and sale of discount cigarettes in the United States through our Liggett Group LLC and Vector Tobacco LLC subsidiaries, and
- Real Estate: the real estate investment business through our subsidiary, New Valley LLC, which (i) has interests in numerous real estate projects across the United States and (ii) is seeking to acquire or invest in additional real estate properties or projects.

Our tobacco subsidiaries' cigarettes are produced in 100 combinations of length, style and packaging. Liggett's current brand portfolio includes:

- *Montego*
- *Eagle 20's*
- *Pyramid*
- *Grand Prix, Liggett Select, Eve, USA* and various Partner Brands and private label brands.

The discount segment is a challenging marketplace, with consumers having less brand loyalty and placing greater emphasis on price. Liggett's competition is divided into two segments. The first segment consists of the three largest manufacturers of cigarettes in the United States: Philip Morris USA Inc., which is owned by Altria Group, Inc., RJ Reynolds Tobacco Company, which is owned by British American Tobacco Plc, and ITG Brands LLC, which is owned by Imperial Brands Plc. These three manufacturers, while primarily premium cigarette-based companies, also produce and sell discount cigarettes. The second segment of competition is comprised of a group of smaller manufacturers and importers, most of which sell deep discount cigarettes.

See Item 1. "*Business*" for detailed overview and description of our principal operations.

Certain discussions of the changes in our results of operations and liquidity and capital resources from the year ended December 31, 2021 as compared to the year ended December 31, 2020 have been omitted from this Form 10-K and may be found in Item 7. "*Management's Discussion and Analysis of Financial Condition and Results of Operations*" of our Form 10-K for the fiscal year ended December 31, 2021 filed with the Securities and Exchange Commission on March 2, 2022.

The financial results of Douglas Elliman through the distribution date are presented as income (loss) from discontinued operations, net of income taxes on our consolidated statements of operations and are not included in our results from continuing operations in the 2021 period discussed below. See Note 6.

Recent Developments

Montego. From August 2020 to February 2022, Liggett expanded the distribution of its *Montego* deep discount brand nationally. *Montego* became Liggett's largest brand by volume during the second quarter of 2022. Prior to August 2020, *Montego* was sold in select targeted markets in four states. *Montego*'s unit volume represented approximately 47% of Liggett's unit volume for the year ended December 31, 2022 compared to approximately 16% for the year ended December 31, 2021.

Menthol and Flavorings. On May 4, 2022, FDA published a proposed rule to prohibit menthol as a characterizing flavor in cigarettes. For the year ended December 31, 2022, approximately 20% of our cigarette unit sales were menthol flavored. We cannot predict how a restriction on the sale and distribution of tobacco products with menthol, if ultimately issued by FDA, will impact product sales, whether it will have a material adverse effect on Liggett or Vector Tobacco, or whether it will impact Liggett and Vector Tobacco to a greater degree than other companies in the industry.

Nicotine. On June 21, 2022, the FDA indicated it plans to publish a proposed rule in May 2023 that establishes a tobacco product standard reducing the level of nicotine in cigarettes to non-addictive levels. Under the Tobacco Control Act ("TCA"),

FDA may adopt a tobacco product standard for nicotine if the agency concludes that such a standard is appropriate for the protection of the public health. FDA may refer the proposed regulation to the Tobacco Products Scientific Advisory Committee ("TPSAC") for a report and recommendation. FDA may consider a wide range of issues prior to the promulgation of a final rule, including the technical achievability of compliance with the proposed product standard. The rulemaking process could take many months or years and once a final rule is published it ordinarily would not be expected to take effect until at least one year after the date of publication. We cannot predict how a tobacco product standard reducing nicotine, if ultimately issued by FDA, will impact product sales, whether it will have a material adverse effect on Liggett or Vector Tobacco, or whether it will impact Liggett and Vector Tobacco to a greater degree than other companies in the industry.

Repurchase of 10.5% Senior Notes due 2026. In September 2022, we repurchased in the market $12,865 in aggregate principal amount of our 10.5% Senior Notes outstanding and recorded a gain of $412 associated with the repurchase. The Senior Notes that were repurchased have been retired.

Recent Developments in Tobacco-Related Litigation

The cigarette industry continues to be challenged on numerous fronts. New cases continue to be commenced against Liggett and other cigarette manufacturers. Liggett could be subjected to substantial liabilities and bonding requirements from litigation relating to cigarette products. Adverse litigation outcomes could have a negative impact on our ability to operate due to their impact on cash flows. It is possible that there could be adverse developments in pending cases including the certification of additional class actions. An unfavorable outcome or settlement of pending tobacco-related litigation could encourage the commencement of additional litigation. In addition, an unfavorable outcome in any tobacco-related litigation could have a material adverse effect on our consolidated financial position, results of operations or cash flows. Liggett could face difficulties in obtaining a bond to stay execution of a judgment pending appeal.

Mississippi Litigation. In January 2016, the Attorney General for Mississippi filed a motion in Chancery Court in Jackson County, Mississippi to enforce the March 1996 settlement agreement among Liggett, Mississippi and other states (the "1996 Agreement") alleging that Liggett owes Mississippi at least $27,000 in compensatory damages and interest. In April 2017, the Chancery Court ruled, over Liggett's objections, that the 1996 Agreement should be enforced as Mississippi claims and referred the matter first to arbitration and then to a Special Master for further proceedings to determine the amount of damages, if any, to be awarded. In April 2021, following confirmation of the final arbitration award, the parties stipulated that the unpaid principal (exclusive of interest) purportedly due from Liggett to Mississippi pursuant to the 1996 Agreement was approximately $16,700, subject to Liggett's right to litigate and/or appeal the enforceability of the 1996 Agreement (and all issues other than the calculation of the principal amount allegedly due).

In September 2019, the Special Master held a hearing regarding Mississippi's claim for pre- and post-judgment interest. In August 2021, the Special Master issued a final report with proposed findings and recommendations that pre-judgment interest, in the amount of approximately $18,800, is due from Liggett from April 2005 - August 3, 2021. In April 2022, the Mississippi Chancery Court affirmed the Special Master's findings and a final judgment was entered by the court on June 1, 2022. Additional interest amounts will accrue if the judgment is not overturned on appeal. Liggett continues to assert that the April 2017 Chancery Court order is in error because the most favored nations provision in the 1996 Agreement eliminated all of Liggett's payment obligations to Mississippi. Liggett appealed the final judgment and posted a $24,000 bond in June 2022. Briefing on the appeal is underway. We cannot predict the outcome of this matter but if the judgment is not overturned on appeal, it could have a material adverse effect on our consolidated financial position.

See Item 7. "*Management's Discussion and Analysis of Financial Condition and Results of Operations. Legislation and Regulation*" for further information on litigation.

Critical Accounting Estimates

General. The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America ("GAAP") requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities and the reported amounts of revenues and expenses. Significant estimates subject to material changes in the near term include impairment charges, valuation of intangible assets, promotional accruals, actuarial assumptions of pension plans, deferred tax liabilities, settlement accruals, valuation of investments, including other-than-temporary impairments to such investments, and litigation and defense costs. Actual results could differ from those estimates.

Revenue Recognition. Revenue is measured based on a consideration specified in a contract with a customer and excludes any sales incentives. Revenue is recognized when (a) an enforceable contract with a customer exists, that has commercial substance, and collection of substantially all consideration for services is probable; and (b) the performance obligations to the customer are satisfied either over time or at a point in time.

Revenue from cigarette sales, which include federal excise taxes billed to customers, are recognized upon shipment of cigarettes when control has passed to the customer. Average collection terms for Tobacco sales range between three and twelve days from the time cigarettes are shipped to the customer. We record a liability for goods estimated to be returned in other current liabilities and the associated receivable for anticipated federal excise tax refunds in other current assets on the consolidated balance sheets. The allowance for returned goods is based principally on sales volumes and historical return rates. The estimated costs of sales incentives, including customer incentives and trade promotion activities, are based principally on historical experience and are accounted for as reductions in Tobacco revenue. Expected payments for sales incentives are included in other current liabilities on our consolidated balance sheets. We account for shipping and handling costs as fulfillment costs as part of cost of sales.

Revenue from facilities primarily related to Escena and consisted of revenues from food and beverage sales, fees charged for gameplay and the sale of golf related equipment and apparel. Revenue is recognized at the time of sale.

Revenue from investments in real estate is recognized from land and building sales at the time of the closing of a sale, which is typically when cash is due, the performance obligation is satisfied as the title to and possession of the real estate asset are transferred to the buyer and we have no further obligations or involvement in the real estate asset.

Contingencies. We record Liggett's product liability legal expenses and other litigation costs as operating, selling, administrative and general expenses as those costs are incurred. As discussed in Note 15 to our consolidated financial statements, legal proceedings regarding Liggett's tobacco products are pending or threatened in various jurisdictions against Liggett and us.

We record provisions in our consolidated financial statements for pending litigation when we determine that an unfavorable outcome is probable and the amount of loss can be reasonably estimated. At the present time, while it is reasonably possible that an unfavorable outcome in a case may occur, except as discussed in Note 15 to our consolidated financial statements and discussed below related to the 16 cases where an adverse verdict was entered against Liggett: (i) management has concluded that it is not probable that a loss has been incurred in any of the pending tobacco-related cases; or (ii) management is unable to reasonably estimate the possible loss or range of loss that could result from an unfavorable outcome of any of the pending tobacco-related cases and, therefore, management has not provided any amounts in the consolidated financial statements for unfavorable outcomes, if any. Legal defense costs are expensed as incurred.

Although Liggett has generally been successful in managing litigation in the past, litigation is subject to uncertainty and significant challenges remain, particularly with respect to the Engle progeny cases.

A reader of this Form 10-K should not infer from the absence of any reserve in our consolidated financial statements that we will not be subject to significant tobacco-related liabilities in the future. Litigation is subject to many uncertainties, and it is possible that our consolidated financial position, results of operations or cash flows could be materially adversely affected by an unfavorable outcome in any such tobacco-related litigation.

There may be several other proceedings, lawsuits and claims pending against us and certain of our consolidated subsidiaries unrelated to tobacco or tobacco product liability. We are of the opinion that the liabilities, if any, ultimately resulting from such other proceedings, lawsuits and claims should not materially affect our financial position, results of operations or cash flows.

Master Settlement Agreement. As discussed in Note 15 to our consolidated financial statements, Liggett and Vector Tobacco are participants in the Master Settlement Agreement ("MSA"). Liggett and Vector Tobacco have no payment obligations under the MSA except to the extent their market shares exceed approximately 1.65% and 0.28%, respectively, of total cigarettes sold in the United States. Their obligations, and the related expense charges under the MSA, are subject to adjustments based upon, among other things, the volume of cigarettes sold by Liggett and Vector Tobacco, their relative market shares and inflation. Since relative market shares are based on cigarette shipments, the best estimate of the allocation of charges under the MSA is recorded in cost of sales when the products are shipped. Settlement expenses under the MSA recorded in the accompanying consolidated statements of operations were $276,204 for 2022, $171,058 for 2021 and $175,837 for 2020. Adjustments to these estimates are recorded in the period that the change becomes probable and the amount can be reasonably estimated.

Stock-Based Compensation. Our stock-based compensation uses a fair-value-based method to recognize non-cash compensation expense for share-based transactions. Under the fair value recognition provisions, we recognize stock-based compensation net of an estimated forfeiture rate and only recognize compensation cost for those shares expected to vest on a straight-line basis over the requisite service period of the award. We recognized stock-based compensation expense of $339, $849 and $1,428 in 2022, 2021 and 2020, respectively, related to the amortization of stock option awards and $7,509, $13,949 and $7,546, respectively, related to the amortization of restricted stock grants. As of December 31, 2022 and 2021, there was $41 and $381, respectively, of total unrecognized cost related to employee stock options and $15,501 and $10,627, respectively, of total unrecognized cost related to restricted stock grants. See Note 14 to our consolidated financial statements.

Employee Benefit Plans. The determination of our net pension and other postretirement benefit income or expense is dependent on our selection of certain assumptions used by actuaries in calculating such amounts. Those assumptions include, among others, the discount rate, expected long-term rate of return on plan assets and rates of increase in compensation and healthcare costs. We determine discount rates by using a quantitative analysis that considers the prevailing prices of investment grade bonds and the anticipated cash flow from our two qualified defined benefit plans and our postretirement medical and life insurance plans. These analyses construct a hypothetical bond portfolio whose cash flow from coupons and maturities match the annual projected cash flows from our pension and retiree health plans. As of December 31, 2022, our benefit obligations were computed assuming a discount rate between 4.90% - 5.40%. As of December 31, 2022, our service cost was computed assuming a discount rate of 1.80% - 2.85%. In determining our expected rate of return on plan assets, we consider input from our external advisors and historical returns based on the expected long-term rate of return which is the weighted average of the target asset allocation of each individual asset class. Our actual 10-year annual rate of return on our pension plan assets was 4.83%, 7.74% and 6.91% for the years ended December 31, 2022, 2021 and 2020, respectively, and our actual five-year annual rate of return on our pension plan assets was 2.42%, 7.86% and 7.51% for the years ended December 31, 2022, 2021 and 2020, respectively. In computing expense for the year ended December 31, 2023, we will use an assumption of a 6.3% annual rate of return on our pension plan assets. In accordance with GAAP, actual results that differ from our assumptions are accumulated and amortized over future periods and therefore, generally affect our recognized income or expense in such future periods. While we believe that our assumptions are appropriate, significant differences in our actual experience or significant changes in our assumptions may materially affect our future net pension and other postretirement benefit income or expense.

Net pension expense for defined benefit pension plans and other postretirement expense was $1,358, $1,390 and $4,210 for the years ended December 31, 2022, 2021 and 2020, respectively, and we currently anticipate benefit expense will be approximately $1,750 for 2023. In contrast, our funding obligations under the pension plans are governed by the Employee Retirement Income Security Act (“ERISA”). To comply with ERISA’s minimum funding requirements, we do not currently anticipate that we will be required to make any funding to the tax qualified pension plans for the pension plan year beginning on January 1, 2023 and ending on December 31, 2023.

Long-Term Investments and Impairments. At December 31, 2022, our long-term investments were comprised of $28,919 of equity securities at fair value that qualify for the net asset value (“NAV”) practical expedient and $16,040 of long-term investments that were accounted for under the equity method. Our investments in equity securities at fair value that qualify for the NAV practical expedient consisted primarily of investment partnerships investing in investment securities. The investments in these investment partnerships are illiquid and the ultimate realization of these investments is subject to the performance of the underlying partnership and its management by the general partners. The estimated fair value of these investments was provided by the partnerships based on the indicated market values of the underlying assets or investment portfolio. Our investments accounted for under the equity method included interests in partnerships in which we have the ability to exercise significant influence over their operating and financial policies. The estimated fair value of the investments is either provided by the partnerships based on the indicated market values of the underlying assets or is calculated internally based on the number of shares owned and the equity in earnings or losses and interest income we recognize on the investment. Gains are recognized when realized in our consolidated statement of operations. Losses are recognized as realized or upon the determination of the occurrence of an other-than-temporary decline in fair value. Pursuant to the amendments provided by ASU 2016-01, Financial Instruments – Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities (“ASU 2016-01”), our long-term investments that qualify for the NAV practical expedient are measured at fair value with changes in fair value recognized in net income. Therefore, impairment analyses for these investments are no longer warranted.

At December 31, 2022, we also had $2,755 of investments in various limited liability companies that were classified as equity securities without readily determinable fair values that do not qualify for the NAV practical expedient. The investments are included in “Other assets” on the consolidated balance sheets and are valued at cost minus impairment, if any, plus or minus changes resulting from observable price changes in orderly transactions for the identical or a similar investment. On a quarterly basis, we evaluate our investments to determine if there are indicators of impairment. If so, we also determine whether there is an impairment and if it is considered temporary or other than temporary. We believe that the assessment of temporary or other-than-temporary impairment includes judgment and relevant facts and circumstances. The impairment indicators that are taken into consideration as part of our analysis include (a) a significant deterioration in the earnings performance, credit rating, asset quality, or business prospects of the investee, (b) a significant adverse change in the regulatory, economic, or technological environment of the investee, (c) a significant adverse change in the general market condition of either the geographical area or the industry in which the investee operates, and (d) factors that raise significant concerns about the investee’s ability to continue as a going concern, such as negative cash flows from operations, working capital deficiencies, or noncompliance with statutory capital requirements or debt covenants.

Current Expected Credit Losses. On January 1, 2020, we adopted *ASU No. 2016-13, Financial Instruments - Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, therefore, our measurement of credit losses for most financial assets and certain other instruments has been modified as discussed in Note 3 to our consolidated financial statements.

- *Tobacco receivables:* Average collection terms for Tobacco sales range between three and twelve days from the time that the cigarettes are shipped to the customer. Based on Tobacco historical and ongoing cash collections from customers, an estimated credit loss in accordance with *ASU 2016-13* was not recorded for these trade receivables as of January 1, 2020 (date of adoption), December 31, 2021 and December 31, 2022.
- *Term loan receivables:* New Valley provides term loans to real estate developers, which are included in Other assets on the consolidated balance sheets. The loans are secured by guarantees and are evaluated individually. Because New Valley does not have internal historical loss information by which to evaluate the risk of credit losses, external market data measuring default risks on high yield loans as of each measurement date was utilized to estimate reserves for credit losses on these loans. New Valley's expected credit loss estimate was $3,100 as of adoption (January 1, 2020). New Valley's expected credit loss estimate was $15,928 at both December 31, 2021 and December 31, 2022.

Intangible Assets. Intangible assets with indefinite lives are not amortized, but instead are tested for impairment on an annual basis, or whenever events or changes in business circumstances indicate the carrying value of the assets may not be recoverable.

Our intangible asset associated with the benefit under the MSA is related to Vector Tobacco. The fair value of the intangible asset associated with the benefit under the MSA is determined using discounted cash flows. This approach involves two steps: (i) estimating future cash savings due to the payment exemption under the MSA and (ii) discounting the resulting cash flow savings to determine fair value. This fair value is then compared with the carrying value of the intangible asset associated with the benefit under the MSA. To the extent that the carrying amount exceeds the implied fair value of the intangible asset, an impairment loss is recognized. We performed its impairment test for the year ended December 31, 2022 and no impairment was noted.

Income Taxes. The application of income tax law is inherently complex. Laws and regulations in this area are voluminous and are often ambiguous. As such, we are required to make many subjective assumptions and judgments regarding our income tax exposures. Interpretations of and guidance surrounding income tax laws and regulations change over time and, as a result, changes in our subjective assumptions and judgments may materially affect amounts recognized in our consolidated financial statements.

See Note 13 to our consolidated financial statements for additional information regarding our accounting for income taxes and uncertain tax positions.

Results of Operations

The following discussion provides an assessment of our results of operations, capital resources and liquidity and should be read in conjunction with our consolidated financial statements and related notes included elsewhere in this report. The consolidated financial statements include the accounts of Liggett, Vector Tobacco, Liggett Vector Brands, New Valley, and other less significant subsidiaries.

Our business segments were Tobacco and Real Estate for the two years ended December 31, 2022 and 2021. The Tobacco segment consists of the manufacture and sale of cigarettes. The Real Estate segment includes our investment in New Valley, which includes investments in real estate and investments in real estate ventures.

The accounting policies of the segments are the same as those described in the summary of significant accounting policies and can be found in Note 1 to our consolidated financial statements.

	Year Ended December 31,	
	2022	2021
	(Dollars in thousands)	
Revenues:		
Tobacco	$ 1,425,125	$ 1,202,497
Real Estate	15,884	18,203
Total revenues	$ 1,441,009	$ 1,220,700
Operating income (loss):		
Tobacco	$ 347,044 [1]	$ 360,317 [2]
Real Estate	8,016	4,066
Corporate and Other	(16,050)	(43,944) [3]
Total operating income	$ 339,010	$ 320,439

[1] Operating income includes $239 of litigation settlement and judgment expense and $2,123 received from a litigation settlement associated with the MSA (which reduced cost of sales).

[2] Operating income includes $211 of litigation settlement and judgment expense and $2,722 received from a litigation settlement associated with the MSA (which reduced cost of sales).

[3] Operating loss includes transaction expenses of $10,468 and accelerated stock compensation of $4,317 related to the Distribution of Douglas Elliman; and $910 of gain on sale of assets.

Pricing actions

Since January 1, 2021, Liggett has taken the following pricing actions:

		Brand			
	Amount per pack	*Montego*	*Eagle 20's*	*Pyramid*	*Liggett Select, Eve and Grand Prix*
January 25, 2021 [1]	$ 0.14	—	P	P	P
June 28, 2021 [1]	0.14	—	P	P	P
September 27, 2021 [1]	0.15	—	P	P	P
January 31, 2022 [1]	0.10	P	—	—	—
January 31, 2022 [1]	0.15	—	P	P	P
April 29, 2022 [1]	0.16	—	P	P	P
May 1,2022 [2]	0.10	P	—	—	—
July 29, 2022 [1]	0.16	P	P	P	P
October 28, 2022 [1]	0.16	—	P	P	P
October 28, 2022 [1]	0.10	P	—	—	—
January 27, 2023 [1]	0.16	—	P	P	P
January 27, 2023 [1]	0.10	P	—	—	—

[1] List price increase

[2] Promotional spending reduction

2022 Compared to 2021

Revenues. Total revenues were $1,441,009 for the year ended December 31, 2022 compared to $1,220,700 for the year ended December 31, 2021. The $220,309 (18.0%) increase in revenues was due to a $222,628 increase in Tobacco revenues related to increased unit volume and increases in net pricing, partially offset by a $2,319 decline in Real Estate revenues.

Cost of sales. Total cost of sales was $998,658 for the year ended December 31, 2022 compared to $769,542 for the year ended December 31, 2021. The $229,116 (29.8%) increase in cost of sales was due to a $233,316 increase in Tobacco cost of sales related to increased sales volume, offset by a $4,200 decline in Real Estate cost of sales.

Expenses. Operating expenses were $103,341 for the year ended December 31, 2022 compared to $130,719 for the year ended December 31, 2021. The $27,378 (20.9%) decline was due to a $27,894 decline in Corporate and Other expense and a $2,069 decline in Real Estate expenses. This was offset by a $2,585 increase in Tobacco expenses for the year ended December 31, 2022.

Operating income. Operating income was $339,010 for the year ended December 31, 2022 compared to $320,439 for the year ended December 31, 2021, an increase of $18,571 (5.8%). Real Estate operating income increased by $3,950 and Corporate and Other operating loss declined by $27,894. This was offset by a $13,273 decline in Tobacco operating income.

Other expenses. Other expenses were $118,448 and $110,478 for the years ended December 31, 2022 and 2021, respectively. For the year ended December 31, 2022, other expenses primarily consisted of interest expense of $110,665, equity in losses from real estate ventures of $5,946, and equity in losses from investments of $4,995. This was offset by other income of $2,746, and a gain of $412 recognized on the repurchase of the 10.5% Senior Notes. For the year ended December 31, 2021, other expenses primarily consisted of interest expense of $112,728 and loss on the extinguishment of debt of $21,362. This was offset by equity in earnings from real estate ventures of $10,250, other income of $10,687 and equity in earnings from investments of $2,675.

Income before provision for income taxes. Income before income taxes was $220,562 and $209,961 for the years ended December 31, 2022, and 2021, respectively.

Income tax expense. Income tax expense was $61,861 for the year ended December 31, 2022 compared to income tax expense of $62,807 for the year ended December 31, 2021. Our income tax rates for the years ended December 31, 2022 and 2021 do not bear a customary relationship to statutory income tax rates as a result of the impact of nondeductible expenses, state income taxes, changes in valuation allowances, and excess tax benefits on stock-based compensation.

Tobacco.

Tobacco revenues. All our Tobacco sales were in the discount category in 2022 and 2021. For the year ended December 31, 2022, Tobacco revenues were $1,425,125 compared to $1,202,497 for the year ended December 31, 2021. Revenues increased by $222,628 (18.5%) due primarily to a 19.9% (1,720.0 million units) increase in unit sales volume which resulted in a favorable variance of $239,684. This was partially offset by a decline in the average selling price of our brands due to changes in sales mix, which occurred primarily as a result of the volume increase in our deep discount brand, Montego, and the volume decline in our other brands which are priced in the traditional discount category. The change in sales mix resulted in an unfavorable price variance of $17,056.

For the year ended December 31, 2022, our strategy for *Montego* was based on volume growth, while our strategy for *Eagle 20's* and *Pyramid* was based on income growth. Because *Montego* was in the volume growth phase, it became Liggett's largest brand by volume during the year ended December 31, 2022 and its volume increased to approximately 47% of Liggett's total unit sales for the year ended December 31, 2022 from approximately 16% for the year ended December 31, 2021. As a result of the growth in *Montego's* volume and price increases that began in the fourth quarter of 2018, *Eagle 20's* is now Liggett's second largest brand and its percentage of Liggett's total unit sales declined to approximately 35% for the year ended December 31, 2022 from approximately 57% for the year ended December 31, 2021. *Pyramid*, Liggett's third-largest brand, also declined to approximately 13% of Liggett's total unit sales for the year ended December 31, 2022 from approximately 20% for the year ended December 31, 2021.

Tobacco cost of sales. The major components of our Tobacco cost of sales were as follows:

	Year Ended December 31,	
	2022	2021
Manufacturing overhead, raw materials and labor	$ 154,934	$ 121,424
Federal excise taxes	520,760	434,695
FDA expense	30,686	23,832
MSA expense, net of market share exemption	276,204 (1)	171,058 (2)
Customer shipping and handling	8,747	7,006
Total cost of sales	$ 991,331	$ 758,015

(1) Includes $2,123 received from a litigation settlement associated with the MSA expense (which reduced cost of sales).
(2) Includes $2,722 received from a litigation settlement associated with the MSA expense (which reduced cost of sales).

The Tobacco segment's MSA expense is the most volume-sensitive component (on a per-unit basis) of its cost of sales because, under the terms of the MSA, the Tobacco segment has no payment obligations except to the extent that its U.S. cigarette market share exceeds 1.93%. We estimate MSA expense based on total domestic taxable cigarette shipments in the United States, our taxable shipments and inflation. Based on assumptions discussed below, we estimated our MSA expense increased to $0.53 per pack for the year ended December 31, 2022 from our estimate of $0.40 per pack for the year ended December 31, 2021.

Our MSA expense is impacted by total domestic taxable cigarette shipments in the United States. As of December 31, 2022, we estimate taxable shipments in the U.S. will decline by 9.8% in 2022, compared to our estimate as of December 31, 2021 of 7.3% in 2021. (The actual change in 2021 taxable shipments was a decline of 6.1%.) We estimate our 2022 projected annual MSA expense changes by approximately $1,800 for each 1% change in U.S. shipment volumes.

Inflationary pressures also impact Liggett's MSA expense, which is subject to an annual inflation adjustment. The inflation adjustment is the greater of the U.S. CPI rate or 3%. As of December 31, 2022, Liggett's management assumed an inflation adjustment to MSA expense of 6.5% compared to an assumption of 7.0% as of December 31, 2021. (The actual inflation adjustment to the MSA in 2021 was 7.0%.) Our annual MSA expense increases by approximately $2,600 for each 1% increase in inflation of more than 3%.

In addition to the MSA expense, we could experience inflationary impacts from manufacturing costs. The largest component of Liggett's manufacturing costs is leaf tobacco and other raw materials. In recent years, due to declining prices of leaf tobacco as well as efficiencies gained from technological innovation in Liggett's factory, Liggett's raw material costs have been relatively flat and, therefore, prior to 2021, Liggett's cost of sales had not been significantly impacted by inflation. During the year ended December 31, 2022, Liggett experienced a 5.8% increase in leaf tobacco and raw materials (on a per-unit basis) compared to 0.8% during the year ended December 31, 2021. Further, when including labor costs, manufacturing overhead and shipping costs with leaf tobacco and raw materials, Liggett experienced a 6.3% increase in production costs (on a per-unit basis) during the year ended December 31, 2022, compared to a 2.0% increase in production costs during the year ended December 31, 2021.

Tobacco gross profit was $433,794 for the year ended December 31, 2022 compared to $444,482 for the year ended December 31, 2021, a decline of $10,688 (2.4%). This decline in gross profit for the year ended December 31, 2022 was primarily attributable to declines in net pricing (due to the growth of the *Montego* brand) and higher per unit MSA expense partially offset by a 19.9% increase in unit sales and increased pricing across all brands. As a percentage of revenue (excluding Federal Excise Taxes), Tobacco gross profit margin declined from 57.9% in the 2021 period to 48.0% in the 2022 period primarily due to the growth of the *Montego* brand.

Tobacco expenses. Tobacco operating, selling, general and administrative expenses, excluding settlements and judgments, were $86,511 for the year ended December 31, 2022 compared to $83,954 for the year ended December 31, 2021. The $2,557 (3.0%) increase is primarily due to higher sales and marketing expenses related to the return to pre-pandemic business activities and increased distribution of *Montego*. Tobacco product liability legal expenses, including settlements and judgments, were $8,031 and $6,436 for the years ended December 31, 2022 and 2021, respectively.

Tobacco operating income. Tobacco operating income was $347,044 for the year ended December 31, 2022 compared to $360,317 for the year ended December 31, 2021. The decline of $13,273 (3.7%) was primarily attributable to lower gross profit margins, as discussed above, and increased operating, selling, general and administrative expenses.

Real Estate.

Real Estate revenues. Real Estate revenues were $15,884 and $18,203 for the years ended December 31, 2022 and 2021, respectively. Real Estate revenues declined by $2,319 (12.7%), which was primarily related to the decline in revenues from investments in real estate in the current period.

Real Estate revenues, cost of sales, expenses and operating income for the years ended December 31, 2022 and 2021, respectively, were as follows:

	Year Ended December 31, 2022	2021
Real Estate Revenues:		
Revenues from investments in real estate	$ 12,625	$ 12,850
Sales on facilities primarily from Escena	3,259	5,353
Total real estate revenues	15,884	18,203
Real Estate Cost of Sales:		
Cost of sales from investments in real estate	5,891	7,508
Cost of sales on facilities primarily from Escena	1,436	4,019
Total real estate cost of sales	7,327	11,527
Operating, selling, administrative and general expenses	541	2,610
Operating income	$ 8,016	$ 4,066

Corporate and other.

Corporate and other loss. The operating loss at the corporate segment was $16,050 for the year ended December 31, 2022 compared to $43,944 for the same period in 2021. The decline of $27,894 was due in part to the absence of transaction expenses of $10,468 and accelerated stock compensation of $4,317 related to the Distribution. In addition, corporate expenses declined after the Distribution due to lower executive salaries and payments under various agreements with Douglas Elliman. Stock compensation expense also declined for the year ended December 31, 2022 due the absence of the accelerated stock compensation associated with the Distribution as well as the timing of vesting of stock awards.

Summary of Real Estate Investments

We own and seek to acquire investment interests in various domestic and international real estate projects through debt and equity investments. Our real estate investments primarily include the following projects as of December 31, 2022:

	(Dollars in Thousands. Area and Unit Information in Ones)												
Location	Date of Initial Investment	Percentage Owned (1)	Net Cash Invested	Cumulative Earnings (Losses)	Carrying Value as of 12/31/2022	Future Capital Commit-ments from New Valley (2)	Projected Residential and/or Hotel Area	Projected Commercial Space	Projected Number of Residential Lots, Units and/or Hotel Rooms	Projected Construction Start Date	Projected Construction End Date
Escena, net (liquidated April 2022)	Master planned community, golf course, and club house in Palm Springs, CA	March 2008	100%	$ (17,632)	$ 17,632	$ —	$ —	450 Acres	667 R Lots 450 H	N/A	N/A
Investments in real estate, net				$ (17,632)	$ 17,632	$ —	$ —				
Investments in real estate ventures:											
111 Murray Street	TriBeCa, Manhattan, NY	May 2013	9.5%	$ 7,285	$ (4,414)	$ 2,871	$ —	330,000 SF	1,700 SF	157 R	September 2014	Completed
87 Park (8701 Collins Avenue)	Miami Beach, FL	December 2013	23.1%	(6,646)	6,646	—	—	160,000 SF	TBD	70 R	October 2015	Completed
125 Greenwich Street	Financial District, Manhattan, NY	August 2014	13.4%	7,992	(7,992)	—	—	306,000 SF	16,000 SF	273 R	March 2015	TBD
West Hollywood Edition (9040 Sunset Boulevard) [3]	West Hollywood, CA	October 2014	48.5%	17,188	(17,563)	(375)	—	210,000 SF	—	20 R 190 H	May 2015	Completed
Monad Terrace (1300 West Ave)	Miami Beach, FL	May 2015	16.8%	7,635	(7,635)	—	—	160,000 SF	—	59 R	May 2016	Completed
Takanasee (805 Ocean Ave)	Long Branch, NJ	December 2015	22.8%	4,301	(4,301)	—	—	63,000 SF	—	13 R	June 2017	N/A
Dime (209 Havemeyer St)	Brooklyn, NY	November 2017	16.5%	9,145	(9,145)	—	—	100,000 SF	150,000 SF	177 R	May 2017	Completed
Meatpacking Plaza (44 Ninth Ave)	Meatpacking District, Manhattan, NY	April 2019	16.9%	10,692	(3,099)	7,593	—	8,741 SF	76,919 SF	15 R	July 2021	September 2023
Five Park (500 Alton Road)	Miami Beach, FL	September 2019	38.9%	18,098	1,201	19,299	—	472,000 SF	15,000 SF	234 R	April 2020	November 2024
The Brooklyn Tower (9 DeKalb Avenue)	Brooklyn, NY	April 2019	4.1%	5,000	1,342	6,342	—	450,000 SF	120,000 SF	540 R	March 2019	September 2023
Natura Gardens	Miami, FL	December 2019	77.8%	7,626	5,369	12,995	—	460,000 SF	—	460 R	December 2019	March 2023
Ritz-Carlton Villas (4701 Meridian Avenue)	Miami Beach, FL	December 2020	50.0%	4,109	(221)	3,888	—	58,000 SF	—	15 R	October 2020	March 2023
2000 N. Atlantic Ave.	Daytona Beach, FL	November 2021	75.0%	2,069	131	2,200	—	TBD			TBD	TBD
Society Nashville (915 Division St)	Nashville, TN	November 2021	49.7%	21,500	2,001	23,501	—	335,000 SF	8,000 SF	502 R	July 2022	April 2025
3621 Collins Ave [4]	Miami Beach, FL	March 2022	2.5%	1,000	—	1,000	—	TBD			TBD	TBD
Alchemy Nash Square (303 S. Dawson St)	Raleigh, NC	June 2022	75.0%	6,263	247	6,510	—	TBD			TBD	TBD
Aventura View (2999 NE 191st St)	Aventura, FL	June 2022	12.5%	4,000	71	4,071	—	TBD	105,000 SF		N/A	N/A
2261 NE 164th St	North Miami Beach, FL	August 2022	35.0%	4,000	80	4,080	—	TBD			TBD	TBD
Condominium and Mixed Use Development				$ 131,257	$ (37,282)	$ 93,975	$ —					
Riverchase Landing	Hoover, AL	October 2021	50.0%	$ 11,350	$ (1,879)	$ 9,471	$ —	746,000 SF	N/A	468 R	N/A	N/A
Apartment Buildings				$ 11,350	$ (1,879)	$ 9,471	$ —					
Park Lane Hotel (36 Central Park South)	Central Park South, Manhattan, NY	November 2013	1.0%	$ 8,682	$ (8,174)	$ 508	$ —	446,000 SF	—	628 H	N/A	N/A
215 Chrystie Street	Lower East Side, Manhattan, NY	December 2012	12.3%	(1,328)	1,328	—	—	246,000 SF	—	367 H	June 2014	Completed
Coral Beach and Tennis Club	Coral Beach, Bermuda	December 2013	49.0%	6,048	(4,338)	1,710	—	52 Acres	—	101 H	N/A	N/A
The Thompson Central Park (119 W 56th St)	Midtown, Manhattan, NY	July 2019	0.4%	1,000	(708)	292	—	470,000 SF	—	587 H 99 R	May 2020	June 2023
Hotels				$ 14,402	$ (11,892)	$ 2,510	$ —					
The Plaza at Harmon Meadow	Secaucus, NJ	March 2015	49.0%	$ 12,270	$ (4,401)	$ 7,869	$ —	— —	219,000 SF	— —	N/A	N /A
Wynn Las Vegas Retail	Las Vegas, NV	December 2016	1.6%	3,144	4,334	7,478	—	— —	160,000 SF	— —	N/A	N/A
Commercial				$ 15,414	$ (67)	$ 15,347	$ —					
Witkoff GP Partners [5]	Multiple	March 2017	15.0%	$ 10,059	$ (9,620)	$ 439	$ —	N/A	N/A	N/A	N/A	N/A
1 QPS Tower (23-10 Queens Plaza South)	Long Island City, NY	December 2012	45.4%	(16,141)	16,141	—	—	N/A	N/A	N/A	March 2014	Completed
Witkoff EB-5 Capital Partners	Multiple	September 2018	49.0%	(1,041)	1,041	—	—	N/A	N/A	N/A	N/A	N/A
Diverse Real Estate Portfolio				$ (7,123)	$ 7,562	$ 439	$ —					
Investments in real estate ventures				$ 165,300	$ (43,558)	$ 121,742	$ —					
Total Carrying Value				$ 147,668	$ (25,926)	$ 121,742	$ —					

(1) The Percentage Owned reflects our estimated current ownership percentage. Our actual ownership percentage as well as the percentage of earnings and cash distributions may ultimately differ as a result of a number of factors including potential dilution, financing or admission of additional partners.

(2) This column only represents capital commitments required under the various joint venture agreements. However, many of the operating agreements provide for the operating partner to call capital. If a joint venture partner, such as New Valley, declines to fund the capital call, then the partner's ownership percentage could either be diluted or, in some situations, the character of a funding member's contribution would be converted from a capital contribution to a member loan.

(3) Equity in losses in excess of the joint ventures' carrying value were $375 as of December 31, 2022, and are classified in Other current liabilities.
(4) The 3621 Collins Ave venture is measured at cost, less impairment, following the guidance under ASC 821. The investment is included in Other Assets on the condensed consolidated balance sheets.
(5) The Witkoff GP Partners venture includes a $439 investment in 500 Broadway, a Condominium and Mixed Use Development in Santa Monica, CA.
N/A - Not applicable SF - Square feet H - Hotel rooms TBD -To be determined R - Residential Units R Lots - Residential lots

New Valley capitalizes net interest expense into the carrying value of its ventures whose projects were under development. Net capitalized interest costs included in Carrying Value as of December 31, 2022 were $10,795. This amount is included in the “Cumulative Earnings (Losses)” column in the table above. During the year ended December 31, 2022, New Valley capitalized $4,432 of interest costs and utilized (reversed) $2,295 of previously capitalized interest in connection with the recognition of equity in (losses) earnings, gains and liquidations from various ventures.

Liquidity and Capital Resources

Cash and cash equivalents increased by $55,525 in 2022 and decreased by $170,828 in 2021.

Cash provided by operations was $181,317 and $255,219 in 2022 and 2021, respectively. Cash provided by Douglas Elliman's operations in 2021 has not been segregated and is included in the cash provided from operations in 2021. The decline of cash provided by operations in 2022 compared to 2021 related primarily to the absence of cash provided by the operations of Douglas Elliman in 2022 and a decline in distributions received from real estate ventures offset by increased MSA accruals, net of payments, in 2022 and the absence of the payment of a redemption premium in 2021 to retire our 6.125% Senior Secured Notes due 2025.

Cash used in investing activities was $3,728 and $61,970 in 2022 and 2021, respectively. Cash used in investing activities by Douglas Elliman in 2021 has not been segregated and is included in cash used in investing activities in 2021. In 2022, cash used in investing activities was for the purchase of investment securities of $54,040, investments in real estate ventures of $25,569, capital expenditures of $9,957, the purchase of long-term investments of $4,363, and an increase in the cash surrender value of life insurance policies of $1,173. These items were offset by maturities of investment securities of $53,030, the sale of investment securities of $23,929, proceeds from the sale or liquidation of long-term investments of $9,266, distributions from investments in real estate ventures of $4,946, paydowns of investment securities of $198, and a decrease in restricted assets of $5. In 2021, cash used in investing activities was for the purchase of investment securities of $124,080, investments in real estate ventures of $49,463, capital expenditures of $13,506, the purchase of long-term investments of $14,316, an increase in the cash surrender value of life insurance policies of $1,219, the purchase of subsidiaries of $500, and an increase in restricted assets of $5. These items were offset by maturities of investment securities of $71,505, sale of investment securities of $45,627, distributions from investments in real estate ventures of $11,936, proceeds from the sale or liquidation of long-term investments of $11,509, paydowns of investment securities of $525, and proceeds from the sale of fixed assets of $17.

Cash used in financing activities was $122,064 and $364,077 in 2022 and 2021, respectively. Cash used in financing activities by Douglas Elliman in 2021 has not been segregated and is included in cash used in financing activities in 2021. In 2022, cash used in financing activities primarily consisted of dividends and distributions on common stock of $128,262, repayments of debt of $12,253, withholding of shares as payment of payroll tax liabilities in connection with restricted stock vesting of $2,622, other of $938, and net borrowings of debt under the Liggett Credit Agreement described below of $22,011. Repurchases and repayments of debt for the year ended December 31, 2022 included our repurchase in the market of $12,865 in aggregate principal amount of our 10.5% Senior Notes due 2026 at a price of $12,222 plus accrued interest. The Senior Notes that were repurchased have been retired. In 2021, cash used in financing activities comprised repayments of debt of $862,973, dividends and distributions on common stock of $131,798, tax withholdings related to withholding of shares of payment of payroll tax liabilities in connection with restricted stock vesting and the Distribution of $13,145, payment of deferred financing costs of $20,109, cash distributed in the Distribution of $212,571, and other of $130. These items were offset by proceeds from debt issuance of $875,000, contributions from non-controlling interest of $1,625, and net borrowings of debt under the Liggett Credit Agreement described below of $24.

We use dividends from our tobacco and real estate subsidiaries, as well as cash and cash equivalents maintained at the corporate level, to fund our significant liquidity commitments at the corporate level (not including our tobacco and real estate operations). These liquidity commitments include cash interest expense of approximately $107,200, dividends on our outstanding common shares of approximately $127,200, which is based on an assumed quarterly cash dividend of $0.20 per share, and other corporate expenses and income taxes.

As of December 31, 2022, we had cash and cash equivalents of $224,580 (including $10,129 of cash and cash equivalents at Liggett), investment securities and long-term investments, which were recorded at $161,395 (see Note 7 to our consolidated financial statements). As of December 31, 2022, our investments in real estate ventures were recorded at $121,117.

Limitation of interest expense deductible for income taxes. The amount of interest expense that is deductible in the computation of income tax liability is limited to 30% of taxable income before interest. However, interest expense allocable to a designated excepted trade or business is not subject to limitation. One such excepted trade or business is any electing real property trade or business, for which portions of our real estate businesses may qualify. If any interest expense is disallowed, we are permitted to carry forward the disallowed interest expense indefinitely. As a result of interest expense that is allocated to our real estate businesses (from the holding company) not being subject to the limitation, all of our interest expense to date has been tax deductible; however, a portion of our interest expense in future years may not be deductible, which may increase the after-tax cost of any new debt financings as well as the refinancing of our existing debt. We evaluate the impact of the nondeductible interest on our operations and capital structure on an annual basis.

Tobacco Litigation. As of December 31, 2022, 16 verdicts were entered in *Engle* progeny cases against Liggett. Several of these verdicts have been affirmed on appeal and have been satisfied by Liggett. Liggett has paid $40,111, including interest and attorney's fees, to satisfy the final judgments entered against it. It is possible that additional cases could be decided unfavorably.

Notwithstanding the comprehensive nature of the *Engle* Progeny Settlements of more than 5,200 cases, 21 plaintiffs' claims remain outstanding. Therefore, we and Liggett may still be subject to periodic adverse judgments that could have a material adverse effect on our consolidated financial position, results of operations and cash flows.

In June 2022, Liggett appealed the final judgment related to the Mississippi litigation and posted a bond of $24,000. Liggett may be required to make additional payments to Mississippi which could have a material adverse effect on our consolidated financial position. The potential exposures for unpaid principal and pre-judgment interest were approximately $16,700 and $22,900, for a total of $39,600 (as of December 2022), respectively. See Item 7. "*Management's Discussion and Analysis of Financial Condition and Results of Operations. Recent Developments in Tobacco-Related Litigation*."

Management cannot predict the cash requirements related to any future settlements or judgments, including cash required to bond any appeals, and there is a risk that those requirements will not be able to be met. Management is unable to make a reasonable estimate of the amount or range of loss that could result from an unfavorable outcome of the cases pending against Liggett or the costs of defending such cases. It is possible that our consolidated financial position, results of operations or cash flows could be materially adversely affected by an unfavorable outcome in any such tobacco-related litigation.

Vector Group.

6.125% Senior Secured Notes. On February 1, 2021, the 6.125% Senior Secured Notes due 2025 were redeemed in full and we recorded a loss on the extinguishment of debt of $21,362 for the year ended December 31, 2022, including $13,013 of premium and $8,349 of other costs and non-cash interest expense related to the recognition of previously unamortized deferred finance costs.

5.75% Senior Secured Notes due 2029. On January 28, 2021, we completed the sale of $875,000 in aggregate principal amount of our 5.75% Senior Secured Notes due 2029 ("5.75% Senior Secured Notes") to qualified institutional buyers and non-U.S. persons in a private offering pursuant to the exemptions from the registration requirements of the Securities Act of 1933 (the "Securities Act") contained in Rule 144A and Regulation S thereunder. The aggregate net cash proceeds from the sale of the 5.75% Senior Secured Notes were approximately $855,500 after deducting the initial purchaser's discount and estimated expenses and fees in connection with the offering. We used the net cash proceeds from the 5.75% Senior Secured Notes offering, together with cash on hand, to redeem all of our outstanding 6.125% Senior Secured Notes due 2025, including accrued interest and premium thereon, on January 28, 2021.

The 5.75% Senior Secured Notes pay interest on a semi-annual basis at a rate of 5.75% per year and mature on the earlier of February 1, 2029 and the date that is 91 days before the final stated maturity date of our 10.5% Senior Notes due 2026 ("10.5% Senior Notes") if such 10.5% Senior Notes have not been repurchased and cancelled or refinanced by such date. Prior to February 1, 2024, we may redeem some or all the 5.75% Senior Secured Notes at any time at a make-whole redemption price. On or after February 1, 2024, we may redeem some or all the 5.75% Senior Secured Notes at a premium that will decrease over time, plus accrued and unpaid interest, if any, to the redemption date. In addition, any time prior to February 1, 2024, we may redeem up to 40% of the aggregate outstanding amount of the 5.75% Senior Secured Notes with the net proceeds of certain equity offerings at 105.75% of the aggregate principal amount of the 5.75% Senior Secured Notes, plus accrued and unpaid interest, if any, to the redemption date, if at least 60% of the aggregate principal amount of the 5.75% Senior Secured Notes originally issued remains outstanding after such redemption, and the redemption occurs within 90 days of the closing of such equity offering. In the event of a change of control, as defined in the indenture governing the 5.75% Senior Secured Notes (the "2029 Indenture"), each holder of the 5.75% Senior Secured Notes may require us to repurchase some or all of its 5.75% Senior Secured Notes at a repurchase price equal to 101% of their aggregate principal amount plus accrued and unpaid interest, if any, to the date of purchase. If we sell certain assets and do not apply the proceeds as required pursuant to the 2029 Indenture, we must offer to repurchase the 5.75% Senior Secured Notes at the prices listed in the 2029 Indenture.

The 5.75% Senior Secured Notes are fully and unconditionally guaranteed, subject to certain customary automatic release provisions, on a joint and several basis by all of our wholly-owned domestic subsidiaries that are engaged in the conduct of our cigarette businesses, which subsidiaries, as of the issuance date of the 5.75% Senior Secured Notes, were also guarantors under our outstanding 10.5% Senior Notes. The guarantees provided by certain of the guarantors are secured by first priority or second priority security interests in certain collateral of such guarantors, including, in the case of VGR Holding LLC, a pledge of the membership interests of Liggett and Vector Tobacco, pursuant to security and pledge agreements, subject to certain permitted liens and exceptions as further described in the 2029 Indenture and the security documents relating thereto. Neither New Valley LLC nor any of our subsidiaries engaged in our real estate business guarantee our 5.75% Senior Secured Notes. Vector Group Ltd does not pledge any collateral for our 5.75% Senior Secured Notes.

The 2029 Indenture contains covenants that restrict the payment of dividends if our consolidated earnings before interest, taxes, depreciation and amortization ("Consolidated EBITDA"), as defined in the 2029 Indenture, for the most recently ended four full quarters is less than $75,000. The 2029 Indenture also restricts the incurrence of debt if our Leverage Ratio and our Secured Leverage Ratio, each as defined in the 2029 Indenture, exceed 3.0 to 1.0 and 1.5 to 1.0, respectively. Our Leverage Ratio is defined in the 2029 Indenture as the ratio of our and our guaranteeing subsidiaries' total debt less the fair market value of our cash, investment securities and long-term investments to Consolidated EBITDA, as defined in the 2029 Indenture. Our Secured Leverage Ratio is defined in the 2029 Indenture in the same manner as the Leverage Ratio, except that secured indebtedness is substituted for indebtedness. The following table summarizes the requirements of these financial tests and the extent to which we would have satisfied these requirements had the 2029 Indenture been in effect as of December 31, 2022.

Covenant	Indenture Requirement	December 31, 2022
Consolidated EBITDA, as defined	$ 75,000	$ 389,151
Leverage ratio, as defined	<3.0 to 1	2.64 to 1
Secured leverage ratio, as defined	<1.5 to 1	1.28 to 1

As of December 31, 2022, we were in compliance with all debt covenants related to the 2029 Indenture.

10.5% Senior Notes due 2026. On November 2, 2018 and November 18, 2019, we sold $325,000 and $230,000, respectively, in aggregate principal amount of our 10.5% Senior Notes to qualified institutional buyers and non-U.S. persons pursuant to the exemptions from the registration requirements of the Securities Act contained in Rule 144A and Regulation S thereunder. The aggregate net proceeds from the 2018 sale of the 10.5% Senior Notes and the 2019 sale of the 10.5% Senior Notes were approximately $315,000 and $220,400, respectively, after deducting underwriting discounts, commissions, fees and offering expenses. We used the net cash proceeds from the 2018 issuance of our 10.5% Senior Notes to retire the principal amount of, plus accrued and unpaid interest on, our 7.5% Variable Interest Senior Convertible Notes due 2019, and for general corporate purposes. We used the net cash proceeds from the 2019 issuance of our 10.5% Senior Notes to retire the principal amount of, plus accrued and unpaid interest on, our 5.5% Variable Interest Senior Convertible Notes due 2020.

The 10.5% Senior Notes pay interest on a semi-annual basis at a rate of 10.5% per year and mature on November 1, 2026. Prior to November 1, 2021, we may redeem some or all of the 10.5% Senior Notes at any time at a make-whole redemption price. On or after November 1, 2021, we may redeem some or all of the 10.5% Senior Notes at a premium that will decrease over time, plus accrued and unpaid interest, if any, to the redemption date. In addition, any time prior to November 1, 2021, we may redeem up to 40% of the aggregate outstanding amount of the 10.5% Senior Notes with the net proceeds of certain equity offerings at 110.5% of the aggregate principal amount of the 10.5% Senior Notes, plus accrued and unpaid interest, if any, to the redemption date, if at least 60% of the aggregate principal amount of the 10.5% Senior Notes originally issued remains outstanding after such redemption, and the redemption occurs within 90 days of the closing of such equity offering. In the event of a change of control, as defined in the indenture governing the 10.5% Senior Notes (the "2026 Indenture"), each holder of the 10.5% Senior Notes may require us to make an offer to repurchase some or all of our 10.5% Senior Notes at a repurchase price equal to 101% of their aggregate principal amount plus accrued and unpaid interest, if any, to the date of purchase. If we sell certain assets and do not apply the proceeds as required pursuant to the 2026 Indenture, we must offer to repurchase the 10.5% Senior Notes at the prices listed in the 2026 Indenture.

The 10.5% Senior Notes were fully and unconditionally guaranteed subject to certain customary automatic release provisions on a joint and several basis by all of our wholly-owned domestic subsidiaries that are engaged in the conduct of our cigarette businesses, and, prior to the Distribution, by DER Holdings LLC, through which we indirectly owned a 100% interest in Douglas Elliman as of December 31, 2022. In connection with the Distribution, the guarantee by DER Holdings LLC was released. DER Holdings LLC did not guarantee our 5.75% Senior Secured Notes.

The 2026 Indenture contains covenants that restrict the payment of dividends and certain other distributions subject to certain exceptions, including exceptions for (1) dividends and other distributions in an amount up to 50% of our consolidated net income, plus certain specified proceeds received by us, if no event of default has occurred, and we are in compliance with a Fixed Charge Coverage Ratio (as defined in the 2026 Indenture) of at least 2.0 to 1.0, and (2) dividends and other distributions in an unlimited amount, if no event of default has occurred and we are in compliance with a Net Leverage Ratio (as defined in the 2026 Indenture) no greater than 4.0 to 1.0. As a result, absent an event of default, we can pay dividends if the Net Leverage ratio is below 4.0 to 1.0, regardless of the value of the Fixed Charge Coverage Ratio at the time. The 2026 Indenture also restricts our ability to incur debt if our Fixed Charge Coverage Ratio is less than 2.0 to 1.0 and restricts our ability to secure debt to the extent doing so would cause our Secured Leverage Ratio (as defined in the 2026 Indenture) to exceed 3.75 to 1.0, unless the 10.5% Senior Notes are secured on an equal and ratable basis. Our Fixed Charge Coverage Ratio is defined in the 2026 Indenture as the ratio of our Consolidated EBITDA to our Fixed Charges (each as defined in the 2026 Indenture). Our Net Leverage Ratio is defined in the 2026 Indenture as the ratio of our and our guaranteeing subsidiaries' total debt less our cash, cash equivalents, and the fair market value of our investment securities, long-term investments, investments in real estate, net,

and investments in real estate ventures, to Consolidated EBITDA, as defined in the 2026 Indenture. Our Secured Leverage Ratio is defined in the 2026 Indenture as the ratio of our and our guaranteeing subsidiaries' total secured debt, to Consolidated EBITDA, as defined in the 2026 Indenture. The following table summarizes the requirements of these financial tests and the extent to which we satisfied these requirements as of December 31, 2022.

Covenant	Indenture Requirement	December 31, 2022
Consolidated EBITDA, as defined	N/A	$ 345,335
Net leverage ratio, as defined	<4.0 to 1	2.62 to 1
Secured leverage ratio, as defined	<3.75 to 1	2.55 to 1
Fixed charge coverage ratio, as defined	>2.0 to 1	3.41 to 1

As of December 31, 2022, we were in compliance with all debt covenants related to the 2026 Indenture.

In September 2022, we repurchased in the market $12,865 in aggregate principal amount of our 10.5% Senior Notes and have retired the Senior Notes that were repurchased.

Guarantor Summarized Financial Information. Vector Group Ltd. (the "Issuer") and its wholly-owned domestic subsidiaries that are engaged in the conduct of its cigarette business (the "Subsidiary Guarantors") have filed a shelf registration statement for the offering of debt and equity securities on a delayed or continuous basis and we are including this condensed consolidating financial information in connection therewith. Any such debt securities may be issued by us and guaranteed by our Subsidiary Guarantors. New Valley and any of its subsidiaries (the "Nonguarantor Subsidiaries") will not guarantee any such debt securities. Both the Subsidiary Guarantors and the Nonguarantor Subsidiaries are wholly-owned by the Issuer. The Condensed Consolidating Balance Sheet as of December 31, 2022 and the related Condensed Consolidating Statements of Operations for the year ended December 31, 2022 of the Issuer, Subsidiary Guarantors and the Nonguarantor Subsidiaries are set forth in Exhibit 99.2.

Presented below are the Summarized Combined Balance Sheets as of December 31, 2022 and December 31, 2021 and the related Summarized Combined Statements of Operations for the year ended December 31, 2022 for the Issuer and the Subsidiary Guarantors (collectively, the "Obligor Group"). The summarized combined financial information is presented after the elimination of: (i) intercompany transactions and balances among the Obligor Group, and (ii) equity in earnings from and investments in the Nonguarantor Subsidiaries.

Summarized Combined Balance Sheets:

	December 31, 2022	December 31, 2021
Assets:		
Current assets	$ 507,437	$ 487,797
Noncurrent assets	282,511	274,292
Intercompany receivables from Nonguarantor Subsidiaries	2,238	1,832
Liabilities:		
Current liabilities	190,734	194,097
Noncurrent liabilities	1,514,831	1,536,792

Summarized Combined Statements of Operations:

	Year Ended December 31, 2022
Revenues	$ 1,425,125
Cost of sales	991,331
Operating income	331,280
Net income	156,946

Liggett Financing. Liggett did not enter into any equipment financing arrangements in 2022 and 2021.

Liggett Credit Facility. In January 2015, Liggett and Maple entered into the Credit Agreement with Wells Fargo, as agent and lender.

On October 31, 2019, Liggett and Maple amended the Credit Agreement to, among other things, update the borrowing base to adjust the advance rates in respect of eligible inventory and add certain eligible real property. On March 22, 2021, Liggett, Maple and Vector Tobacco entered into Amendment No. 4 and Joinder to the Credit Agreement with Wells Fargo. The Credit Agreement was amended to, among other things, (i) add Vector Tobacco as a borrower under the Credit Agreement, (ii) extend the maturity of the Credit Agreement to March 22, 2026, and (iii) increase the amount of the maximum credit line thereunder from $60,000 to $90,000.

Since October 31, 2019, all borrowings under the Credit Agreement have been limited to a borrowing base equal to the sum of (I) the lesser of 85% of eligible trade receivables less certain reserves and $15,000; plus (II) 80% of the value of eligible inventory consisting of packaged cigarettes; plus (III) the designated percentage of the value of eligible inventory consisting of leaf tobacco (i.e., 65% of Liggett's eligible cost of inventory consisting of leaf tobacco less certain reserves or 85% of the net orderly liquidation value of eligible inventory); plus (IV) the lesser of (a) the real property subline amount or (b) 60% of the fair market value of eligible real property. The obligations under the Credit Agreement are collateralized on a first priority basis by all inventories, receivables and certain other personal property of Liggett and Maple, a mortgage on Liggett's manufacturing facility and certain real property of Maple, subject to certain permitted liens.

The term of the Credit Agreement expires on March 22, 2026. Loans under the Credit Agreement bear interest at a rate equal to LIBOR plus 2.25%. The interest rate applicable to this Credit Agreement at December 31, 2022 was 6.64%. The Credit Agreement, as amended, permitted the guaranty of the 6.125% Senior Secured Notes due 2025, and permits the guaranty of the 5.75% Senior Secured Notes and the 10.5% Senior Notes, by each of Liggett, Maple and Vector Tobacco. Wells Fargo, Liggett, Maple, Vector Tobacco and the collateral agent for the holders of the 5.75% Senior Secured Notes have entered into an intercreditor agreement, pursuant to which the liens of such collateral agent on the assets that are subject to the Credit Agreement are subordinated to the liens of Wells Fargo on such assets.

The Credit Agreement contains customary affirmative and negative covenants, including covenants that limit Liggett's, Maple's, Vector Tobacco's and their subsidiaries' ability to incur, create or assume certain indebtedness, to incur or assume certain liens, to purchase, hold or acquire certain investments, to declare or make certain dividends and distributions and to engage in certain mergers, consolidations and asset sales. The Credit Agreement requires the Company to comply with specified financial covenants, including the earnings before interest, taxes, depreciation and amortization, as defined under the Credit Agreement, on a trailing twelve month basis, of the Tobacco segment shall not be less than $150,000 if the Tobacco segment's excess availability, as defined under the Credit Agreement, is less than $30,000. The covenants also require that annual capital expenditures, as defined under the Credit Agreement (before a maximum carryover amount of $10,000), shall not exceed $20,000 during any fiscal year. The Credit Agreement also contains customary events of default. The borrowers were in compliance with these covenants as of December 31, 2022.

As of December 31, 2022, there was $22,035 in outstanding balance under the Credit Agreement. Availability, as determined under the Credit Agreement, was $57,488 based on eligible collateral at December 31, 2022.

Anticipated Liquidity Obligations. We and our subsidiaries have significant indebtedness and debt service obligations. As of December 31, 2022, we and our subsidiaries had total outstanding indebtedness of $1,439,207. Of this amount $875,000 comprised of the outstanding amount under our 5.75% Senior Secured Notes due 2029, and $542,135 comprised of the outstanding amount under our 10.5% Senior Notes due 2026. There is a risk that we will not be able to generate sufficient funds to repay our debt. If we cannot service our fixed charges, it would have a material adverse effect on our business and results of operations.

We believe that our cigarette operations are a positive cash-flow-generating unit and will continue to be able to sustain its operations without any significant liquidity concerns.

In order to meet the above liquidity requirements as well as other anticipated liquidity needs in the normal course of business, we had cash and cash equivalents of approximately $224,600, investment securities at fair value of approximately $116,400, long-term investments with an estimated value of approximately $45,000, and availability under Liggett's credit facility of approximately $57,000 as of December 31, 2022. We currently anticipate that these amounts, as well as expected cash flows from our operations, proceeds from public and/or private debt and equity financing to the extent available, management fees and other payments from subsidiaries should be sufficient to meet our liquidity needs over the next 12 months.

We continue to evaluate our capital structure and current market conditions related to our capital structure. In September 2022, we repurchased in the market $12,865 in aggregate principal amount of our Senior Notes due 2026 for $12,222 plus accrued interest. The Senior Notes that were repurchased have been retired. Depending on market conditions, we may utilize

our cash, investment securities and long-term investments to repurchase additional amounts of our 10.5% Senior Notes due 2026 in open-market purchases or privately negotiated transactions.

There can be no assurance that we would be able to continue to issue debt at a lower interest rate than our historical borrowing levels in the future and, in the event we pursue any capital markets activities, our ability to complete any debt or equity offering would be subject to market conditions.

Furthermore, we may access the capital markets to refinance our 10.5% Senior Notes due 2026. We can presently redeem such bonds at price of 102.625% and the redemption price declines to 100% on November 1, 2023. There can be no assurance that we would be able to continue to issue debt at a lower interest rate than our historical borrowing levels in the future and, in the event we pursue any capital markets activities, our ability to complete any debt or equity offering would be subject to market conditions.

We may acquire or seek to acquire additional operating businesses through a merger, purchase of assets, stock acquisition or other means, or to make other investments, which may limit our liquidity otherwise available.

Off-Balance Sheet Arrangements

We have various agreements in which we may be obligated to indemnify the other party with respect to certain matters. Generally, these indemnification clauses are included in contracts arising in the normal course of business under which we customarily agree to hold the other party harmless against losses arising from a breach of representations related to such matters as title to assets sold and licensed or certain intellectual property rights. In addition, in connection with the Distribution, we agreed to indemnify Douglas Elliman for losses arising out of Vector's business or incurred in our provision of services to Douglas Elliman under the Transition Services Agreement. Payment by us under such indemnification clauses is generally conditioned on the other party making a claim that is subject to challenge by us and dispute resolution procedures specified in the particular contract. Further, our obligations under these arrangements may be limited in terms of time and/or amount, and in some instances, we may have recourse against third parties for certain payments made by us. It is not possible to predict the maximum potential amount of future payments under these indemnification agreements due to the conditional nature of our obligations and the unique facts of each particular agreement. Historically, payments made by us under these agreements have not been material. As of December 31, 2022, we were not aware of any indemnification agreements that would or are reasonably expected to have a current or future material adverse impact on our financial position, results of operations or cash flows.

As of December 31, 2022, we had an outstanding $1,454 letter of credit, which has been issued as security deposit for a lease of office space.

We have a leaf inventory management program whereby, among other things, we are committed to purchase certain quantities of leaf tobacco. The purchase commitments are for quantities not exceeding anticipated requirements and are at prices, including carrying costs, established at the commitment date. At December 31, 2022, Liggett had tobacco purchase commitments of approximately $23,263. We have a single source supply agreement for reduced ignition propensity cigarette paper through 2025.

Future machinery and equipment purchase commitments at Liggett were $11,830 including $8,607 for factory modernization at December 31, 2022.

Market Risk

We are exposed to market risks principally from fluctuations in interest rates, foreign currency exchange rates and equity prices. We seek to minimize these risks through our regular operating and financing activities and our long-term investment strategy. Our market risk management procedures cover all market risk sensitive financial instruments.

As of December 31, 2022, there was an outstanding balance of $22,035 on the Liggett Credit Facility which also has variable interest rates. As of December 31, 2022, we had no interest rate caps or swaps. Based on a hypothetical 100 basis point increase or decrease in interest rates (1%), our annual interest expense could increase or decrease by approximately $220.

We held debt securities available for sale totaling $81,643 as of December 31, 2022. See Note 7 to our consolidated financial statements. Adverse market conditions could have a significant impact on the value of these investments.

On a quarterly basis, we evaluate our debt securities available for sale and equity securities without readily determinable fair values that do not qualify for the NAV practical expedient to determine whether an impairment has occurred. If so, we also determine if such impairment is considered temporary or other-than-temporary. We believe that the assessment of temporary or other-than-temporary impairment includes judgment and all relevant facts and circumstances. The impairment indicators that are taken into consideration as part of our analysis include (a) a significant deterioration in the earnings performance, credit

rating, asset quality, or business prospects of the investee, (b) a significant adverse change in the regulatory, economic, or technological environment of the investee, (c) a significant adverse change in the general market condition of either the geographical area or the industry in which the investee operates, and (d) factors that raise significant concerns about the investee's ability to continue as a going concern, such as negative cash flows from operations, working capital deficiencies, or noncompliance with statutory capital requirements or debt covenants.

Equity Security Price Risk

As of December 31, 2022, we held various investments in equity securities with a total fair value of $63,712, of which $34,793 represents equity securities at fair value and $28,919 represents long-term investment securities at fair value. The latter securities represent long-term investments in various investment partnerships. These investments are illiquid and their ultimate realization is subject to the performance of the underlying entities. See Note 7 to our consolidated financial statements for more details on equity securities at fair value and long-term investment securities at fair value. The impact to our consolidated statement of operations related to equity securities fluctuates based on changes in their fair value.

We record changes in the fair value of equity securities in net income. To the extent that we continue to hold equity securities, our operating results may fluctuate significantly. Based on our equity securities held as of December 31, 2022, a hypothetical decrease of 10% in the price of these equity securities would reduce the fair value of the investments and, accordingly, our net income by approximately $6,371.

New Accounting Pronouncements

Refer to Note 1, *Summary of Significant Accounting Policies*, to our consolidated financial statements for further information on *New Accounting Pronouncements*.

Legislation, Regulation, Taxation and Litigation

In the United States, tobacco products are subject to substantial and increasing legislation, regulation, taxation, and litigation, which have a negative effect on revenue and profitability.

The cigarette industry continues to be challenged on numerous fronts. The industry faces increased pressure from anti-smoking groups and continued smoking and health litigation, the effects of which, at this time, we are unable to quantify. Product liability litigation, particularly in Florida in the *Engle* progeny cases, continues to adversely affect the cigarette industry. See Item 1. "*Business. Legislation and Regulation*", Item 1A. "*Risk Factors*", Item 3. "*Legal Proceedings*", Item 7. "*Management's Discussion and Analysis of Financial Condition and Results of Operations. Recent Developments in Tobacco-Related Litigation"* and Note 15 to our consolidated financial statements, which contain a description of litigation.

SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS

In addition to historical information, this report contains "forward-looking statements" within the meaning of the federal securities law. Forward-looking statements include information relating to our intent, belief or current expectations, primarily with respect to, but not limited to:

- economic outlook;
- capital expenditures;
- cost reduction;
- competition;
- legislation and regulations;
- cash flows;
- operating performance;
- litigation; and
- related industry developments (including trends affecting our business, financial condition and results of operations).

We identify forward-looking statements in this report by using words or phrases such as "anticipate," "believe," "continue," "could," "estimate," "expect," "intend," "may be," "objective," "opportunistically," "plan," "potential," "predict," "project," "prospects," "seek," or "will be" and similar words or phrases or their negatives.

The forward-looking information involves important risks and uncertainties that could cause our actual results, performance or achievements to differ materially from our anticipated results, performance or achievements expressed or implied by the forward-looking statements. Factors that could cause actual results to differ materially from those suggested by the forward-looking statements include, without limitation, the following:

- general economic and market conditions and any changes therein, due to acts of war and terrorism or otherwise;
- impact of business combinations, including acquisitions and divestitures, both internally for us and externally in the tobacco industry;
- uncertainty related to product liability and other tobacco-related litigations including the *Engle* progeny cases pending in Florida and other individual and class action cases where certain plaintiffs have alleged compensatory and punitive damage amounts ranging into the hundreds of million and even billions of dollars;
- governmental regulations and policies;
- adverse changes in global, national, regional and local economic and market conditions, including those related to pandemics and health crises;
- significant changes in the price, availability or quality of tobacco, other raw materials or component parts;
- impact of legislation on our results of operations and product costs, i.e., the impact of federal legislation providing for regulation of tobacco products by FDA;
- impact of substantial increases in federal, state and local excise taxes;
- potential additional payment obligations for us under the MSA and other settlement agreements with the states;
- significant changes or disruptions to our supply or distribution chains or in the price, availability or quality of tobacco, other raw materials or component parts;
- potential dilution to our holders of or common stock as a result of issuances of additional shares of common stock to fund our financial obligations and other financing activities;
- effects of industry competition;
- the impacts of the tax deductibility of interest expense and the impact of the markets on our Real Estate segment;
- the impacts of future income tax legislation in the U.S., including the impact of the markets on our Real Estate segment;
- failure to properly use and protect customer and employee information and data; and
- the effect of a material breach of security or other performance issues of any of our or our vendors' systems.

Further information on the risks and uncertainties to our business includes the risk factors discussed above under Item 1A. "*Risk Factors*" and in Item 7. "*Management's Discussion and Analysis of Financial Condition and Results of Operations*."

Although we believe the expectations reflected in these forward-looking statements are based on reasonable assumptions, there is a risk that these expectations will not be attained and that any deviations will be material. The forward-looking statements speak only as of the date they are made.

ITEM 7A. *QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK*

The information under the caption Item 7. "*Management's Discussion and Analysis of Financial Condition and Results of Operations. Market Risk*" is incorporated herein by reference.

ITEM 8. *FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA*

Our Consolidated Financial Statements and Notes thereto, together with the report thereon of Deloitte & Touche LLP dated February 21, 2023, are set forth beginning on page F-1 of this report.

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

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

The Company maintains disclosure controls and procedures that are designed to ensure that information required to be disclosed, in the reports the Company files or submits under the Exchange Act, is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms and that such information is accumulated and communicated to the Company's management, including its Chief Executive Officer and Chief Financial Officer, as appropriate, to allow timely decisions regarding required disclosure.

In connection with the preparation of this Form 10-K, the Company evaluated, under the supervision of and with the participation of the Company's management, including the Chief Executive Officer and Chief Financial Officer, as of December 31, 2022, of the effectiveness of the design and operation of the Company's disclosure controls and procedures, as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act. Based upon this evaluation, the Chief Executive Officer and Chief Financial Officer concluded that as of December 31, 2022, the Company's disclosure controls and procedures were effective as of December 31, 2022.

Management's Annual Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting for the Company, as such term is defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. 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 for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the Company, (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company, and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

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

Management, including the Chief Executive Officer and Chief Financial Officer, has assessed the effectiveness of the

Company's internal control over financial reporting as of December 31, 2022, based on the criteria in *Internal Control - Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO").

Based on this assessment, management concluded that the Company's internal control over financial reporting was effective as of December 31, 2022 based on the criteria in Internal Control - Integrated Framework (2013) issued by COSO.

The effectiveness of the Company's internal control over financial reporting as of December 31, 2022 has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in its report which appears herein.

Changes in Internal Control Over Financial Reporting

There were no changes in the Company's internal control over financial reporting during the year ended December 31, 2022 that have materially affected or are reasonably likely to materially affect the Company's internal control over financial reporting.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Vector Group Ltd.

Opinion on Internal Control over Financial Reporting

We have audited the internal control over financial reporting of Vector Group Ltd. and subsidiaries (the "Company") as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by COSO.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated financial statements as of and for the year ended December 31, 2022, of the Company and our report dated February 21, 2023, expressed an unqualified opinion on those financial statements.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Annual Report on Internal Control Over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to 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 effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control over Financial Reporting

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

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

/s/ Deloitte & Touche LLP

Miami, Florida

February 21, 2023

ITEM 9B. ***OTHER INFORMATION***

None.

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

Not applicable.

PART III

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

The information contained under the following headings in our definitive Proxy Statement for our 2023 Annual Meeting of Stockholders (the "2023 Proxy Statement"), to be filed with the SEC not later than 120 days after the end of our fiscal year covered by this report pursuant to Regulation 14A under the Securities Exchange Act of 1934, is incorporated herein by reference: "Board Proposal 1 — Nomination and Election of Directors" and "Delinquent Section 16(a) Reports." See Item 5. *"Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchase of Equity Securities. Executive Officers of the Registrant"* for information regarding our executive officers. We have adopted a policy statement entitled Code of Business Conduct and Ethics that applies to all of our directors, officers and employees. In the event that an amendment to, or a waiver from, a provision of the Code of Business Conduct and Ethics is made or granted, we intend to post such information on our web site, which is www.vectorgroupltd.com.

ITEM 11. *EXECUTIVE COMPENSATION*

The information contained under the headings "Executive Compensation" and "Compensation Committee Interlocks and Insider Participation" in our 2023 Proxy Statement is incorporated herein by reference.

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

The information contained under the headings "Equity Compensation Plan Information" and "Security Ownership of Certain Beneficial Owners and Management" in our 2023 Proxy Statement is incorporated herein by reference.

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

The information contained under the headings "Certain Relationships and Related Party Transactions" and "Board of Directors and Committees" in our 2023 Proxy Statement is incorporated herein by reference.

ITEM 14. *PRINCIPAL ACCOUNTANT FEES AND SERVICES*

The information contained under the headings "Audit and Non-Audit Fees" and "Pre-Approval Policies and Procedures" in our 2023 Proxy Statement is incorporated herein by reference.

PART IV

ITEM 15. ***EXHIBITS AND FINANCIAL STATEMENT SCHEDULES***

(a)(1) INDEX TO 2022 CONSOLIDATED FINANCIAL STATEMENTS:

Our consolidated financial statements and the notes thereto, together with the report thereon of Deloitte & Touche LLP for the three years ended December 31, 2022, dated February 21, 2023 appear beginning on page F-1 of this report.

(a)(2) FINANCIAL STATEMENT SCHEDULES:

(a)(3) EXHIBITS:

(a) The following is a list of exhibits filed herewith as part of this Annual Report on Form 10-K:

INDEX OF EXHIBITS

EXHIBIT NO.	DESCRIPTION
* 2.1	Distribution Agreement, originally dated as of December 21, 2021 and amended and restated as of December 28, 2021, between Vector Group Ltd. and Douglas Elliman Inc. (incorporated by reference to Exhibit 2.1 in Vector's Form 8-K dated January 4, 2022).
* 2.2	Employee Matters Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Douglas Elliman Inc. (incorporated by reference to Exhibit 2.2 in Vector's Form 8-K dated December 21, 2021).
* 3.1	Amended and Restated Certificate of Incorporation of Vector Group Ltd. (formerly known as Brooke Group Ltd.) ("Vector Group") (incorporated by reference to Exhibit 3.1 in Vector's Form 10-Q for the quarter ended September 30, 1999).
* 3.2	Certificate of Amendment to the Amended and Restated Certificate of Incorporation of Vector Group Ltd. (incorporated by reference to Exhibit 3.1 in Vector's Form 8-K dated May 24, 2000).
* 3.3	Certificate of Amendment to the Amended and Restated Certificate of Incorporation of Vector Group Ltd. (incorporated by reference to Exhibit 3.1 in Vector's Form 10-Q for the quarter ended June 30, 2007).
* 3.4	Certificate of Amendment to the Amended and Restated Certificate of Incorporation of Vector Group Ltd. (incorporated by reference to Exhibit 3.1 in Vector's Form 10-Q for the quarter ended June 30, 2014).
* 3.5	Amended and Restated By-Laws of Vector Group Ltd. (incorporated by reference to Exhibit 3.1 in Vector's Form 8-K dated December 15, 2022).
4.1	Indenture, dated as of January 28, 2021, among Vector Group Ltd., the guarantors named therein and U.S. Bank National Association, as trustee and collateral agent.
4.2	Pledge Agreement, dated as of January 28, 2021, between VGR Holding LLC and U.S. Bank National Association, as collateral agent.
4.3	Security Agreement, dated as of January 28, 2021, between Vector Tobacco and U.S. Bank National Association, as collateral agent.
4.4	Security Agreement, dated as of January 28, 2021, among Liggett Group LLC, 100 Maple LLC and U.S. Bank National Association, as collateral agent.

EXHIBIT NO.	DESCRIPTION
4.5	Second Amended and Restated Intercreditor and Lien Subordination Agreement, dated as of January 28, 2021, among Liggett Group LLC, 100 Maple LLC, U.S. Bank National Association and Wells Fargo Bank, National Association.
* 4.6	Indenture, dated as of November 2, 2018, among Vector Group Ltd., the guarantors named therein and U.S. Bank National Association, as trustee (incorporated by reference to Exhibit 4.1 to Vector's Form 8-K dated November 2, 2018).
* 4.7	First Supplemental Indenture, dated as of November 18, 2019, among Vector Group Ltd., the guarantors named therein and U.S. Bank National Association, as trustee (incorporated by reference to Exhibit 4.2 in Vector's Form 8-K dated November 18, 2019).
*4.8	Description of Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934 (incorporated by reference to Exhibit 4.12 in Vector's Form 10-K for the year ended December 31, 2019).
* 10.1	Settlement Agreement, dated March 15, 1996, by and among the State of West Virginia, State of Florida, State of Mississippi, Commonwealth of Massachusetts, and State of Louisiana, Brooke Group Holding and Liggett (incorporated by reference to Exhibit 15 in the Schedule 13D filed by Vector on March 11, 1996, as amended, with respect to the common stock of RJR Nabisco Holdings Corp.).
* 10.2	Addendum to Initial States Settlement Agreement (incorporated by reference to Exhibit 10.43 in Vector's Form 10-Q for the quarter ended March 31, 1997).
* 10.3	Settlement Agreement, dated March 12, 1998, by and among the States listed in Appendix A thereto, Brooke Group Holding and Liggett (incorporated by reference to Exhibit 10.35 in Vector's Form 10-K for the year ended December 31, 1997).
* 10.4	Master Settlement Agreement made by the Settling States and Participating Manufacturers signatories thereto (incorporated by reference to Exhibit 10.1 in Philip Morris Companies Inc.'s Form 8-K dated November 25, 1998, Commission File No. 1-8940).
* 10.5	General Liggett Replacement Agreement, dated as of November 23, 1998, entered into by each of the Settling States under the Master Settlement Agreement, and Brooke Group Holding and Liggett (incorporated by reference to Exhibit 10.34 in Vector's Form 10-K for the year ended December 31, 1998).
* 10.6	Stipulation and Agreed Order regarding Stay of Execution Pending Review and Related Matters, dated May 7, 2001, entered into by Philip Morris Incorporated, Lorillard Tobacco Co., Liggett and Brooke Group Holding Inc. and the class counsel in Engel, et. al., v. R.J. Reynolds Tobacco Co., et. al. (incorporated by reference to Exhibit 99.2 in Philip Morris Companies Inc.'s Form 8-K dated May 7, 2001).
* 10.7	Term Sheet agreed to by Liggett, certain other Participating Manufacturers, 18 states, the District of Columbia and Puerto Rico (incorporated by reference to Exhibit 10.1 to Reynolds American Inc.'s (Commission File Number 1-32258) Form 8-K, dated March 12, 2013).
* 10.8	Settlement Agreement as of October 22, 2013, by, between and among: (a) Liggett and Vector and (b) Plaintiffs' Coordinating Counsel, Participating Plaintiffs' Counsel, and their respective clients who are plaintiffs in certain *Engle* Progeny Actions (incorporated by reference to Exhibit 10.18 to Vector's Form 10-K for the year ended December 31, 2013).
* 10.9	Settlement Agreement as of October 22, 2013, by, between and among: (a) Liggett Group LLC and Vector, and (b) Plaintiffs' Coordinating Counsel, The Wilner Firm, and The Wilner Firm's clients who are plaintiffs in certain federal and state Engle Progeny Actions (incorporated by reference to Exhibit 10.19 to Vector's Form 10-K for the year ended December 31, 2013).

EXHIBIT NO.	DESCRIPTION
* 10.10	Amended and Restated Employment Agreement dated as of January 27, 2006, between Vector and Howard M. Lorber (incorporated by reference to Exhibit 10.1 in Vector's Form 8-K dated January 27, 2006).
* 10.11	Executive Letter Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Howard M. Lorber (incorporated by reference to Exhibit 10.3 in Vector's Form 8-K dated December 21, 2021).
* 10.12	Amended and Restated Employment Agreement dated as of April 29, 2022 between Vector and Howard M. Lorber (incorporated by reference to Exhibit 10.1 in Vector's Form 10-Q for the period ended March 31, 2022).
* 10.13	Employment Agreement, dated as of January 27, 2006, between Vector and Richard J. Lampen (incorporated by reference to Exhibit 10.3 in Vector's Form 8-K dated January 27, 2006).
* 10.14	Amendment to the Employment Agreement dated as of February 22, 2012 between Vector Group Ltd. and Richard J. Lampen (incorporated by reference to Exhibit 10.3 in Vector's Form 8-K/A dated February 21, 2012).
*10.15	Amendment to the Employment Agreement dated January 15, 2021 between Vector Group Ltd. and Richard J. Lampen (incorporated by reference to Exhibit 10.1 in Vector's Form 8-K dated January 14, 2021).
* 10.16	Executive Letter Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Richard J. Lampen (incorporated by reference to Exhibit 10.4 in Vector's Form 8-K dated December 21, 2021).
* 10.17	Amended and Restated Employment Agreement, dated as of January 27, 2006, between Vector and Marc N. Bell (incorporated by reference to Exhibit 10.4 in Vector's Form 8-K dated January 27, 2006).
* 10.18	Executive Letter Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Marc N. Bell (incorporated by reference to Exhibit 10.6 in Vector's Form 8-K dated December 21, 2021).
* 10.19	Letter Agreement, dated as of February 18, 2020, by and among Ronald J. Bernstein, Liggett Vector Brands LLC, Vector Group Ltd. (incorporated by reference to Exhibit 10.1 in Vector's Form 8-k dated February 18, 2020).
* 10.20	Employment Agreement, dated as of January 27, 2006, between Vector and J. Bryant Kirkland III (incorporated by reference to Exhibit 10.5 in Vector's Form 8-K dated January 27, 2006).
* 10.21	Amendment to Employment Agreement, dated as of February 29, 2016, by and between Vector Group Ltd. and J. Bryant Kirkland III (incorporated by reference to Exhibit 10.1 in Vector's Form 8-K dated February 29, 2016).
* 10.22	Second Amendment to Employment Agreement, dated as of December 21, 2021 between Vector Group Ltd. and J. Bryant Kirkland III (incorporated by reference to Exhibit 10.7 in Vector's Form 8-K dated December 21, 2021).
* 10.23	Executive Letter Agreement, dated as of December 21, 2021 between Vector Group Ltd. and J. Bryant Kirkland III (incorporated by reference to Exhibit 10.5 in Vector's Form 8-K dated December 21, 2021).
* 10.24	Employment Agreement, dated as of March 6, 2020, by and between Liggett Vector Brands LLC and Nicholas P. Anson (incorporated by reference to Exhibit 10.22 of Vector's Form 10-K for the period ending December 31, 2021).

EXHIBIT NO.	DESCRIPTION
* 10.25	Vector Group Ltd. Amended and Restated 1999 Long-Term Incentive Plan (incorporated by reference to Appendix B in Vector's Proxy Statement dated April 21, 2004).
* 10.26	Vector Group Ltd. Management Incentive Plan (incorporated by reference to Exhibit 10.3 of Vector's Form 8-K dated March 10, 2014).
* 10.27	Vector Group Ltd. Amended and Restated 2014 Management Incentive Plan (incorporated by reference to Exhibit 10.1 of Vector's Form 10-Q for the period ending June 30, 2021).
* 10.28	Restricted Shares Award Agreement Pursuant to the Vector Group Ltd. Amended and Restated 2014 Management Incentive Plan (incorporated by reference to Exhibit 10.2 of Vector's Form 10-Q for the period ending June 30, 2021).
10.29	Non-Employee Director Restricted Shares Award Agreement Pursuant to the Vector Group Ltd. Amended & Restated 2014 Management Incentive Plan.
* 10.30	Performance-based Restricted Shares Award Agreement Pursuant to the Vector Group Ltd. Amended and Restated 2014 Management Incentive Plan (incorporated by reference to Exhibit 10.3 of Vector's Form 10-Q for the period ending June 30, 2021).
* 10.31	Form of 1999 Amended and Restated Incentive Plan Option Agreement to Named Executive Officers (incorporated by reference to Exhibit 10.21 of Vector's Form 10-K dated December 31, 2017).
* 10.32	Form of 2014 Management Incentive Plan Option Award to Named Executive Officers (incorporated by reference to Exhibit 10.22 of Vector's Form 10-K dated December 31, 2017).
*10.33	Performance-Based Restricted Share Award Agreement, pursuant to Vector Group Ltd. Management Incentive Plan, dated as of November 10, 2015 by and between Vector Group Ltd. and Howard M. Lorber (incorporated by reference to Exhibit 10.1 of Vector's Form 8-K dated November 10, 2015).
* 10.34	Vector Supplemental Retirement Plan (as amended and restated April 24, 2008) (incorporated by reference to Exhibit 10.1 in Vector's Form 10-Q for the quarter ended June 30, 2008).
* 10.35	Office Lease, dated as of September 10, 2012, between Vector Group Ltd. and Frost Real Estate Holdings, LLC. (incorporated by reference to Exhibit 10.1 in Vector's Form 8-K dated September 10, 2012).
* 10.36	First Amendment, dated as of November 12, 2012, to Office Lease, dated as of September 10, 2012, between Vector Group Ltd. and Frost Real Estate Holdings, LLC. (incorporated by reference to Exhibit 10.40 of Vector's Form 10-K dated December 31, 2012).
* 10.37	Second Amendment, dated as of September 1, 2017, to Office Lease, dated as of September 10, 2012, between Vector Group Ltd. and Frost Real Estate Holdings, LLC (incorporated by reference to Exhibit 10.32 of Vector's Form 10-K dated December 31, 2017).
10.38	Third Amendment, dated as of January 30, 2023, to Office Lease, dated as of September 10, 2012, between Vector Group Ltd. and Frost Real Estate Holdings, LLC.
10.39	Vector Group Ltd. Executive Compensation Clawback Policy.

EXHIBIT NO.	DESCRIPTION
10.40	Third Amended and Restated Credit Agreement, dated as of January 14, 2015, among Liggett Group LLC, 100 Maple LLC, and, upon its accession thereto pursuant to Amendment No. 4 and Joinder, Vector Tobacco Inc., the lenders party thereto from time to time and Wells Fargo Bank, National Association, as administrative and collateral agent, as amended by Amendment No. 1 to Third Amended and Restated Credit Agreement, dated as of January 27, 2017, Amendment No. 2 to Third Amended and Restated Credit Agreement, dated as of October 30, 2018, Amendment No. 3 to Third Amended and Restated Credit Agreement, dated as of October 31, 2019, and Amendment No. 4 and Joinder to Third Amended and Restated Credit Agreement, dated as of March 22, 2021.
* 10.41	Transition Services Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Douglas Elliman Inc. (incorporated by reference to Exhibit 10.1 in Vector's Form 8-K dated December 21, 2021).
* 10.42	Tax Disaffiliation Agreement, dated as of December 21, 2021 between Vector Group Ltd. and Douglas Elliman Inc. (incorporated by reference to Exhibit 10.2 in Vector's Form 8-K dated December 21, 2021).
21.1	Subsidiaries of Vector.
22.1	List of Subsidiary Guarantors.
23.1	Consent of Deloitte & Touche LLP.
31.1	Certification of Chief Executive Officer, Pursuant to Exchange Act Rule 13a-14(a), as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer, Pursuant to Exchange Act Rule 13a-14(a), as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1	Certification of Chief Executive Officer and Chief Financial Officer, Pursuant to 18 U.S.C. Section 1350, as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
99.1	Material Legal Proceedings.
99.2	Condensed Consolidating Financial Statements of Vector Group Ltd.

* Incorporated by reference

Each management contract or compensatory plan or arrangement required to be filed as an exhibit to this report pursuant to Item 14(c) is listed in exhibit numbers 10.10 through 10.34.

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

Not applicable.

SIGNATURES

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

VECTOR GROUP LTD.
(Registrant)

By: /s/ J. Bryant Kirkland III
J. Bryant Kirkland III
Senior Vice President, Chief Financial Officer and Treasurer

Date: February 21, 2023

POWER OF ATTORNEY

The undersigned directors and officers of Vector Group Ltd. hereby constitute and appoint Richard J. Lampen, J. Bryant Kirkland III and Marc N. Bell, and each of them, with full power to act without the other and with full power of substitution and resubstitutions, our true and lawful attorneys-in-fact with full power to execute in our name and behalf in the capacities indicated below, this Annual Report on Form 10-K and any and all amendments thereto and to file the same, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission, and hereby ratify and confirm all that such attorneys-in-fact, or any of them, or their substitutes shall lawfully do or cause to be done by virtue hereof. Pursuant to the requirements of the Securities Exchange Act of 1934, this Report has been signed below by the following persons on behalf of the Registrant and in the capacities indicated on February 21, 2023.

SIGNATURE	TITLE
/s/ Howard M. Lorber Howard M. Lorber	President and Chief Executive Officer (Principal Executive Officer)
/s/ J. Bryant Kirkland III J. Bryant Kirkland III	Senior Vice President, Treasurer and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)
/s/ Bennett S. LeBow Bennett S. LeBow	Director
/s/ Henry C. Beinstein Henry C. Beinstein	Director
/s/ Ronald J. Bernstein Ronald J. Bernstein	Director
/s/ Paul V. Carlucci Paul V. Carlucci	Director
/s/ Richard J. Lampen Richard J. Lampen	Director
/s/ Jean E. Sharpe Jean E. Sharpe	Director
/s/ Barry Watkins Barry Watkins	Director
/s/ Wilson L. White Wilson L. White	Director

VECTOR GROUP LTD.
FORM 10-K FOR THE YEAR ENDED DECEMBER 31, 2022
ITEMS 8, 15(a)(1) AND (2), 15(c)

INDEX TO FINANCIAL STATEMENTS
AND FINANCIAL STATEMENT SCHEDULES

Financial Statements and Schedules of the Registrant and its subsidiaries required to be included in Items 8, 15(a) (1) and (2), 15(c) are listed below:

Financial Statement Schedules not listed above have been omitted because they are not applicable or the required information is contained in our consolidated financial statements or accompanying notes.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

To the Stockholders and the Board of Directors of Vector Group Ltd.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Vector Group Ltd. and subsidiaries (the "Company") as of December 31, 2022 and 2021, the related consolidated statements of operations, comprehensive income, stockholders' deficiency, and cash flows, for each of the three years in the period ended December 31, 2022, and the related notes and the financial statement schedule listed in the Index at Item 15 (collectively referred to as the "financial statements"). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2022 and 2021, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2022, in conformity with accounting principles generally accepted in the United States of America.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2022, based on criteria established in *Internal Control — Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated February 21, 2023, expressed an unqualified opinion on the Company's internal control over financial reporting.

Basis for Opinion

These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the Company's financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to 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 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 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 audits 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 audits provide a reasonable basis for our opinion.

Critical Audit Matter

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

Contingencies: Tobacco-Related Litigation — Refer to Note 15 to the consolidated financial statements

Critical Audit Matter Description

The Company’s wholly owned subsidiary Liggett Group LLC (“Liggett”) is subject to litigation related to tobacco product liability. Legal proceedings regarding Liggett’s tobacco products are pending or threatened in various jurisdictions against Liggett and the Company. The Company records provisions for pending litigation when it determines that an unfavorable outcome is probable and the amount of loss can be reasonably estimated. While it is reasonably possible that an unfavorable outcome in a case may occur: (i) management has concluded that it is not probable that a loss has been incurred in any of the pending tobacco related cases or (ii) management is unable to reasonably estimate the possible loss or range of loss that could result from an unfavorable outcome of any of the pending tobacco related cases. Therefore, management has not provided any amounts in the financial statements for unfavorable outcomes. Total tobacco-related litigation accruals were $16.4 million at December 31, 2022.

Given the subjectivity of estimating the projected liability of reported and unreported claims and assessing the probability of the outcome, performing audit procedures to evaluate whether tobacco product liabilities were appropriately recorded as of December 31, 2022 required a high level of auditor judgment and an increased extent of effort.

How the Critical Audit Matter Was Addressed in the Audit

Our audit procedures related to the evaluation of whether tobacco product liabilities were appropriately recorded included the following, among others:

· We tested the effectiveness of controls relating to the determination of tobacco product liability contingencies.

· We evaluated the provisions for tobacco litigation by:

- Obtaining letters from the Company's internal and external counsel which include schedules and analysis of all pending tobacco-related cases.

- Conducting quarterly discussions with the Company's general counsel and obtaining updates on tobacco litigation activity.

- Reviewing tobacco product liability activity of other public tobacco companies for which Liggett is often a co-defendant.

- Evaluating recorded provisions and disclosures based on the information obtained.

- Utilizing the information obtained from the letters from the Company's internal and external counsel, quarterly discussions with the Company's general counsel, and tobacco product liability activity of other tobacco companies, to assess management's conclusion of the probability of the outcome for pending litigation.

/s/ Deloitte & Touche LLP

Miami, Florida

February 21, 2023

We have served as the Company's auditor since 2015.

VECTOR GROUP LTD. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS

	December 31, 2022	December 31, 2021
	(Dollars in thousands, except per share amounts)	
ASSETS:		
Current assets:		
Cash and cash equivalents	$ 224,580	$ 193,411
Investment securities at fair value	116,436	146,687
Accounts receivable - trade, net	40,677	16,067
Inventories	92,448	94,615
Income taxes receivable, net	8,454	10,948
Other current assets	9,770	10,075
Total current assets	492,365	471,803
Property, plant and equipment, net	39,580	36,883
Investments in real estate, net	—	9,098
Long-term investments (includes $28,919 and $32,089 at fair value)	44,959	53,073
Investments in real estate ventures	121,117	105,062
Operating lease right-of-use assets	7,742	10,972
Intangible assets	107,511	107,511
Other assets	95,317	76,685
Total assets	$ 908,591	$ 871,087
LIABILITIES AND STOCKHOLDERS' DEFICIENCY:		
Current liabilities:		
Current portion of notes payable and long-term debt	$ 22,065	$ 79
Current payments due under the Master Settlement Agreement	14,838	11,886
Current operating lease liability	3,551	3,838
Other current liabilities	135,170	149,487
Total current liabilities	175,624	165,290
Notes payable, long-term debt and other obligations, less current portion	1,390,261	1,398,591
Non-current employee benefits	63,216	68,970
Deferred income taxes, net	51,034	34,768
Non-current operating lease liability	5,469	8,853
Payments due under the Master Settlement Agreement	11,116	13,224
Other liabilities	19,748	22,944
Total liabilities	1,716,468	1,712,640
Commitments and contingencies (Notes 5 and 15)		
Stockholders' deficiency:		
Preferred stock, par value $1 per share, 10,000,000 shares authorized	—	—
Common stock, par value $0.1 per share, 250,000,000 shares authorized, 154,840,902 and 153,959,427 shares issued and outstanding	15,484	15,396
Additional paid-in capital	5,092	11,172
Accumulated deficit	(812,380)	(852,398)
Accumulated other comprehensive loss	(16,073)	(15,723)
Total Vector Group Ltd. stockholders' deficiency	(807,877)	(841,553)
Total liabilities and stockholders' deficiency	$ 908,591	$ 871,087

The accompanying notes are an integral part of the consolidated financial statements.

VECTOR GROUP LTD. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS

	Year Ended December 31,		
	2022	2021	2020
	(Dollars in thousands, except per share amounts)		
Revenues:			
Tobacco*	$ 1,425,125	$ 1,202,497	$ 1,204,501
Real estate	15,884	18,203	24,181
Total revenues	1,441,009	1,220,700	1,228,682
Expenses:			
Cost of sales:			
Tobacco*	991,331	758,015	795,904
Real estate	7,327	11,527	23,698
Total cost of sales	998,658	769,542	819,602
Operating, selling, administrative and general expenses	103,102	131,418	116,598
Litigation settlement and judgment expense	239	211	337
Net gains on sales of assets	—	(910)	(2,283)
Operating income	339,010	320,439	294,428
Other income (expenses):			
Interest expense	(110,665)	(112,728)	(121,278)
Gain (loss) on extinguishment of debt	412	(21,362)	—
Change in fair value of derivatives embedded within convertible debt	—	—	4,999
Equity in (losses) earnings from investments	(4,995)	2,675	56,268
Equity in (losses) earnings from real estate ventures	(5,946)	10,250	(44,728)
Other, net	2,746	10,687	(8,646)
Income before provision for income taxes	220,562	209,961	181,043
Income tax expense	61,861	62,807	54,121
Income from continuing operations	158,701	147,154	126,922
Income (loss) from discontinued operations, net of income taxes	—	72,119	(33,984)
Net income	158,701	219,273	92,938
Net loss from continuing operations attributed to non-controlling interest	—	—	—
Net loss from discontinued operations attributed to non-controlling interest	—	190	—
Net loss attributed to non-controlling interest	—	190	—
Net income attributed to Vector Group Ltd. from continuing operations	158,701	147,154	126,922
Net income (loss) attributed to Vector Group Ltd. from discontinued operations	—	72,309	(33,984)
Net income	$ 158,701	$ 219,463	$ 92,938
Per basic common share:			
Net income from continuing operations applicable to common shares attributed to Vector Group Ltd.	$ 1.01	$ 0.94	$ 0.83
Net income (loss) from discontinued operations applicable to common shares attributed to Vector Group Ltd.	—	0.46	(0.23)
Net income applicable to common shares	$ 1.01	$ 1.40	$ 0.60
Per diluted common share:			
Net income from continuing operations applicable to common shares attributed to Vector Group Ltd.	$ 1.01	$ 0.94	$ 0.83
Net income (loss) from discontinued operations applicable to common shares attributed to Vector Group Ltd.	—	0.46	(0.23)
Net income applicable to common shares	$ 1.01	$ 1.40	$ 0.60

* Revenues and cost of sales include federal excise taxes of $520,760, $434,695 and $461,532 for the years ended December 31, 2022, 2021 and 2020, respectively.

The accompanying notes are an integral part of the consolidated financial statements.

VECTOR GROUP LTD. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

	Year Ended December 31,		
	2022	2021	2020
	(Dollars in thousands)		
Net income	$ 158,701	$ 219,273	$ 92,938
Net unrealized losses on investment securities available for sale:			
Change in net unrealized losses	(3,022)	(747)	(454)
Net unrealized losses reclassified into net income	2,969	232	306
Net unrealized losses on investment securities available for sale	(53)	(515)	(148)
Net change in pension-related amounts:			
Amortization of prior service costs	8	(44)	4
Effect of settlement	—	—	1,805
Net (loss) gain arising during the year	(2,031)	5,967	(2,503)
Amortization of loss	1,605	1,921	1,847
Net change in pension-related amounts	(418)	7,844	1,153
Other comprehensive (loss) income	(471)	7,329	1,005
Income tax effect on:			
Change in net unrealized losses on investment securities	780	202	123
Net unrealized losses reclassified into net income on investment securities	(766)	(63)	(83)
Pension-related amounts	107	(2,117)	(311)
Income tax benefit (provision) on other comprehensive (loss) income	121	(1,978)	(271)
Other comprehensive (loss) income, net of tax	(350)	5,351	734
Comprehensive income	158,351	224,624	93,672
Comprehensive loss attributed to non-controlling interest	—	190	—
Comprehensive income attributed to Vector Group Ltd.	$ 158,351	$ 224,814	$ 93,672

The accompanying notes are an integral part of the consolidated financial statements.

VECTOR GROUP LTD. AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF STOCKHOLDERS' DEFICIENCY

	Common Stock		Additional Paid-In Capital	Accumulated Deficit	Accumulated Other Comprehensive Income (Loss)	Non-controlling Interest	Total
	Shares	Amount					
				(Dollars in thousands)			
Balance, January 1, 2020	148,084,900	$ 14,808	$ —	$ (678,464)	$ (21,808)	$ 448	$ (685,016)
Impact of adoption of new accounting standards				(2,263)	—	—	(2,263)
Net income	—	—	—	92,938	—	—	92,938
Total other comprehensive income	—	—	—	—	734	—	734
Total comprehensive income	—	—	—	—	—		93,672
Distributions and dividends on common stock ($0.80 per share)	—	—	(58,892)	(66,236)	—	—	(125,128)
Restricted stock grant	425,000	43	(43)	—	—	—	—
Withholding of shares as payment of payroll tax liabilities in connection with restricted stock vesting and exercise of stock options	(216,542)	(22)	(2,164)	—	—	—	(2,186)
Surrender of shares in connection with stock option exercise	(589,256)	(59)	(7,298)	—	—	—	(7,357)
Issuance of common stock	5,000,000	500	52,063	—	—	—	52,563
Exercise of stock options	620,527	62	6,851	—	—	—	6,913
Stock-based compensation	—	—	9,483	—	—	—	9,483
Distributions to non-controlling interest	—	—	—	—	—	(448)	(448)
Other	—	—	—	80	—	—	80
Balance, December 31, 2020	153,324,629	15,332	—	(653,945)	(21,074)	—	(659,687)
Net income	—	—	—	219,463	—	(190)	219,273
Total other comprehensive income	—	—	—	—	5,351	—	5,351
Total comprehensive income	—	—	—	—	—	—	224,624
Distributions and dividends on common stock ($0.80 per share)	—	—	—	(126,371)	—	—	(126,371)
Restricted stock grant	873,500	88	(88)	—	—	—	—
Withholding of shares as payment of payroll tax liabilities in connection with restricted stock vesting	(238,702)	(24)	(3,539)	—	—	—	(3,563)
Stock-based compensation	—	—	14,799	—	—	—	14,799
Acquisition of subsidiary	—	—	—	—	—	500	500
Contributions from non-controlling interest	—	—	—	—	—	1,625	1,625
Distribution of Douglas Elliman Inc.	—	—	—	(291,545)	—	(1,935)	(293,480)
Balance, December 31, 2021	153,959,427	15,396	11,172	(852,398)	(15,723)	—	(841,553)
Net income	—	—	—	158,701	—	—	158,701
Total other comprehensive loss	—	—	—	—	(350)	—	(350)
Total comprehensive income	—	—	—	—	—	—	158,351
Distributions and dividends on common stock ($0.80 per share)	—	—	—	(127,003)	—	—	(127,003)
Restricted stock grant	1,115,000	111	(111)	—	—	—	—
Withholding of shares as payment of payroll tax liabilities in connection with restricted stock vesting	(233,525)	(23)	(2,645)	—	—	—	(2,668)
Stock-based compensation	—	—	7,848	—	—	—	7,848
Distribution of Douglas Elliman Inc.	—	—	(11,172)	11,172	—	—	—
Other	—	—	—	(2,852)	—	—	(2,852)
Balance, December 31, 2022	154,840,902	$ 15,484	$ 5,092	$ (812,380)	$ (16,073)	$ —	$ (807,877)

The accompanying notes are an integral part of the consolidated financial statements.

VECTOR GROUP LTD. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS

	Year Ended December 31,		
	2022	2021	2020
	(Dollars in thousands)		
Cash flows from operating activities:			
Net income	$ 158,701	$ 219,273	$ 92,938
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	7,218	16,334	17,629
Non-cash stock-based expense	7,848	14,799	9,483
(Gain) loss on extinguishment of debt	(412)	8,349	—
Impairments of goodwill and intangible assets	—	—	58,252
Gain on sale of assets	—	(724)	(1,114)
Deferred income taxes	15,226	14,464	(673)
Distributions from investments	—	134	54,004
Equity in earnings from investments	4,995	(2,675)	(56,268)
Net losses (gains) on investment securities	7,980	(9,648)	(1,818)
Equity in losses (earnings) from real estate ventures	5,946	(9,972)	44,698
Distributions from real estate ventures	3,429	25,326	1,933
Non-cash interest expense	4,114	4,838	4,331
Non-cash lease expense	3,381	21,941	20,496
Non-cash portion of restructuring charges	—	—	1,214
Provision for credit losses	—	3,331	14,288
Other	376	393	(317)
Changes in assets and liabilities:			
Receivables	(24,804)	(9,630)	(8,371)
Inventories	2,168	2,930	1,217
Accounts payable and accrued liabilities	(8,318)	196	3,237
Payments due under the Master Settlement Agreement	844	(31,590)	5,309
Investments in real estate, net	—	5,652	12,449
Other assets and liabilities, net	(7,375)	(18,502)	(5,370)
Net cash provided by operating activities	$ 181,317	$ 255,219	$ 267,547

The accompanying notes are an integral part of the consolidated financial statements

VECTOR GROUP LTD. AND SUBSIDIARIES

CONSOLIDATED STATEMENTS OF CASH FLOWS — (Continued)

	Year Ended December 31,		
	2022	2021	2020
	(Dollars in thousands)		
Cash flows from investing activities:			
Sale of investment securities	$ 23,929	$ 45,627	$ 30,458
Maturities of investment securities	53,030	71,505	61,230
Purchase of investment securities	(54,040)	(124,080)	(99,871)
Proceeds from sale or liquidation of long-term investments	9,266	11,509	32,572
Purchase of long-term investments	(4,363)	(14,316)	(9,687)
Decrease (increase) in restricted assets	5	(5)	436
Investments in real estate ventures	(25,569)	(49,463)	(14,922)
Distributions from investments in real estate ventures	4,946	11,936	18,818
Cash acquired in purchase of subsidiaries	—	—	2,760
Proceeds from sale of fixed assets	—	17	5,162
Capital expenditures	(9,957)	(13,506)	(19,063)
Increase in cash surrender value of life insurance policies	(1,173)	(1,219)	(642)
Purchase of subsidiaries	—	(500)	(722)
Pay downs of investment securities	198	525	812
Net cash (used in) provided by investing activities	(3,728)	(61,970)	7,341
Cash flows from financing activities:			
Proceeds from issuance of debt	—	875,000	—
Repayments of debt	(12,253)	(862,973)	(174,989)
Deferred financing costs	—	(20,109)	—
Borrowings under revolver	112,558	27,892	130,741
Repayments on revolver	(90,547)	(27,868)	(165,693)
Dividends and distributions on common stock	(128,262)	(131,798)	(128,231)
Distributions to non-controlling interest	—	—	(448)
Contributions from non-controlling interest	—	1,625	—
Proceeds from the issuance of common stock	—	—	52,563
Withholding of shares as payment of payroll tax liabilities in connection with restricted stock vesting and exercise of stock options	(2,622)	(13,145)	(2,630)
Cash transferred to Douglas Elliman Inc. at the Distribution	—	(212,571)	—
Other	(938)	(130)	—
Net cash used in financing activities	(122,064)	(364,077)	(288,687)
Net increase (decrease) in cash, cash equivalents and restricted cash	55,525	(170,828)	(13,799)
Cash, cash equivalents and restricted cash, beginning of year	194,849	365,677	379,476
Cash, cash equivalents and restricted cash, end of year	$ 250,374	$ 194,849	$ 365,677

The accompanying notes are an integral part of the consolidated financial statements.

VECTOR GROUP LTD.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in Thousands, Except Per Share Amounts)

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

(a) Basis of Presentation:

The Consolidated Financial Statements included in this annual report present the financial position of Vector Group Ltd. (the "Company" or "Vector") as of December 31, 2022 and 2021 and the results of operations of the Company for the years ended December 31, 2022, 2021 and 2020 giving effect to the Distribution of Douglas Elliman Inc. ("Douglas Elliman") with the historical financial results of Douglas Elliman reflected as discontinued operations (See Note 6.). The cash flows and comprehensive income related to Douglas Elliman have not been segregated and are included in the Consolidated Statements of Cash Flows and Consolidated Statements of Comprehensive Income, respectively, for all periods presented. Unless otherwise indicated, the information in the Notes to the Consolidated Financial Statements refers only to the Company's continuing operations and does not include discussion of balances or activity of Douglas Elliman.

The consolidated financial statements of the Company include the accounts of Liggett Group LLC ("Liggett"), Vector Tobacco LLC ("Vector Tobacco"), Liggett Vector Brands LLC ("Liggett Vector Brands"), New Valley LLC ("New Valley") and other less significant subsidiaries. New Valley includes the accounts of other less significant subsidiaries. All significant intercompany balances and transactions have been eliminated.

Liggett and Vector Tobacco are engaged in the manufacture and sale of cigarettes in the United States. Liggett Vector Brands coordinates Liggett and Vector Tobacco's sales and marketing efforts. Certain references to "Liggett" refer to the Company's tobacco operations, including the business of Liggett and Vector Tobacco, unless otherwise specified. New Valley is engaged in the real estate business.

(b) Estimates and Assumptions:

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities and the reported amounts of revenues and expenses. Significant estimates subject to material changes in the near term include impairment charges, valuation of intangible assets, promotional accruals, actuarial assumptions of pension plans, deferred tax liabilities, settlement accruals, valuation of investments, including other-than-temporary impairments to such investments, and litigation and defense costs. Actual results could differ from those estimates.

(c) Cash and Cash Equivalents:

Cash includes cash on hand, cash on deposit in banks, and money market accounts. Cash equivalents include short-term investments which have an original maturity of 90 days or less. Interest on short-term investments is recognized when earned. The Company deposits its cash and cash equivalents at large financial institutions, including commercial banks and broker-dealers. The Federal Deposit Insurance Corporation and Securities Investor Protection Corporation insure these balances, up to $250 and $500, respectively. Substantially all cash balances at December 31, 2022 are uninsured.

(d) Reconciliation of Cash, Cash Equivalents and Restricted Cash:

Restricted cash amounts included in other current assets and other assets represent cash and cash equivalents required to be deposited into escrow for bonds required to appeal adverse product liability judgments, amounts required for letters of credit related to office leases, and certain deposit requirements for banking arrangements. The restrictions related to the appellate bonds will remain in place until the appeal process has been completed. The restrictions related to the letters of credit will remain in place for the duration of the respective lease. The restrictions related to the banking arrangements will remain in place for the duration of the arrangement.

The components of "Cash, cash equivalents and restricted cash" in the Consolidated Statements of Cash Flows were as follows:

	December 31, 2022	December 31, 2021	December 31, 2020
Cash and cash equivalents	$ 224,580	$ 193,411	$ 258,421
Restricted cash and cash equivalents included in other assets	25,794	1,438	554
Cash, cash equivalents and restricted cash of discontinued operations	—	—	106,702
Total cash, cash equivalents, and restricted cash shown in the consolidated statements of cash flows	$ 250,374	$ 194,849	$ 365,677

(e) Investment Securities:

The Company classifies investments in debt securities as available for sale. Investments classified as available for sale are recorded at fair value, with net unrealized gains and losses included as a separate component of stockholders' deficiency. The cost of securities sold is determined based on average cost.

Gains are recognized when realized in the Company's consolidated statements of operations. Losses are recognized as realized or upon the determination of the occurrence of an other-than-temporary decline in fair value. The Company's policy is to review its securities on a periodic basis to evaluate whether any security has experienced an other-than-temporary decline in fair value. If it is determined that an other-than-temporary decline exists in one of the Company's debt securities, it is the Company's policy to record an impairment charge with respect to such investment in the Company's consolidated statements of operations.

The Company classifies investments in marketable equity securities as equity securities at fair value. The Company's marketable equity securities are measured at fair value with changes in fair value recognized in net income. Gains and losses are recognized when realized in the Company's consolidated statements of operations. Investments in marketable equity securities represent less than a 20 percent interest in the investees and the Company does not exercise significant influence over such entities.

(f) Significant Concentrations of Credit Risk:

Financial instruments which potentially subject the Company to concentrations of credit risk consist principally of cash and cash equivalents and trade receivables. The Company places its temporary cash in money market securities (investment grade or better) with, what management believes, high credit quality financial institutions.

Liggett's customers are primarily wholesalers and distributors of tobacco and convenience products as well as large grocery, drug and convenience store chains. Two customers accounted for 15% and 11% of Liggett's revenues in 2022, 14% and 12% in 2021 and 18% and 12% in 2020. Concentrations of credit risk with respect to trade receivables are generally limited due to Liggett's large number of customers. Liggett's two largest customers represented approximately 4% and 37%, respectively, of Liggett's net accounts receivable at December 31, 2022, and approximately 0% and 2%, respectively, at December 31, 2021. Ongoing credit evaluations of customers' financial condition are performed and, generally, no collateral is required. Liggett maintains reserves for potential credit losses and such losses, in the aggregate, have not exceeded management's expectations.

(g) Accounts Receivable - trade, net:

Accounts receivable-trade are recorded net of an allowance for credit losses and cash discounts. The Company estimates the allowance for credit losses based on historical experience, the age of the accounts receivable balances, credit quality of our customers, current economic conditions, supportable forecasts of future economic condition, and other factors that may affect our ability to collect from customers. The allowance for credit losses and cash discounts was $838 and $326 at December 31, 2022 and 2021, respectively. Uncollectible accounts are written off when the likelihood of collection is remote and when collection efforts have been abandoned.

(h) Inventories:

Tobacco inventories are stated at the lower of cost and net realizable value with cost determined primarily by the last-in, first-out (LIFO) method at Liggett and Vector Tobacco. Although portions of leaf tobacco inventories may not be used or sold within one year because of the time required for aging, they are included in current assets, which is common practice in the industry.

(i) Property, Plant and Equipment:

Property, plant and equipment are stated at cost. Property, plant and equipment are depreciated using the straight-line method over the estimated useful lives of the respective assets, which are 20 to 30 years for buildings and 3 to 10 years for machinery and equipment.

Repairs and maintenance costs are charged to expense as incurred. The costs of major renewals and betterments are capitalized. The cost and related accumulated depreciation of property, plant and equipment are removed from the accounts upon retirement or other disposition and any resulting gain or loss is reflected in operations.

The cost of leasehold improvements is amortized over the lesser of the related leases or the estimated useful lives of the improvements. Costs of major additions and betterments are capitalized, while expenditures for routine maintenance and repairs are charged to expense as incurred.

(j) Investments in Real Estate Ventures:

In accounting for its investments in real estate ventures, the Company identified its participation in Variable Interest Entities ("VIE"), which are defined as (a) entities in which the equity investment at risk is not sufficient to finance its activities without additional subordinated financial support; (b) as a group, the equity investors at risk lack 1) the power to direct the activities of a legal entity that most significantly impact the entity's economic performance, 2) the obligation to absorb the expected losses of the entity, or 3) the right to receive the expected residual returns of the entity; or (c) as a group, the equity investors have voting rights that are not proportionate to their economic interests and the entity's activities involve or are conducted on behalf of an investor with a disproportionately small voting interest.

The Company's interest in VIEs is primarily in the form of equity ownership. The Company examines specific criteria and uses judgment when determining if the Company is the primary beneficiary of a VIE. Factors considered include risk and reward sharing, experience and financial condition of other partner(s), voting rights, involvement in day-to-day capital and operating decisions, representation on a VIE's executive committee, existence of unilateral kick-out rights exclusive of protective rights or voting rights and level of economic disproportionality between the Company and its other partner(s).

Accounting guidance requires the consolidation of VIEs in which the Company is the primary beneficiary. The guidance requires consolidation of VIEs that an enterprise has a controlling financial interest. A controlling financial interest will have both of the following characteristics: (a) the power to direct the activities of a VIE that most significantly impact the VIE's economic performance and (b) the obligation to absorb losses of the VIE that could potentially be significant to the VIE or the right to receive benefits from the VIE that could potentially be significant to the VIE.

The Company's maximum exposure to loss in its investments in unconsolidated VIEs is limited to its investment in the VIE, any unfunded capital commitments to the VIE, and, in some cases, guarantees in connection with debt on the specific project. The Company's maximum exposure to loss in its investment in consolidated VIEs is limited to its investment, which is the carrying value of the investment net of the non-controlling interest. Creditors of the consolidated VIEs have no recourse to the general credit of the primary beneficiary.

On a quarterly basis, the Company evaluates its investments in real estate ventures to determine if there are indicators of impairment. If so, the Company further investigates to determine if an impairment has occurred and whether such impairment is considered temporary or other than temporary. The Company believes that the assessment of temporary or other-than-temporary impairment includes judgment and all relevant facts and circumstances.

(k) Intangible Assets:

Intangible assets with indefinite lives are not amortized, but instead are tested for impairment at least annually as of December 31 and monitored for interim triggering events on an on-going basis. Our intangible asset associated with the benefit under the Master Settlement Agreement ("MSA") relates to the market share payment exemption of The Medallion Company Inc. (now known as Vector Tobacco LLC), acquired in April 2002, under the MSA, which states payments under the MSA continue in perpetuity. As a result, the Company believes it will realize the benefit of the exemption for the foreseeable future.

The fair value of the intangible asset associated with the benefit under the MSA is calculated using discounted cash flows. This approach involves two steps: (i) estimating future cash savings due to the payment exemption under the MSA and (ii) discounting the resulting cash flow savings to determine fair value. This fair value is then compared with the carrying value of the intangible asset associated with the benefit under the MSA. To the extent that the carrying amount exceeds the implied fair value of the intangible asset, an impairment loss is recognized.

Indefinite life intangible assets as of December 31, 2022 and 2021, were $107,511. The Company performed its impairment test for the years ended December 31, 2022, 2021 and 2020 and no impairment was noted.

(l) Impairment of Long-Lived Assets:

The Company reviews long-lived assets for impairment whenever events or changes in business circumstances indicate that the carrying amount of the assets may not be fully recoverable. The Company performs a test for recoverability, comparing projected undiscounted cash flows to the carrying value of the asset group to determine if impairment exists. If impairment is determined to exist, any related impairment loss is calculated based on fair value of the asset based on discounted cash flow. Impairment losses on assets to be disposed of, if any, are based on the estimated proceeds to be received, less costs of disposal.

Additionally, the Company performs impairment reviews on its long-term investments that are classified as equity securities without readily determinable fair values that do not qualify for the net asset value ("NAV") practical expedient. On a quarterly basis, the Company evaluates the investments to determine if there are indicators of impairment. If so, a determination is made of whether there is an impairment and if it is considered temporary or other than temporary. The assessment of temporary or other-than-temporary impairment includes judgment and all relevant facts and circumstances. The impairment indicators that are taken into consideration as part of the analysis include (a) a significant deterioration in the earnings performance, credit rating, asset quality, or business prospects of the investee, (b) a significant adverse change in the regulatory, economic, or technological environment of the investee, (c) a significant adverse change in the general market condition of either the geographical area or the industry in which the investee operates, and (d) factors that raise significant concerns about the investee's ability to continue as a going concern, such as negative cash flows from operations, working capital deficiencies, or noncompliance with statutory capital requirements or debt covenants.

(m) Leases:

The Company determines if an arrangement is a lease at inception. Operating leases are included in operating lease right-of-use ("ROU") assets and lease liabilities on the Company's consolidated balance sheets. Finance leases are included in investments in real estate, net, property, plant and equipment and current and long-term portions of notes payable and long-term debt on the Company's consolidated balance sheets.

ROU assets represent the Company's right to use an underlying asset for the duration of the lease term. Lease liabilities represent the Company's obligation to make lease payments as determined by the lease agreement. Lease liabilities are recorded at commencement for the net present value of future lease payments over the lease term. The discount rate used is generally the Company's estimated incremental borrowing rate unless the lessor's implicit rate is readily determinable. Discount rates are calculated periodically to estimate the rate the Company would pay to borrow the funds necessary to obtain an asset of similar value, over a similar term, with a similar security. ROU assets are recorded and recognized at commencement for the lease liability amount, initial direct costs incurred and are reduced for lease incentives received. The Company's lease terms may include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. Operating lease expense is recognized on a straight-line basis over the lease term. Finance lease cost is recognized on a straight-line basis over the shorter of the useful life of the asset and the lease term.

The Company has lease agreements with lease and non-lease components; the Company has elected the accounting policy to combine lease and non-lease components for all underlying asset classes.

(n) Pension, Postretirement and Postemployment Benefits Plans:

The cost of providing retiree pension benefits, health care and life insurance benefits is actuarially determined and accrued over the service period of the active employee group. The Company recognizes the funded status of each defined benefit pension plan, retiree health care and other postretirement benefit plans and postemployment benefit plans on the Company's consolidated balance sheets. (See Note 12).

(o) Stock Options and Awards:

The Company accounts for employee stock compensation plans by measuring compensation cost for share-based payments at fair value at grant date. The fair value is recognized as compensation expense over the vesting period on a straight-line basis. The terms of certain stock options and restricted stock awarded under the 2014 Management Incentive Plan and under the 1999 Plan provide for common stock dividend equivalents (paid in cash at the same rate as paid on the common stock) with respect to the shares underlying the unvested portion of the options and restricted stock. The Company recognizes payments of the dividend equivalent rights on these options and restricted stock on the Company's consolidated balance sheets as reductions in additional paid-in capital until fully utilized and then accumulated deficit ($4,239, $3,832 and $3,684, net of

income taxes, for the years ended December 31, 2022, 2021 and 2020, respectively), which are included as "Distributions and dividends on common stock" in the Company's consolidated statement of stockholders' deficiency.

(p) Income Taxes:

The Company accounts for income taxes under the liability method and records deferred taxes for the impact of temporary differences between the amounts of assets and liabilities recognized for financial reporting purposes and the amounts recognized for tax purposes as well as tax credit carryforwards and loss carryforwards. These deferred taxes are measured by applying the enacted tax rates relative to when the deferred item is expected to reverse. A valuation allowance reduces deferred tax assets when it is deemed more likely than not that some portion or all deferred tax assets will not be realized. A current tax provision is recorded for income taxes currently payable.

The Company accounts for uncertainty in income taxes by recognizing the financial statement impact of a tax position when it is more likely than not that the position will be sustained upon examination. If the tax position meets the more-likely-than-not recognition threshold, the tax effect is recognized at the largest amount of the benefit that is greater than 50% likely of being realized upon ultimate settlement. The guidance requires that a liability created for unrecognized deferred tax benefits shall be presented as a liability and not combined with deferred tax liabilities or assets. The Company classifies all tax-related interest and penalties as income tax expense.

(q) Distributions and Dividends on Common Stock:

The Company records distributions on its common stock as dividends in its consolidated statement of stockholders' deficiency to the extent of retained earnings. Any amounts exceeding retained earnings are recorded as a reduction to additional paid-in-capital to the extent paid-in-capital is available and then to accumulated deficit. The Company's stock dividends are recorded as stock splits and given retroactive effect to earnings per share for all years presented.

(r) Revenue Recognition:

Tobacco: Revenue from cigarette sales, which include federal excise taxes billed to customers, are recognized upon shipment of cigarettes when control has passed to the customer. Average collection terms for Tobacco sales range between three and twelve days from the time that the cigarettes are shipped to the customer. The Company records an allowance for goods estimated to be returned in other current liabilities and the associated receivable for anticipated federal excise tax refunds in other current assets on the consolidated balance sheets. The allowance for returned goods is based principally on sales volumes and historical return rates. The estimated costs of sales incentives, including customer incentives and trade promotion activities, are based principally on historical experience and are accounted for as reductions in Tobacco revenue. Expected payments for sales incentives are included in other current liabilities on the Company's consolidated balance sheets. The Company accounts for shipping and handling costs as fulfillment costs as part of cost of sales.

Tobacco Shipping and Handling Fees and Costs: Shipping and handling fees related to sales transactions are neither billed to customers nor recorded as revenue. Shipping and handling costs were $8,747 in 2022, $7,006 in 2021 and $5,602 in 2020. Shipping and handling costs related to sales transactions are part of cost of sales.

Real estate: Revenue from facilities primarily related to Escena and consisted of revenues from food and beverage sales, fees charged for gameplay and the sale of golf related equipment and apparel. Revenue is recognized at the time of sale. See Note 10 for details of the Escena investment**.** In April 2022, New Valley sold Escena and received approximately $15,300 in net cash proceeds. The Company recognized the revenue in accordance with the scope of ASC Topic 606 since New Valley has no continuing investment or involvement. The sale was presented as revenue and the cost of the investment as cost of sales on the consolidated statements of operations.

Revenue from investments in real estate is recognized from land and building sales at the time of the closing of a sale, which is typically when cash is due, the performance obligation is satisfied as the title to and possession of the real estate asset are transferred to the buyer and the Company has no further obligations or involvement in the real estate asset.

(s) Advertising:

Tobacco advertising costs, which are expensed as incurred and included within operating, selling, administration and general expenses, were $4,748, $4,464 and $4,103 for the years ended December 31, 2022, 2021 and 2020, respectively.

(t) Comprehensive Income:

The Company presents net income and other comprehensive income in two separate, but consecutive, statements. The items are presented before related tax effects with detailed amounts shown for the income tax expense or benefit related to each component of other comprehensive income.

The components of accumulated other comprehensive loss, net of income taxes, were as follows:

	December 31, 2022	December 31, 2021	December 31, 2020
Net unrealized gains on investment securities available for sale, net of income taxes of $7, $21, and $160, respectively	$ 7	$ 46	$ 422
Pension-related amounts, net of income taxes of $5,799, $5,692, and $7,809, respectively	(16,080)	(15,769)	(21,496)
Accumulated other comprehensive loss	$ (16,073)	$ (15,723)	$ (21,074)

(u) Contingencies:

The Company and its subsidiaries record provisions in their consolidated financial statements for pending litigation when they determine that an unfavorable outcome is probable and the amount of loss can be reasonably estimated. As discussed in Note 15, legal proceedings covering a wide range of matters are pending or threatened in various jurisdictions against Liggett and the Company. At the present time, while it is reasonably possible that an unfavorable outcome in a case may occur, except as disclosed in Note 15: (i) management has concluded that it is not probable that a loss has been incurred in any of the pending tobacco-related cases; or (ii) management is unable to estimate the possible loss or range of loss that could result from an unfavorable outcome of any of the pending tobacco-related cases and, therefore, management has not provided any amounts in the consolidated financial statements for unfavorable outcomes, if any.

The Company records Liggett's product liability legal expenses as operating, selling, administrative and general expenses as those costs are incurred.

(v) Other, Net:

Other, net consisted of:

	Year Ended December 31,		
	2022	2021	2020
Interest and dividend income	$ 8,627	$ 1,920	$ 5,621
Post-retirement benefit insurance credits	880	356	355
Change in derivative associated with guarantee	2,646	—	—
Expense related to Tax Disaffiliation indemnification	(589)	—	—
Net (losses) gains recognized on investment securities	(7,980)	9,384	1,818
Net periodic benefit cost other than the service costs	(944)	(975)	(3,618)
Credit loss expense	—	—	(12,828)
Other income	106	2	6
Other, net	$ 2,746	$ 10,687	$ (8,646)

(w) Other Assets:

Other assets consisted of:

	December 31, 2022	December 31, 2021
Restricted assets	$ 25,907	$ 1,551
Prepaid pension costs	38,100	44,585
Other assets	31,310	30,549
Total other assets	$ 95,317	$ 76,685

(x) Other Current Liabilities:

Other current liabilities consisted of:

	December 31, 2022	December 31, 2021
Accounts payable	$ 6,351	$ 9,443
Accrued promotional expenses	56,645	55,647
Accrued excise and payroll taxes payable, net	17,160	22,919
Accrued interest	30,451	30,676
Accrued salaries and benefits	9,614	13,982
Allowance for sales returns	7,526	6,669
Other current liabilities	7,423	10,151
Total other current liabilities	$ 135,170	$ 149,487

(y) New Accounting Pronouncements:

Accounting Standards Updates ("ASUs") to be adopted in future periods:

In October 2021, the FASB issued *ASU 2021-08, Business Combinations (Topic 805), Accounting for Contract Assets and Contract Liabilities from Contracts with Customers.* The ASU requires that an acquirer recognize and measure contract assets and contract liabilities in a business combination in accordance with Topic 606. The ASU is effective for fiscal years beginning after December 15, 2022, including interim periods within those fiscal years. The Company is currently evaluating the impact of the new guidance on its consolidated financial statements.

SEC Proposed Rules

On March 21, 2022, the SEC proposed rule changes that would require registrants to provide certain climate-related information in their registration statements and annual reports. The proposed rules would require information about a registrant's climate-related risks that are reasonably likely to have a material impact on its business, results of operations, or financial condition. The required information about climate-related risks would also include disclosure of a registrant's greenhouse gas emissions, which have become a commonly used metric to assess a registrant's exposure to such risks. In addition, under the proposed rules, certain climate-related financial metrics would be required in a registrant's audited financial statements. The Company is currently evaluating the impact of the proposed rule changes.

2. REVENUE RECOGNITION

Disaggregation of Revenue

The Company disaggregates revenues by segment.

Tobacco. Tobacco segment revenues are not disaggregated because all revenues are generated from the discount segment of the U.S. cigarette industry.

Real Estate. Real Estate segment revenues are disaggregated in the table below.

	Year Ended December 31,		
	2022	2021	2020
Real Estate Segment Revenues			
Sales on facilities primarily from Escena	$ 3,259	$ 5,353	$ 3,681
Revenues from investments in real estate	12,625	12,850	20,500
Total real estate revenues	$ 15,884	$ 18,203	$ 24,181

3. CURRENT EXPECTED CREDIT LOSSES

Tobacco receivables: Average collection terms for Tobacco sales range between three and twelve days from the time that the cigarettes are shipped to the customer. Based on Tobacco historical and ongoing cash collections from customers, an estimated credit loss in accordance with *ASU 2016-13* was not recorded for these trade receivables as of December 31, 2022 and December 31, 2021.

Term loan receivables: New Valley periodically provides term loans to commercial real estate developers, which are included in Other assets on the consolidated balance sheets. New Valley had two loans in maturity default at December 31, 2022, with a total amortized cost basis of $15,928, including accrued interest receivable of $6,428 at both December 31, 2022 and December 31, 2021. The loans are secured by guarantees and given their risk profiles are evaluated individually. As New Valley does not have internal historical loss information by which to evaluate the risk of credit losses, external market data measuring default risks on high yield loans as of each measurement date was utilized to estimate reserves for credit losses on these loans. Pursuant to the requirements of ASU 2016-13, New Valley's expected credit loss estimate was $15,928 at both December 31, 2022 and December 31, 2021.

The following is the reconciliation of the allowance for credit losses for the year ended December 31, 2022:

	January 1, 2022	Current Period Provision	Write-offs	Recoveries	December 31, 2022
Allowance for credit losses:					
New Valley term loan receivables	15,928	—	—	—	15,928

The following is the reconciliation of the allowance for credit losses for the year ended December 31, 2021:

	January 1, 2021	Current Period Provision	Write-offs	Recoveries	December 31, 2021
Allowance for credit losses:					
New Valley term loan receivables	15,928	—	—	—	15,928

4. EARNINGS PER SHARE

As discussed in Note 14, the Company has stock option awards which provide for common stock dividend equivalents at the same rate as paid on the common stock with respect to the shares underlying the unexercised portion of the options. These outstanding options represent participating securities under authoritative guidance. The Company recognizes payments of the dividend equivalent rights ($4,239, $3,832, and $3,684, for the years ended December 31, 2022, 2021 and 2020, respectively) on these options as reductions in additional paid-in-capital on the Company's consolidated balance sheets. The Company included the income tax benefit associated with the dividend equivalent rights as a component of income tax expense due to the adoption of ASU 2016-09. As a result, in its calculation of basic earnings per share ("EPS") for the years ended December 31, 2022, 2021 and 2020, respectively, the Company has adjusted its net income for the effect of these participating securities as follows:

Net income (loss) for purposes of determining basic EPS for discontinued operations and net income available to common stockholders attributed to Vector Group Ltd. was as follows:

	For the year ended December 31,		
	2022	2021	2020
Net income attributed to Vector Group Ltd. from continuing operations	$ 158,701	$ 147,154	$ 126,922
Net income (loss) attributed to Vector Group Ltd. from discontinued operations	—	72,309	(33,984)
Net income attributed to Vector Group Ltd.	158,701	219,463	92,938
Income from continuing operations attributable to participating securities	(4,947)	(5,862)	(2,560)
Net income available to common stockholders attributed to Vector Group Ltd.	$ 153,754	$ 213,601	$ 90,378

Net income for purposes of determining basic EPS for continuing operations applicable to common shares attributed to Vector Group Ltd. was as follows:

	For the year ended December 31,		
	2022	2021	2020
Net income attributed to Vector Group Ltd. from continuing operations	$ 158,701	$ 147,154	$ 126,922
Income from continuing operations attributable to participating securities	(4,947)	(3,694)	(2,580)
Net income available to common stockholders attributed to Vector Group Ltd.	$ 153,754	$ 143,460	$ 124,342

Basic EPS is computed by dividing net income available to common stockholders attributed to Vector Group Ltd. by the weighted-average number of shares outstanding, which includes vested restricted stock.

Net income (loss) for purposes of determining diluted EPS for discontinued operations and net income available to common stockholders attributed to Vector Group Ltd. was as follows:

	For the year ended December 31,		
	2022	2021	2020
Net income attributed to Vector Group Ltd. from continuing operations	$ 158,701	$ 147,154	$ 126,922
Net income (loss) attributed to Vector Group Ltd. from discontinued operations	—	72,309	(33,984)
Net income attributed to Vector Group Ltd.	158,701	219,463	92,938
Income from continuing operations attributable to participating securities	(4,947)	(5,862)	(2,560)
Net income available to common stockholders attributed to Vector Group Ltd.	$ 153,754	$ 213,601	$ 90,378

Net income for purposes of determining diluted EPS for continuing operations applicable to common shares attributed to Vector Group Ltd. was as follows:

	For the year ended December 31,		
	2022	2021	2020
Net income attributed to Vector Group Ltd. from continuing operations	$ 158,701	$ 147,154	$ 126,922
Income from continuing operations attributable to participating securities	(4,947)	(3,694)	(2,580)
Net income available to common stockholders attributed to Vector Group Ltd.	$ 153,754	$ 143,460	$ 124,342

Basic and diluted EPS for continuing and discontinued operations were calculated using the following common shares for the years ended December 31, 2022, 2021 and 2020:

	For the year ended December 31,		
	2022	2021	2020
Weighted-average shares for basic EPS	152,752,874	152,403,072	150,216,141
Incremental shares related to stock options and non-vested restricted stock	141,977	71,777	34,812
Weighted-average shares for diluted EPS	152,894,851	152,474,849	150,250,953

It may not be possible to recalculate EPS attributable to common stockholders by adjusting EPS from continuing operations by EPS from discontinued operations as each amount is calculated independently.

The following non-vested restricted stock and shares issuable upon the conversion of convertible debt were outstanding during the years ended December 31, 2022, 2021 and 2020, but were not included in the computation of diluted EPS because the impact of common shares issuable under the convertible debt were anti-dilutive to EPS.

	Year Ended December 31,		
	2022	2021	2020
Weighted-average shares of non-vested restricted stock	1,973	524,606	520,936
Weighted-average expense per share	$ 11.23	$ 17.42	$ 19.54
Weighted-average number of shares issuable upon conversion of debt	—	—	2,423,719
Weighted-average conversion price	$ —	$ —	$ 20.27

5. LEASES

The Company has operating and finance leases for corporate and sales offices, and certain vehicles and equipment accounted for under ASC 842. The leases have remaining lease terms of less than one year to five years, some of which include options to extend for up to five years, and some of which include options to terminate the leases within one year. However, the Company in general is not reasonably certain to exercise options to renew or terminate, and therefore renewal and termination options are not considered in the lease term or the ROU asset and lease liability balances. The Company's lease population includes purchase options on equipment leases that are included in the lease payments when reasonably certain to be exercised. The Company's lease population does not include any residual value guarantees. The Company's lease population does not contain any material restrictive covenants.

The Company has leases with variable payments, most commonly in the form of Common Area Maintenance ("CAM") and tax charges which are based on actual costs incurred. These variable payments were excluded from the ROU asset and lease liability balances since they are not fixed or in-substance fixed payments. Variable payments are expensed as incurred.

The components of lease expense were as follows:

	Year Ended December 31,		
	2022	2021	2020
Operating lease cost	$ 4,405	$ 4,578	$ 4,572
Short-term lease cost	415	374	349
Variable lease cost	299	320	634
Finance lease cost:			
Amortization	33	58	111
Interest on lease liabilities	5	9	14
Total lease cost	$ 5,157	$ 5,339	$ 5,680

Supplemental cash flow information related to leases was as follows:

	Year Ended December 31,		
	2022	2021	2019
Cash paid for amounts included in measurement of lease liabilities:			
Operating cash flows from operating leases	$ 4,850	$ 4,961	$ 4,034
Operating cash flows from finance leases	5	10	14
Financing cash flows from finance leases	37	57	102
ROU assets obtained in exchange for lease obligations:			
Operating leases	208	1,993	3,298
Finance leases	—	—	60

Supplemental balance sheet information related to leases was as follows:

	December 31, 2022	December 31, 2021
Finance leases:		
Investments in real estate, net [1]	$ —	$ 30
Property, plant and equipment, at cost	$ 127	$ 127
Accumulated amortization	(95)	(70)
Property and equipment, net	$ 32	$ 57
Current portion of notes payable and long-term debt	$ 29	$ 55
Notes payable, long-term debt and other obligations, less current portion	8	41
Total finance lease liabilities	$ 37	$ 96
Weighted average remaining lease term in years:		
Operating leases	2.57	3.36
Finance leases	1.25	1.84
Weighted average discount rate:		
Operating leases	9.89 %	9.60 %
Finance leases	8.85 %	8.21 %

[1] Includes finance lease equipment at a cost of $0 and $748 and accumulated amortization of $0 and $718 as of December 31, 2022 and 2021, respectively.

As of December 31, 2022, maturities of lease liabilities were as follows:

	Operating Leases	Finance Leases
Year Ending December 31:		
2023	$ 4,268	$ 31
2024	3,532	8
2025	2,137	—
2026	319	—
2027	—	—
Thereafter	—	—
Total lease payments	10,256	39
Less imputed interest	(1,236)	(2)
Total	$ 9,020	$ 37

The Company leases office space from an affiliate of a significant stockholder of the Company. This lease represents $151 of the ROU asset balances and $163 of lease liability balances as of December 31, 2022. The rent expense for this lease was approximately $458 for the year ended December 31, 2022.

As of December 31, 2022, the Company had $1,073 undiscounted lease payments relating to leases that have not yet commenced. The operating leases will commence in the first half of 2023 with lease terms ranging between 2 and 3 years.

The Company’s rental expense for the years ended December 31, 2022, 2021 and 2020 was $4,405, $4,578 and $4,572, respectively. Rent expense for the year ended December 31, 2022 consisted of $3,381 of amortization and $1,024 of lease expense for interest accretion on operating lease liabilities. Rent expense for the year ended December 31, 2021 consisted of $3,275 of amortization and impairment of ROU assets and $1,303 of lease expense for interest accretion on operating lease liabilities. Rent expense for the year ended December 31, 2020 consisted of $3,170 of amortization and impairment of ROU assets and $1,402 of lease expense for interest accretion on operating lease liabilities.

6. DISCONTINUED OPERATIONS

On December 29, 2021, at 11:59 p.m., New York City time, the Company completed the distribution to its stockholders (including Vector common stock underlying outstanding stock options awards and restricted stock awards) of the common stock of Douglas Elliman (the "Distribution"). Each holder of Vector common stock received one share of Douglas Elliman's common stock for every two shares of Vector common stock (including Vector common stock underlying outstanding stock option awards and restricted stock awards) held of record as of the close of business, New York City time, on December 20, 2021. In the Distribution, an aggregate of 77,720,159 shares of Douglas Elliman's common stock were issued, with any fractional shares converted to cash and paid to applicable Vector stockholders. Prior to the Distribution, Douglas Elliman was a component of the Real Estate segment of the Company.

Following the Distribution, Douglas Elliman is a separate public company. The Company and Douglas Elliman entered into a distribution agreement (the "Distribution Agreement") and several ancillary agreements for the purpose of accomplishing the Distribution. The Distribution Agreement includes an agreement that the Company and Douglas Elliman will provide each other with appropriate indemnities with respect to liabilities arising out of the business retained by Vector and the business transferred to Douglas Elliman by Vector. These agreements also govern the Company's relationship with Douglas Elliman after the Distribution and provide for the allocation of employee benefit, tax and some other liabilities and obligations attributable to periods prior to, at and after the Distribution. These agreements also include arrangements with respect to transition services (the "Transition Services Agreement"). The Company entered into a Tax Disaffiliation Agreement with Douglas Elliman that governs Vector's and Douglas Elliman's respective rights, responsibilities and obligations with respect to taxes and tax benefits, the filing of tax returns, the control of audits and other tax matters. Douglas Elliman will be party to other arrangements with Vector and its subsidiaries.

Douglas Elliman and its eligible subsidiaries have previously joined with Vector in the filing of certain consolidated, combined, and unitary returns for state, local, and other applicable tax purposes. However, for periods (or portions thereof) beginning after the Distribution, Douglas Elliman will not join with Vector or any of its subsidiaries (as determined after the Distribution) in the filing of any federal, state, local or other applicable consolidated, combined or unitary tax returns.

Under the Tax Disaffiliation Agreement, with certain exceptions, Vector will be generally responsible for all of Douglas Elliman's U.S. federal, state, local and other applicable income and non-income taxes for any taxable period or portion of such period ending on or before the Distribution date. Douglas Elliman will be generally responsible for all taxes that are attributable to it or one of its subsidiaries after the Distribution date. The Company paid Douglas Elliman $589 in 2022 and recorded Other expense in its consolidated statements of operations for the year ended December 31, 2022 related to the tax indemnifications.

There were no assets or liabilities of discontinued operations of Douglas Elliman as of December 31, 2022 and 2021, respectively.

The financial results of Douglas Elliman through the Distribution are presented as income (loss) from discontinued operations, net of income taxes on the Company's consolidated statements of operations. The following table presents financial results of Douglas Elliman for the periods prior to the completion of the Distribution:

	Year Ended December 31,		
	2022	2021	2020
	(Dollars in thousands, except per share amounts)		
Revenues:			
Real estate	$ —	$ 1,344,825	$ 773,987
Expenses:			
Cost of sales	—	989,436	547,543
Operating, selling, administrative and general expenses	—	253,942	212,926
Net loss on sales of asset	—	—	1,169
Impairments of goodwill and intangible assets	—	—	58,252
Restructuring charges	—	—	3,382
Operating income (loss)	—	101,447	(49,285)
Other income (expenses):			
Interest expense	—	(164)	(263)
Equity in (losses) earnings from real estate ventures	—	(278)	30
Other, net	—	(870)	3,190
Pretax income (loss) from discontinued operations	—	100,135	(46,328)
Income tax expense	—	28,016	(12,344)
Income (loss) from discontinued operations	—	72,119	(33,984)
Net loss from discontinued operations attributed to non-controlling interest	—	190	—
Net income (loss) from discontinued operations attributed to Vector Group Ltd.	$ —	$ 72,309	$ (33,984)

The following table presents the information regarding certain components of cash flows from discontinued operations:

	Year Ended December 31,		
	2022	2021	2020
	(Dollars in thousands, except per share amounts)		
Depreciation and amortization	$ —	$ 8,561	$ 8,537
Non-cash lease expense	—	18,667	17,326
Capital expenditures	—	(4,106)	(6,126)

7. INVESTMENT SECURITIES

Investment securities at fair value consisted of the following:

	December 31, 2022	December 31, 2021
Debt securities available for sale	$ 81,643	$ 103,906
Equity securities at fair value:		
Marketable equity securities	12,724	19,560
Mutual funds invested in debt securities	22,069	23,221
Long-term investment securities at fair value [1]	28,919	32,089
Total equity securities at fair value	63,712	74,870
Total investment securities at fair value	145,355	178,776
Less:		
Long-term investment securities at fair value [1]	28,919	32,089
Current investment securities at fair value	$ 116,436	$ 146,687
Long-term investment securities at fair value [1]	$ 28,919	$ 32,089
Equity-method investments	16,040	20,984
Total long-term investments	$ 44,959	$ 53,073
Equity securities at cost: [2]		
Other equity securities at cost	$ 2,755	$ 5,200

(1) These assets are measured at net asset value ("NAV") as a practical expedient under ASC 820.

(2) These assets are without readily determinable fair values that do not qualify for the NAV practical expedient and are included in Other assets on the consolidated balance sheets.

Net gains recognized on investment securities were as follows:

	Year Ended December 31,		
	2022	2021	2020
Net (losses) gains recognized on equity securities at fair value	$ (5,011)	$ 9,615	$ 2,123
Net gains recognized on debt and equity securities available for sale	6	45	110
Impairment expense	(2,975)	(276)	(415)
Net gains recognized on investment securities	$ (7,980)	$ 9,384	$ 1,818

(a) Debt Securities Available for Sale:

The components of debt securities available for sale at December 31, 2022 were as follows:

	Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Marketable debt securities	$ 81,629	$ 14	$ —	$ 81,643

The table below summarizes the maturity dates of debt securities available for sale at December 31, 2022.

Investment Type:	Fair Value	Under 1 Year	1 Year up to 5 Years	More than 5 Yea
U.S. Government securities	$ 779	$ 779	$ —	$
Corporate securities	53,814	33,165	20,649	
U.S. mortgage-backed securities	27,050	10,103	16,947	
Total debt securities available for sale by maturity dates	$ 81,643	$ 44,047	$ 37,596	$

The components of debt securities available for sale at December 31, 2021 were as follows:

	Cost	Gross Unrealized Gains	Gross Unrealized Losses	Fair Value
Marketable debt securities	$ 103,838	$ 68	$ —	$ 103,906

There were no available-for-sale debt securities with continuous unrealized losses for less than 12 months and 12 months or greater at December 31, 2022 and 2021, respectively.

Gross realized gains and losses recognized on debt securities available for sale were as follows:

	Year Ended December 31,		
	2022	2021	2020
Gross realized gains on sales	$ 8	$ 108	$ 32
Gross realized losses on sales	(2)	(63)	(21
Net gains recognized on debt securities available for sale	$ 6	$ 45	$ 11
Impairment expense	$ (2,975)	$ (276)	$ (41

Although management generally does not have the intent to sell any specific securities at the end of the period, in the ordinary course of managing the Company's investment securities portfolio, management may sell securities prior to their maturities for a variety of reasons, including diversification, credit quality, yield and liquidity requirements.

(b) Equity Securities at Fair Value:

The following is a summary of unrealized and realized net gains and losses recognized in net income on equity securities at fair value for the years ended December 31, 2022, 2021 and 2020, respectively:

	Year Ended December 31,		
	2022	2021	2020
Net (losses) gains recognized on equity securities	$ (5,011)	$ 9,615	$ 2,1
Less: Net gains (losses) recognized on equity securities sold	1,198	7,534	(1
Net unrealized (losses) gains recognized on equity securities still held at the reporting date	$ (6,209)	$ 2,081	$ 2,2

The Company's mutual funds invested in debt securities are classified as Level 1 under the fair value hierarchy disclosed in Note 18. Their fair values are based on quoted prices for identical assets in active markets or inputs that are based upon quoted prices for similar instruments in active markets. The Company has unfunded commitments of $514 related to long-term investment securities at fair value as of December 31, 2022.

The Company received cash distributions of $4,971 as of December 31, 2022, all of which were classified as investing cash inflows. The Company received cash distributions of $11,642 as of December 31, 2021, of which $11,509 were classified as investing cash inflows. The Company received cash distributions of $32,676 as of December 31, 2020, of which $32,572 were classified as investing cash inflows.

(c) Equity Securities Without Readily Determinable Fair Values That Do Not Qualify for the NAV Practical Expedient

Equity securities without readily determinable fair values that do not qualify for the NAV practical expedient consisted of investments in various limited liability companies at December 31, 2022 and 2021, respectively. The total carrying value of these investments was $2,755 and $5,200 and was included in "Other assets" on the consolidated balance sheets at December 31, 2022 and 2021, respectively. No impairment or other adjustments related to observable price changes in orderly transactions for identical or similar investments were identified for the years ended December 31, 2022, 2021 and 2020, respectively.

(d) Equity-Method Investments:

Equity-method investments consisted of the following:

	December 31, 2022	December 31, 2021
Mutual and hedge funds	$ 16,040	$ 20,984

At December 31, 2022, the Company's ownership percentages in the mutual and hedge funds accounted for under the equity method ranged from 6.45% to 38.34%. The Company's ownership percentage in these investments meets the threshold for equity-method accounting.

On February 14, 2020, Ladenburg Thalmann Financial Services Inc. ("LTS") was acquired pursuant to a cash tender offer of $3.50 per outstanding common share and, in connection therewith, the Company received proceeds of $53,169 in exchange for the Company's 15,191,205 common shares of LTS. The Company also tendered 240,000 shares of LTS 8% Series A Cumulative Redeemable Preferred Stock (Liquidation Preference $25.00 Per Share) for redemption and received an additional $6,009 in March 2020.

Equity in (losses) earnings from investments were:

	Year Ended December 31,		
	2022	2021	2020
Mutual fund and hedge funds	$ (4,995)	$ 2,675	$ 2,844
Ladenburg Thalmann Financial Services Inc.	—	—	53,424
Equity in (losses) earnings from investments	$ (4,995)	$ 2,675	$ 56,268

The Company received $51 and $50 in dividends from one of its equity-method investments that were reinvested back into the fund in 2022 and 2021, respectively. The Company received total cash distributions of $54,089 ($53,901, net of reinvested dividends) from the Company's equity-method investments in 2020. The cash distributions of $53,901 in 2020 were classified as operating cash inflows.

(e) Combined Financial Statements for Unconsolidated Subsidiaries Accounted for on Equity Method

Pursuant to Rule 4-08(g), the following summarized financial data for unconsolidated subsidiaries includes information for the mutual fund and hedge funds.

	December 31, 2022	December 31, 2021
Investment securities	$ 299,389	$ 493,705
Cash and cash equivalents	2,860	44,644
Other assets	87,507	14,151
Total assets	$ 389,756	$ 552,500
Other liabilities	$ 159,246	$ 214,607
Total liabilities	159,246	214,607
Partners' capital	230,510	337,893
Total liabilities and partners' capital	$ 389,756	$ 552,500

	Year Ended December 31,		
	2022	2021	2020
Investment income	$ 3,209	$ 1,574	$ 1,779
Expenses	13,272	12,873	9,300
Net investment loss	(10,063)	(11,299)	(7,521)
Total net realized gain and net change in unrealized depreciation from investments	(84,466)	48,342	123,381
Net increase in partners' capital resulting from operations	$ (94,529)	$ 37,043	$ 115,860

8. INVENTORIES

Inventories consist of:

	December 31, 2022	December 31, 2021
Leaf tobacco	$ 39,893	$ 38,825
Other raw materials	8,808	7,560
Work-in-process	798	2,639
Finished goods	64,865	64,218
Inventories at current cost	114,364	113,242
LIFO adjustments	(21,916)	(18,627)
	$ 92,448	$ 94,615

All the Company's inventories as of December 31, 2022 and 2021 have been reported under the LIFO method. The $21,916 LIFO adjustment as of December 31, 2022 decreases the current cost of inventories by $15,213 for Leaf tobacco, $1,220 for Other raw materials, $25 for Work-in-process, and $5,458 for Finished goods. The $18,627 LIFO adjustment as of December 31, 2021 decreased the current cost of inventories by $12,128 for Leaf tobacco, $829 for Other raw materials, $18 for Work-in-process, and $5,652 for Finished goods. Cost of sales was reduced by $3,248 and $330 for the years ended December 31, 2022 and December 31, 2021, respectively, due to liquidations of LIFO inventories.

The amount of capitalized MSA cost in "Finished goods" inventory was $23,084 and $20,450 as of December 31, 2022 and 2021, respectively. Federal excise tax capitalized in inventory was $26,423 and $25,160 as of December 31, 2022 and 2021, respectively.

At December 31, 2022, Liggett had tobacco purchase commitments of approximately $23,263. Liggett has a single source supply agreement for reduced ignition propensity cigarette paper through 2022.

9. PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment consisted of:

	December 31, 2022	December 31, 2021
Land and improvements	$ 1,678	$ 1,624
Buildings	18,792	18,060
Machinery and equipment	175,816	167,713
Leasehold improvements	1,266	1,277
	197,552	188,674
Less accumulated depreciation and amortization	(157,972)	(151,791)
	$ 39,580	$ 36,883

Depreciation and amortization expense related to property, plant and equipment for the years ended December 31, 2022, 2021 and 2020 was $7,218, $7,816 and $9,092, respectively.

The Company, through Liggett, had future machinery and equipment purchase commitments of $11,830 including $8,607 for factory modernization at December 31, 2022.

10. NEW VALLEY LLC

(a) Investments in real estate ventures.

New Valley also holds equity investments in various real estate projects domestically and internationally. Many of New Valley's investments in real estate ventures were in the New York City Standard Metropolitan Statistical Area ("SMSA"). New Valley aggregated the disclosure of its investments in real estate ventures by property type and operating characteristics.

The components of "Investments in real estate ventures" were as follows:

	Range of Ownership [1]	December 31, 2022	December 31, 2021
Condominium and Mixed Use Development:			
New York City SMSA	4.1% - 22.8%	$ 16,806	$ 22,654
All other U.S. areas	12.5% - 77.8%	76,544	57,485
		93,350	80,139
Apartment Buildings:			
All other U.S. areas	50.0%	9,471	11,900
		9,471	11,900
Hotels:			
New York City SMSA	0.4% - 12.3%	800	1,635
International	49.0%	1,710	1,522
		2,510	3,157
Commercial:			
New York City SMSA	49.0%	7,869	—
All other U.S. areas	1.6%	7,478	7,290
		15,347	7,290
Other	15.0% - 49.0%	439	2,576
Investments in real estate ventures		$ 121,117	$ 105,062

[1] The Range of Ownership reflects New Valley's estimated current ownership percentage. New Valley's actual ownership percentage as well as the percentage of earnings and cash distributions may ultimately differ as a result of various factors including potential dilution, financing or admission of additional partners.

Contributions

The components of New Valley's contributions to its investments in real estate ventures were as follows:

	December 31, 2022	December 31, 2021
Condominium and Mixed Use Development:		
New York City SMSA	$ 498	$ 396
All other U.S. areas	16,723	33,719
	17,221	34,115
Apartment Buildings:		
All other U.S. areas	—	11,900
	—	11,900
Hotels:		
New York City SMSA	206	1,848
	206	1,848
Commercial:		
New York City SMSA	8,070	—
	8,070	—
Other	72	—
Total contributions	$ 25,569	$ 47,863

For ventures where New Valley previously held an investment, New Valley contributed its proportionate share of additional capital along with contributions by the other investment partners during the years ended December 31, 2022 and 2021. New Valley's direct investment percentage for these ventures did not significantly change.

Distributions

The components of distributions received by New Valley from its investments in real estate ventures were as follows:

	December 31, 2022	December 31, 2021
Condominium and Mixed Use Development:		
New York City SMSA	$ 2,187	$ 4,440
All other U.S. areas	161	13,593
	2,348	18,033
Apartment Buildings:		
All other U.S. areas	550	18,566
	550	18,566
Commercial:		
All other U.S. areas	1,018	575
	1,018	575
Other	4,459	—
Total distributions	$ 8,375	$ 37,174

Of the distributions received by New Valley from its investment in real estate ventures, $3,429 and $25,326 were from distributions of earnings and $4,946 and $11,848 were a return of capital for the years ended December 31, 2022 and 2021, respectively. Distributions from earnings are included in cash from operations in the consolidated statements of cash flows, while distributions from return of capital are included in cash flows from investing activities in the consolidated statements of cash flows.

Equity in Earnings (Losses) from Real Estate Ventures

New Valley recognized equity in earnings (losses) from real estate ventures as follows:

	Year Ended December 31,		
	2022	2021	2020
Condominium and Mixed Use Development:			
New York City SMSA	$ (4,554)	$ (4,147)	$ (17,167)
All other U.S. areas	(1,915)	(1)	(16,578)
	(6,469)	(4,148)	(33,745)
Apartment Buildings:			
All other U.S. areas	(1,879)	18,566	(284)
	(1,879)	18,566	(284)
Hotels:			
New York City SMSA	(1,041)	(1,597)	(3,248)
International	188	(330)	(308)
	(853)	(1,927)	(3,556)
Commercial:			
New York City SMSA	(201)	(2,591)	1,340
All other U.S. areas	1,206	780	(437)
	1,005	(1,811)	903
Other	2,250	(430)	(8,046)
Total equity in earnings (losses) from real estate ventures	$ (5,946)	$ 10,250	$ (44,728)

The Company recorded impairment expense of $490, $2,713 and $16,513 for the years ended December 31, 2022, 2021 and 2020, respectively. The expense related to one commercial venture in each of 2022 and 2021 and the expense in 2020 related to six condominium and mixed use development units. As a result of the Company recording impairment charges on certain of its investments in real estate ventures, the impaired real estate ventures were recorded at fair value as of the period when the impairment charge was recorded. The impaired real estate ventures were measured at fair value on a nonrecurring basis as a result of recording an other-than-temporary impairment charge.

During the year ended 2021, New Valley's Natura joint venture sold a parcel of land located in Miami, FL. New Valley recognized equity in earnings of $3,899 from the venture and received distributions of $5,168 for the year ended 2021. As of December 31, 2022, the venture had a carrying value of $12,995.

During the year ended 2021, New Valley's Maryland joint venture sold its apartment complexes located in Baltimore, Maryland. New Valley recognized equity in earnings of $18,566 from the venture and received distributions of $18,566 for the year ended 2021. As of December 31, 2022, the venture had a carrying value of $0.

Investment in Real Estate Ventures Entered Into During 2022:

New Valley invested $6,263 during the year ended December 31, 2022 for an approximate 75% interest in Nash Square Upstream JV LLC. The joint venture plans to develop a mixed use development. The venture is a variable interest entity ("VIE"); however, New Valley is not the primary beneficiary. New Valley accounts for this investment under the equity method of accounting. New Valley's maximum exposure to loss as a result of its investment in Nash Square Upstream JV LLC was $6,510 at December 31, 2022.

New Valley invested $4,000 during the year ended December 31, 2022 for an approximate 25% interest in BH NV Aventura LLC. The joint venture plans to develop a mixed use development. The venture is a VIE; however, New Valley is not the primary beneficiary. New Valley accounts for this investment under the equity method of accounting. New Valley's maximum exposure to loss as a result of its investment in BH NV Aventura LLC was $4,071 at December 31, 2022.

New Valley invested $4,000 during the year ended December 31, 2022 for an approximate 35% interest in BH NV NMB Venture LLC. The joint venture plans to develop a mixed use development. The venture is a VIE; however, New Valley is not the primary beneficiary. New Valley accounts for this investment under the equity method of accounting. New Valley's maximum exposure to loss as a result of its investment in BH NV NMB Venture LLC was $4,080 at December 31, 2022.

VIE Consideration

The Company has determined that New Valley is the primary beneficiary of one real estate venture because it controls the activities that most significantly impact the economic performance of the real estate venture. Consequently, New Valley consolidates this variable interest entity ("VIE").

The carrying amount of the consolidated assets of the VIE was $0 at both December 31, 2022 and December 31, 2021. Those assets are owned by the VIE, not the Company. The consolidated VIE had no recourse liabilities as of December 31, 2022 and December 31, 2021. A VIE's assets can only be used to settle the obligations of that VIE. The VIE is not a guarantor of the Company's senior notes and other debts payable.

For the remaining investments in real estate ventures, New Valley determined that the entities were VIEs but New Valley was not the primary beneficiary. Therefore, New Valley's investment in such real estate ventures has been accounted for under the equity method of accounting.

Maximum Exposure to Loss

New Valley's maximum exposure to loss from its investments in real estate ventures consisted of the net carrying value of the venture adjusted for any future capital commitments and/or guarantee arrangements. The maximum exposure to loss was as follows:

	December 31, 2022
Condominium and Mixed Use Development:	
New York City SMSA	$ 16,806
All other U.S. areas	76,544
	93,350
Apartment Buildings:	
All other U.S. areas	9,471
	9,471
Hotels:	
New York City SMSA	800
International	1,710
	2,510
Commercial:	
New York City SMSA	7,869
All other U.S. areas	7,478
	15,347
Other	439
Total maximum exposure to loss	$ 121,117

New Valley capitalized $4,432 and $2,669 of interest costs into the carrying value of its ventures whose projects were currently under development during the years ended December 31, 2022 and December 31, 2021, respectively.

(b) Guarantees and Commitments:

The joint venture agreements through which New Valley invests in real estate ventures set forth certain conditions where New Valley or its affiliate may be required to contribute payments towards the satisfaction of liabilities of the other partners in the joint venture, or to otherwise indemnify other partners. Mostly, these contribution/indemnity requirements are triggered in the event New Valley or its affiliate commits an act that results in liability of another partner under a guarantee that the other partner has given to a lender in connection with a loan. The guarantees given in connection with the loans may include non-recourse carve-out, environmental, carry and/or completion guarantees, depending on the specific project. In some instances, New Valley or its affiliate would be proportionately liable in the event of liability under a guarantee that is not the fault of any of the partners in the joint venture. In very limited circumstances, New Valley has agreed to be a guarantor directly in connection with a loan.

The Company believes that as of December 31, 2022, in the event New Valley becomes legally obligated to contribute funds or otherwise indemnify another partner due to a triggering event under a guarantee, or becomes legally obligated as a guarantor (in the limited circumstances where New Valley is a direct guarantor under the loan documents), the real estate underlying the applicable project is expected to be sufficient to largely repay any guaranteed obligation (although a lender need not necessarily resort to foreclosing on the real estate before seeking recourse under a loan guarantee). New Valley has no additional capital commitments as of December 31, 2022.

(c) Combined Financial Statements for Unconsolidated Subsidiaries Accounted for on Equity Method:

Pursuant to Rule 4-08(g), the following summarized financial data for unconsolidated subsidiaries includes information for the following: Other Condominium and Mixed Use Development, Apartment Buildings, Hotels, Commercial and Other.

Other Condominium and Mixed Use Development:

	Year Ended December 31,		
	2022	**2021**	**2020**
Income Statements			
Revenue	$ 117,836	$ 301,703	$ 386,859
Cost of sales	63,618	317,894	302,234
Other expenses	143,619	117,985	270,642
Loss from continuing operations	$ (89,401)	$ (134,176)	$ (186,017)

	December 31, 2022	**December 31, 2021**
Balance Sheets		
Investment in real estate	$ 1,529,516	$ 1,434,205
Total assets	1,667,802	1,513,581
Total debt	1,193,638	1,107,366
Total liabilities	1,480,725	1,284,579
Non-controlling interest	73,391	63,781

Apartment Buildings:

	Year Ended December 31,		
	2022	**2021**	**2020**
Income Statements			
Revenue	$ 2,934	$ 35,213	$ 65,808
Other expenses	4,563	46,360	63,705
(Loss) income from continuing operations	$ (1,629)	$ (11,147)	$ 2,103

	December 31, 2022	**December 31, 2021**
Balance Sheets		
Investment in real estate	$ 64,350	$ —
Total assets	68,664	6,780
Total debt	48,449	—
Total liabilities	49,722	131
Non-controlling interest	—	4,990

Hotels:

	Year Ended December 31,		
	2022	2021	2020
Income Statements			
Revenue	$ 166,169	$ 42,549	$ 130,742
Cost of sales	5,049	3,671	2,671
Other expenses	293,761	201,211	256,973
Loss from continuing operations	$ (132,641)	$ (162,333)	$ (128,902)

	December 31, 2022	December 31, 2021
Balance Sheets		
Investment in real estate	$ 1,580,798	$ 1,553,911
Total assets	1,651,072	1,631,664
Total debt	1,113,419	1,110,700
Total liabilities	1,281,161	1,213,044
Non-controlling interest	374,608	412,165

Commercial:

	Year Ended December 31,		
	2022	2021	2020
Income Statements			
Revenue	$ 10,226	$ 1,662	$ 7,911
Equity in (losses) earnings	37,690	24,383	(13,671)
Other expenses	12,274	1,412	4,740
Income (loss) from continuing operations	$ 35,642	$ 24,633	$ (10,500)

	December 31, 2022	December 31, 2021
Balance Sheets		
Investment in real estate	$ 51,468	$ 51,173
Total assets	71,364	71,296
Total debt	56,394	55,625
Total liabilities	57,424	55,016

Other:

	Year Ended December 31,		
	2022	2021	2020
Income Statements			
Revenue	$ 6,761	$ 180,092	$ 571
Other expenses	21,548	303,352	48,633
Loss from continuing operations	$ (14,787)	$ (123,260)	$ (48,062)

	December 31, 2022	December 31, 2021
Balance Sheets		
Investment in real estate	$ 430,961	$ 392,754
Total assets	486,655	444,520
Total debt	321,587	227,724
Total liabilities	331,928	233,329
Non-controlling interest	112,141	152,775

(d) Investments in real estate, net:

Escena. In March 2008, a wholly owned subsidiary of New Valley purchased a loan collateralized by a substantial portion of a 450-acre approved master planned community in Palm Springs, California known as “Escena.” In April 2009, New Valley completed the foreclosure process and took title to the collateral. The project consisted of 615 residential lots with site and public infrastructure, an 18-hole golf course, a completed clubhouse, and a seven-acre site approved for a 450-room hotel.

The assets have been classified as “Investments in real estate, net” on the Company’s consolidated balance sheets and the components were as follows:

	December 31, 2022	December 31, 2021
Land and land improvements	$ —	$ 8,520
Building and building improvements	—	1,926
Other	—	1,643
	—	12,089
Less accumulated depreciation	—	(2,991)
Investment in real estate, net	$ —	$ 9,098

The Company recorded operating income of $1,316 and $63, and operating losses of $735 for the years ended December 31, 2022, 2021 and 2020, respectively, from Escena. In April 2022, New Valley sold Escena and received approximately $15,300 in net cash proceeds. The Company recognized the revenue in accordance with the scope of ASC Topic 606 since New Valley has no continuing investment or involvement. The sale was presented as revenue and the cost of the investment as cost of sales on the condensed consolidated statements of operations.

Investment in Sagaponack. In April 2015, New Valley invested $12,502 in a residential real estate project located in Sagaponack, NY. In August 2020, New Valley sold the project for $20,500 and recognized the revenue in accordance with the scope of ASC Topic 606 since New Valley has no continuing investment or involvement. The sales were presented as revenues and the cost of the investment as cost of sales on the consolidated statements of operations.

Townhome A (11 Beach Street). In November 2020, New Valley received, as part of a liquidating distribution from a real estate joint venture, Unit TH-A, a townhouse located in Manhattan, NY. In April 2021, New Valley sold the unit for $6,750 and recognized the revenue in accordance with the scope of ASC Topic 606 since New Valley has no continuing investment or involvement. The sale was presented as revenue and the cost of the investment as cost of sales on the consolidated statements of operations.

Real Estate Market Conditions. Because of the risks and uncertainties of the real estate markets, the Company will continue to perform additional assessments to determine the impact of the markets, if any, on the Company’s consolidated financial statements. Thus, future impairment charges may occur.

11. NOTES PAYABLE, LONG-TERM DEBT AND OTHER OBLIGATIONS

Notes payable, long-term debt and other obligations consisted of:

	December 31, 2022	December 31, 2021
Vector:		
5.75% Senior Secured Notes due 2029	$ 875,000	$ 875,000
10.5% Senior Notes due 2026, net of unamortized discount of $2,209 and $2,647	539,926	552,353
Liggett:		
Revolving credit facility	22,035	24
Equipment loans	37	64
Other	—	32
Total notes payable, long-term debt and other obligations	1,436,998	1,427,473
Less:		
Debt issuance costs	(24,672)	(28,803)
Total notes payable, long-term debt and other obligations	1,412,326	1,398,670
Less:		
Current maturities	(22,065)	(79)
Amount due after one year	$ 1,390,261	$ 1,398,591

Senior Notes - Vector:

6.125% Senior Secured Notes due 2025:

On January 27, 2017, the Company sold $850,000 in aggregate principal amount of its 6.125% Senior Secured Notes due 2025 in a private offering to qualified institutional investors and non-U.S. persons pursuant to the exemptions from the registration requirements of the Securities Act of 1933 (“Securities Act”) contained in Rule 144A and Regulation S under the Securities Act.

The 6.125% Senior Secured Notes due 2025 paid interest on a semi-annual basis at a rate of 6.125% per year and had a maturity date of February 1, 2025. On February 1, 2021, the 6.125% Senior Secured Notes due 2025 were redeemed in full and the Company recorded a loss on the extinguishment of debt of $21,362 in 2021, including $13,013 of premium and $8,349 of other costs and non-cash interest expense related to the recognition of previously unamortized deferred finance costs.

The 6.125% Senior Secured Notes due 2025 were guaranteed subject to certain customary automatic release provisions on a joint and several basis by all of the wholly-owned domestic subsidiaries of the Company that are engaged in the conduct of the Company’s cigarette businesses. In addition, some of the guarantees were collateralized by first priority or second priority security interests in certain assets of some of the subsidiary guarantors, including their common stock, pursuant to security and pledge agreements.

5.75% Senior Secured Notes due 2029:

On January 28, 2021, the Company completed the sale of $875,000 in aggregate principal amount of its 5.75% Senior Secured Notes due 2029 (“5.75% Senior Secured Notes”) to qualified institutional buyers and non-U.S. persons in a private offering pursuant to the exemptions from the registration requirements of the Securities Act contained in Rule 144A and Regulation S under the Securities Act. The aggregate net cash proceeds from the sale of the 5.75% Senior Secured Notes were approximately $855,500 after deducting the initial purchaser’s discount and estimated expenses and fees payable by the Company in connection with the offering. The Company used the net cash proceeds from the 5.75% Senior Secured Notes offering, together with cash on hand, to redeem all the Company’s outstanding 6.125% Senior Secured Notes due 2025, including accrued interest and any premium thereon, and to pay fees and expenses in connection with the offering of the 5.75% Senior Secured Notes.

The 5.75% Senior Secured Notes pay interest on a semi-annual basis at a rate of 5.75% per year and mature on the earlier of February 1, 2029 and the date that is 91 days before November 1, 2026, the final stated maturity date of the 10.5% Senior Notes due 2026 (“10.5% Senior Notes”) if such 10.5% Senior Notes have not been repurchased and cancelled or refinanced by such date.

The 5.75% Senior Secured Notes are fully and unconditionally guaranteed, subject to certain customary automatic release provisions, on a joint and several basis by all the wholly-owned domestic subsidiaries of the Company that are engaged in the conduct of the Company's cigarette businesses, which subsidiaries, as of the issuance date of the 5.75% Senior Secured Notes were also guarantors under the Company's outstanding 10.5% Senior Notes. The guarantees provided by certain of the guarantors are secured by first priority or second priority security interests in certain collateral of such guarantors, including, in the case of VGR Holding LLC, a pledge of the membership interests of Liggett and Vector Tobacco, pursuant to security and pledge agreements, subject to certain permitted liens and exceptions as further described in the indenture and the security documents relating thereto. Neither New Valley LLC nor any of the Company's subsidiaries engaged in the real estate business guarantee the 5.75% Senior Secured Notes. The Company does not pledge any collateral for the 5.75% Senior Secured Notes.

As of December 31, 2022, the Company was in compliance with all debt covenants.

10.5% Senior Notes due 2026:

On November 2, 2018, the Company completed the sale of $325,000 in aggregate principal amount of its 10.5% Senior Notes to qualified institutional buyers and non-U.S. persons in a private offering pursuant to the exemptions from the registration requirements of the Securities Act contained in Rule 144A and Regulation S under the Securities Act. The aggregate net proceeds from the initial sale of the 10.5% Senior Notes were approximately $315,000 after deducting underwriting discounts, commissions, fees and offering expenses.

On November 18, 2019, the Company completed the sale of an additional $230,000 in aggregate principal amount of its 10.5% Senior Notes. The Company received net proceeds of approximately $220,400 after deducting underwriting discounts, commissions, fees and offering expenses. The Company used a portion of the net cash proceeds from the offering to retire the Company's outstanding 5.5% Variable Interest Senior Convertible Notes in April 2020.

In September 2022, the Company repurchased in the market $12,865 in aggregate principal amount of its 10.5% Senior Notes outstanding and recorded a gain of $412 associated with the repurchase. The Senior Notes that were repurchased have been retired. As of December 31, 2022, the Company has outstanding $542,135 aggregate principal amount of its 10.5% Senior Notes.

The Company pays cash interest on the 10.5% Senior Notes at a rate of 10.5% per year, payable semi-annually on May 1 and November 1 of each year. The 10.5% Senior Notes mature on November 1, 2026.

The 10.5% Senior Notes were fully and unconditionally guaranteed subject to certain customary automatic release provisions on a joint and several basis by all the Company's wholly-owned domestic subsidiaries that are engaged in the conduct of its cigarette businesses, and, prior to the Distribution, by DER Holdings LLC, through which the Company indirectly owned a 100% interest in Douglas Elliman as of December 31, 2022. In connection with the Distribution, the guarantee by DER Holdings LLC was released. DER Holdings LLC did not guarantee our 5.75% Senior Secured Notes.

As of December 31, 2022, the Company was in compliance with all debt covenants.

Variable Interest Senior Convertible Debt:

5.5% Variable Interest Senior Convertible Notes due 2020:

On March 24, 2014, the Company completed the sale of $258,750 in aggregate principal amount of its 5.5% Variable Interest Convertible Senior Notes due 2020 (the "5.5% Convertible Notes"). The 5.5% Convertible Notes matured on April 15, 2020 and the Company paid $169,610 of principal.

Embedded Derivatives on the Variable Interest Senior Convertible Debt:

The portion of the interest on the Company's convertible debt which was computed by reference to the cash dividends paid on the Company's common stock was considered an embedded derivative within the convertible debt, which the Company was required to separately value.

A summary of non-cash interest expense associated with the amortization of the debt discount created by the embedded derivative liability associated with the Company's variable interest senior convertible debt is set forth in the following table:

	Year Ended December 31,		
	2022	2021	2020
5.5% Convertible Notes	$ —	$ —	$ 4,053

A summary of non-cash changes in fair value of derivatives embedded within convertible debt is set forth in the following table:

	Year Ended December 31,		
	2022	2021	2020
5.5% Convertible Notes	$ —	$ —	$ 4,999

The following table reconciles the fair value of derivatives embedded within convertible debt:

	5.5% Convertible Notes
Balance at January 1, 2020	$ 4,999
Gain from changes in fair value of embedded derivatives	(4,999)
Balance at December 31, 2020	$ —

Beneficial Conversion Feature on Variable Interest Senior Convertible Debt:

After giving effect to the recording of the embedded derivative liability as a discount to the convertible debt, the Company's common stock had a fair value at the issuance date of the debt exceeding the conversion price resulting in a beneficial conversion feature.

A summary of non-cash interest expense associated with the amortization of the debt discount created by the beneficial conversion feature on the Company's variable interest senior convertible debt is set forth in the following table:

	Year Ended December 31,		
	2022	2021	2020
Amortization of beneficial conversion feature:			
5.5% Convertible Notes	$ —	$ —	$ 1,223

Unamortized Debt Discount on Variable Interest Senior Convertible Debt:

The following table reconciles unamortized debt discount within convertible debt:

	5.5% Convertible Notes
Balance at January 1, 2020	$ 5,276
Amortization of embedded derivatives	(4,053)
Amortization of beneficial conversion feature	(1,223)
Balance at December 31, 2020	$ —

Revolving Credit Agreement — Liggett:

In January 2015, Liggett and 100 Maple LLC ("Maple"), a subsidiary of Liggett, entered into a Third Amended and Restated Credit Agreement (the "Credit Agreement"), with Wells Fargo Bank, National Association ("Wells Fargo"), as agent and lender.

On October 31, 2019, Liggett and Maple amended the Credit Agreement to, among other things, update the borrowing base to adjust the advance rates in respect of eligible inventory and add certain eligible real property. On March 22, 2021, Liggett, Maple and Vector Tobacco entered into Amendment No. 4 and Joinder to the Credit Agreement with Wells Fargo. The Credit Agreement was amended to, among other things, (i) add Vector Tobacco as a borrower under the Credit Agreement, (ii) extend the maturity of the Credit Agreement to March 22, 2026, and (iii) increase the amount of the maximum credit line thereunder from $60,000 to $90,000.

Since October 31, 2019, all borrowings under the Credit Agreement have been limited to a borrowing base equal to the sum of (I) the lesser of 85% of eligible trade receivables less certain reserves and $15,000; plus (II) 80% of the value of eligible inventory consisting of packaged cigarettes; plus (III) the designated percentage of the value of eligible inventory consisting of leaf tobacco (i.e., 65% of Liggett's eligible cost of inventory consisting of leaf tobacco less certain reserves or 85% of the net orderly liquidation value of eligible inventory); plus (IV) the lesser of (a) the real property subline amount or (b) 60% of the fair market value of eligible real property. The obligations under the Credit Agreement are collateralized on a first priority basis by

all inventories, receivables and certain other personal property of Liggett and Maple, a mortgage on Liggett's manufacturing facility and certain real property of Maple, subject to certain permitted liens.

The term of the Credit Agreement expires on March 22, 2026. Loans under the Credit Agreement bear interest at a rate equal to LIBOR plus 2.25%. The interest rate applicable to this Credit Agreement at December 31, 2022 was 6.64%. The Credit Agreement, as amended, permitted the guaranty of the 6.125% Senior Secured Notes due 2025, and permits the guaranty of the 5.75% Senior Secured Notes and the 10.5% Senior Notes, by each of Liggett, Maple and Vector Tobacco. Wells Fargo, Liggett, Maple, Vector Tobacco and the collateral agent for the holders of the 5.75% Senior Secured Notes have entered into an intercreditor agreement, pursuant to which the liens of such collateral agent on the assets that are subject to the Credit Agreement are subordinated to the liens of Wells Fargo on such assets.

The Credit Agreement contains customary affirmative and negative covenants, including covenants that limit Liggett's, Maple's, Vector Tobacco's and their subsidiaries' ability to incur, create or assume certain indebtedness, to incur or assume certain liens, to purchase, hold or acquire certain investments, to declare or make certain dividends and distributions and to engage in certain mergers, consolidations and asset sales. The Credit Agreement also requires the Company to comply with specified financial covenants, including that the earnings before interest, taxes, depreciation and amortization, as defined under the Credit Agreement, on a trailing twelve month basis, of the Tobacco segment shall not be less than $150,000 if the Tobacco segment's excess availability, as defined under the Credit Agreement, is less than $30,000. The covenants also require that annual capital expenditures, as defined under the Credit Agreement (before a maximum carryover amount of $10,000), shall not exceed $20,000 during any fiscal year. The Credit Agreement also contains customary events of default. The borrowers were in compliance with these covenants as of December 31, 2022.

As of December 31, 2022, there was $22,035 in outstanding balance under the Credit Agreement. Availability, as determined under the Credit Agreement, was $57,488 based on eligible collateral at December 31, 2022.

Non-Cash Interest Expense — Vector:

	Year Ended December 31,		
	2022	2021	2020
Amortization of debt discount, net	$ 439	$ 393	$ 5,628
Amortization of debt issuance costs	4,102	3,775	3,761
Gain on repurchase of 10.5% Senior Notes	(412)	—	—
Loss on extinguishment of 6.125% Senior Secured Notes	—	8,349	—
	$ 4,129	$ 12,517	$ 9,389

Fair Value of Notes Payable and Long-Term Debt:

The estimated fair value of the Company's notes payable and long-term debt was as follows:

	December 31, 2022		December 31, 2021	
	Carrying Value	Fair Value	Carrying Value	Fair Value
5.75% Senior Secured Notes due 2029	$ 875,000	$ 758,993	$ 875,000	$ 849,459
10.5% Senior Notes due 2026	539,926	537,202	552,353	576,717
Liggett and other	22,072	22,072	120	124
Notes payable and long-term debt	$ 1,436,998	$ 1,318,267	$ 1,427,473	$ 1,426,300

Notes payable and long-term debt are recorded on the consolidated balance sheets at amortized cost. The fair value determinations disclosed above would be classified as Level 2 under the fair value hierarchy disclosed in Note 18 if such liabilities were recorded on the consolidated balance sheets at fair value. The estimated fair value of the Company's notes payable and long-term debt has been determined by the Company using available market information and appropriate valuation methodologies including the evaluation of the Company's credit risk as described in Note 1. The Company used a derived price based upon quoted market prices and trade activity as of December 31, 2022 to determine the fair value of its publicly-traded notes and debentures. The carrying value of the revolving credit facility is equal to the fair value. The fair value of the equipment loans and other obligations was determined by calculating the present value of the required future cash flows.

However, considerable judgment is required to develop the estimates of fair value and, accordingly, the estimate presented herein is not necessarily indicative of the amount that could be realized in a current market exchange.

Scheduled Maturities:

Scheduled maturities of notes payable and long-term debt were as follows:

	Principal	Unamortized Discount/ (Premium)	Net
Year Ending December 31:			
2023	$ 22,065	$ —	$ 22,065
2024	7	—	7
2025	—	—	—
2026	542,135	2,209	539,926
2027	—	—	—
Thereafter	875,000	—	875,000
Total	$ 1,439,207	$ 2,209	$ 1,436,998

12. EMPLOYEE BENEFIT PLANS

Defined Benefit Plans and Postretirement Plans:

Defined Benefit Plans. The Company sponsors four defined benefit pension plans (two qualified and two non-qualified) covering virtually all individuals who were employed by Liggett on a full-time basis prior to 1994. Future accruals of benefits under these four defined benefit plans were frozen between 1993 and 1995. These benefit plans provide pension benefits for eligible employees based primarily on their compensation and length of service. Contributions are made to the two qualified pension plans in amounts necessary to meet the minimum funding requirements of the Employee Retirement Income Security Act of 1974. The plans' assets and benefit obligations were measured at December 31, 2022 and 2021, respectively.

The Company also sponsors a Supplemental Retirement Plan ("SERP") where the Company will pay supplemental retirement benefits to certain key employees, including certain executive officers of the Company. The plan meets the applicable requirements of Section 409A of the Internal Revenue Code and is intended to be unfunded for tax purposes. Payments under the SERP are made from the general assets of the Company. The SERP is a defined benefit plan. Under the SERP, the benefit payable to a participant at his normal retirement date is a lump sum amount which is the actuarial equivalent of a predetermined annual retirement benefit set by the Company's Board of Directors. Normal retirement date is defined as the January 1 following the attainment by the participant of the latter of age 60 or the completion of eight years of employment following January 1, 2002 with the Company or a subsidiary.

The SERP provides the Company's President and Chief Executive Officer with an additional benefit paid as a lump sum under the SERP that is actuarially equivalent to a $1,788 lifetime annuity. In addition, in the event of a termination of his employment under the circumstances where he is entitled to severance payments under his employment agreement, he will be credited with an additional 36 months of service towards vesting under the SERP.

At December 31, 2022, the aggregate lump sum equivalents of the annual retirement benefits payable under the Amended SERP at normal retirement dates occurring during the following years is as follows: 2023 to 2026 – none; 2027 – $63,550 and 2028 to 2032 – $6,866. In the case of a participant who becomes disabled prior to his normal retirement date or whose service is terminated without cause, the participant's benefit consists of a pro-rata portion of the full projected retirement benefit to which he would have been entitled had he remained employed through his normal retirement date, as actuarially discounted back to the date of payment. A participant who dies while working for the Company or a subsidiary (and before becoming disabled or attaining his normal retirement date) will be paid an actuarially discounted equivalent of his projected retirement benefit; conversely, a participant who retires beyond his normal retirement date will receive an actuarially increased equivalent of his projected retirement benefit.

Postretirement Medical and Life Plans. The Company provides certain postretirement medical and life insurance benefits to certain employees and retirees. Substantially all of the Company's manufacturing employees as of December 31, 2022 are eligible for postretirement medical benefits if they reach retirement age while working for Liggett or certain affiliates. Retirees are required to fund 100% of participant medical premiums and, pursuant to union contracts, Liggett reimburses approximately 57 hourly retirees, who retired prior to 1991, for Medicare Part B premiums. In addition, the Company provides life insurance

benefits to approximately 76 active employees and 333 retirees who reach retirement age and are eligible to receive benefits under two of the Company's defined benefit pension plans. The Company's postretirement liabilities are comprised of Medicare Part B and life insurance premiums.

The following table provides a reconciliation of benefit obligations, plan assets and the funded status of the pension plans and other postretirement benefits:

	Pension Benefits		Other Postretirement Benefits	
	2022	2021	2022	2021
Change in benefit obligation:				
Benefit obligation at January 1	$ (121,166)	$ (125,842)	$ (8,480)	$ (9,101)
Service cost	(414)	(415)	—	—
Interest cost	(2,628)	(2,284)	(233)	(224)
Plan amendment	—	—	—	(48)
Benefits paid	5,993	6,452	975	471
Expenses paid	264	291	—	—
Actuarial gain	14,375	632	1,455	422
Benefit obligation at December 31	$ (103,576)	$ (121,166)	$ (6,283)	$ (8,480)
Change in plan assets:				
Fair value of plan assets at January 1	$ 104,545	$ 102,812	$ —	$ —
Actual return on plan assets	(14,331)	8,373	—	—
Expenses paid	(264)	(291)	—	—
Contributions	101	103	975	471
Benefits paid	(5,993)	(6,452)	(975)	(471)
Fair value of plan assets at December 31	$ 84,058	$ 104,545	$ —	$ —
Unfunded status at December 31	$ (19,518)	$ (16,621)	$ (6,283)	$ (8,480)
Amounts recognized in the consolidated balance sheets:				
Prepaid pension costs	$ 38,100	$ 44,585	$ —	$ —
Other accrued liabilities	(89)	(95)	(596)	(621)
Non-current employee benefit liabilities	(57,529)	(61,111)	(5,687)	(7,859)
Net amounts recognized	$ (19,518)	$ (16,621)	$ (6,283)	$ (8,480)

	Pension Benefits			Other Postretirement Benefits		
	2022	2021	2020	2022	2021	2020
Service cost — benefits earned during the period	$ 414	$ 415	$ 592	$ —	$ —	$ —
Interest cost on projected benefit obligation	2,628	2,284	3,545	233	224	286
Expected return on assets	(3,530)	(3,458)	(3,869)	—	—	—
Prior service cost	—	—	—	8	4	4
Settlement loss	—	—	1,805	—	—	—
Amortization of net loss (gain)	1,636	1,835	1,836	(31)	86	11
Net expense	$ 1,148	$ 1,076	$ 3,909	$ 210	$ 314	$ 301

As of December 31, 2022, accumulated other comprehensive loss, before income taxes, consisted of the following:

	Defined Benefit Pension Plans	Post-Retirement Plans	Total
Accumulated other comprehensive loss as of January 1, 2022	$ (20,817)	$ (644)	$ (21,461)
Amortization of prior service costs	—	8	8
Amortization of loss (gain)	1,636	(31)	1,605
Net (loss) gain arising during the year	(3,486)	1,455	(2,031)
Accumulated other comprehensive (loss) income as of December 31, 2022	$ (22,667)	$ 788	$ (21,879)

As of December 31, 2021, accumulated other comprehensive loss, before income taxes, consisted of the following:

	Defined Benefit Pension Plans	Post-Retirement Plans	Total
Accumulated other comprehensive loss as of January 1, 2021	$ (28,199)	$ (1,106)	$ (29,305)
Amortization of prior service costs	—	4	4
Effect of settlement	—	(48)	(48)
Amortization of loss	1,835	86	1,921
Net gain arising during the year	5,547	420	5,967
Accumulated other comprehensive loss as of December 31, 2021	$ (20,817)	$ (644)	$ (21,461)

As of December 31, 2022, our total accumulated benefit obligations, as well as our projected benefit obligations more than the fair value of the related plan assets, for defined benefit pension plans were as follows:

	December 31,	
	2022	2021
Accumulated benefit obligation	$ 57,618	$ 61,206
Fair value of plan assets	$ —	$ —

	December 31,	
	2022	2021
Projected benefit obligation	$ 57,618	$ 61,206
Fair value of plan assets	$ —	$ —

The information for other postretirement benefit plans with an accumulated postretirement benefit obligation more than plan assets has been disclosed in the Obligations table above because all the other postretirement benefit plans are unfunded or underfunded.

The assumptions used for the pension benefits and other postretirement benefits were:

	Pension Benefits			Other Postretirement Benefits		
	2022	2021	2020	2022	2021	2020
Weighted average assumptions:						
Discount rates — benefit obligation	4.90% - 5.30%	1.80% - 2.70%	1.40% - 2.30%	5.40%	2.85%	2.55%
Discount rates — service cost	1.80% - 2.70%	1.40% - 2.30%	2.55% - 3.10%	2.85%	2.55%	3.30%
Assumed rates of return on invested assets	3.50%	3.50%	4.00 %	N/A	N/A	N/A
Salary increase assumptions	N/A	N/A	N/A	3.00%	3.00%	3.00%

Discount rates were determined by a quantitative analysis examining the prevailing prices of high quality bonds to determine an appropriate discount rate for measuring obligations. The aforementioned analyses analyze the cash flow from each of the Company's four benefit plans as well as a separate analysis of the cash flows from the postretirement medical and life insurance plans sponsored by Liggett. The aforementioned analyses then construct a hypothetical bond portfolio whose cash

flow from coupons and maturities match the year-by-year, projected benefit cash flow from the respective pension or retiree health plans. The Company uses the lower discount rate derived from the two independent analyses in the computation of the benefit obligation and service cost for each respective retirement liability.

The Company considers input from its external advisors and historical returns in developing its expected rate of return on plan assets. The expected long-term rate of return is the weighted average of the target asset allocation of each individual asset class. The Company's actual 10-year annual rate of return on its pension plan assets was 4.83%, 7.74% and 6.91% for the years ended December 31, 2022, 2021 and 2020, respectively, and the Company's actual five-year annual rate of return on its pension plan assets was 2.42%, 7.86% and 7.51% for the years ended December 31, 2022, 2021 and 2020, respectively.

Gains and losses resulted from changes in actuarial assumptions and from differences between assumed and actual experience, including, among other items, changes in discount rates and changes in actual returns on plan assets as compared to assumed returns. These gains and losses are amortized to the extent that they exceed 10% of the greater of Projected Benefit Obligation and the fair value of assets. For the year ended December 31, 2022, Liggett used a 12.57-year period for its Hourly Plan and a 11.34-year period for its Salaried Plan to amortize pension fund gains and losses on a straight-line basis. Such amounts are reflected in the pension expense calculation beginning the year after the gains or losses occur. The amortization of deferred losses negatively impacts pension expense in the future periods.

Plan assets are invested employing multiple investment management firms. Managers within each asset class cover a range of investment styles and focus primarily on issue selection to add value. Risk is controlled through a diversification among asset classes, managers, styles and securities. Risk is further controlled both at the manager and asset class level by assigning excess return and tracking error targets. Investment managers are monitored to evaluate performance against these benchmark indices and targets.

Allowable investment types include equity, investment grade fixed income and short term investments. The equity fund is comprised of a Large Cap Index fund and a Mid Cap Index fund, both of which are U.S. based. The investment grade fixed income fund includes two managed funds investing in fixed income securities issued or guaranteed by the U.S. government, or by its respective agencies, mortgage backed securities, including collateralized mortgage obligations, and corporate debt obligations. The Company generally utilizes its short-term investments, including interest-bearing cash, to pay benefits and to deploy in special situations.

The Liggett Employee Benefits Committee has established the following target assets allocation to equal 35% equity investments and 65% investment grade fixed income, with a rebalancing range of approximately plus or minus 5% around the target asset allocations.

Vector's defined benefit retirement plan allocations by asset category, were as follows:

	Plan Assets at December 31,	
	2022	2021
Asset category:		
Equity securities	34 %	38 %
Investment grade fixed income securities	66 %	62 %
High yield fixed income securities	— %	— %
Total	100 %	100 %

The defined benefit plans' recurring financial assets subject to fair value measurements and the necessary disclosures were as follows:

	Fair Value Measurements as of December 31, 2022			
Description	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Insurance contracts	$ 1,679	$ —	$ 1,679	$ —
Amounts in individually managed investment accounts:				
Cash, mutual funds and common stock	85	85	—	—
Common collective trusts at NAV [1]	82,294	—	—	—
Total	$ 84,058	$ 85	$ 1,679	$ —

[1] In accordance with Subtopic 820-10, investments that are measured at fair value using the NAV practical expedient are not classified in the fair value hierarchy.

	Fair Value Measurements as of December 31, 2021			
Description	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Insurance contracts	$ 1,868	$ —	$ 1,868	$ —
Amounts in individually managed investment accounts:				
Cash, mutual funds and common stock	91	91	—	—
Common collective trusts at NAV [1]	102,586	—	—	—
Total	$ 104,545	$ 91	$ 1,868	$ —

[1] In accordance with Subtopic 820-10, investments that are measured at fair value using the NAV practical expedient are not classified in the fair value hierarchy.

The fair value of investment included in Level 1 is based on quoted market prices from various stock exchanges. The Level 2 investments are based on quoted prices for similar assets or liabilities in active markets and quoted prices for identical or similar assets in markets that are not active.

For 2022 measurement purposes, annual increases in Medicare Part B trends were assumed to equal rates between 3.06% and 8.01% between 2023 and 2030 and 4.5% thereafter. For 2021 measurement purposes, annual increases in Medicare Part B trends were assumed to equal rates between 4.21% and 7.19% between 2022 and 2029 and 4.5% thereafter.

To comply with ERISA's minimum funding requirements, the Company does not currently anticipate that it will be required to make any contributions to the pension plan year beginning on January 1, 2023 and ending on December 31, 2023. Any additional funding obligation that the Company may have for subsequent years is contingent on several factors and is not reasonably estimable at this time.

Estimated future pension and postretirement medical benefits payments were as follows:

	Pension	Postretirement Medical
2023	$ 5,902	$ 596
2024	5,576	598
2025	5,223	585
2026	4,891	564
2027	68,108	547
2028 - 2032	24,994	2,398

Profit Sharing and 401(k) Plans:

The Company maintains 401(k) plans for substantially all U.S. employees which allow eligible employees to invest a percentage of their pre-tax compensation. The Company contributed to the 401(k) plans and expensed $1,590, $1,473 and $1,465 for the years ended December 31, 2022, 2021 and 2020, respectively.

13. INCOME TAXES

The amounts provided for income taxes were as follows:

	Year Ended December 31,		
	2022	2021	2020
Current:			
U.S. Federal	$ 35,733	$ 33,398	$ 30,583
State	10,902	14,945	12,910
	46,635	48,343	43,493
Deferred:			
U.S. Federal	11,079	11,399	7,343
State	4,147	3,065	3,285
	15,226	14,464	10,628
Total	$ 61,861	$ 62,807	$ 54,121

The tax effect of temporary differences which give rise to a significant portion of deferred tax assets and liabilities is as follows:

	December 31, 2022	December 31, 2021
Deferred tax assets:		
Employee benefit accruals	$ 7,471	$ 7,828
Impairment of investments	12,342	12,337
Impact of timing of settlement payments	9,054	10,854
Various U.S. federal and state tax loss carryforwards	1,828	2,378
Operating lease liabilities	2,328	3,277
Current expected credit losses	4,111	4,111
Other	3,000	3,910
	40,134	44,695
Less: Valuation allowance	(550)	(348)
Net deferred tax assets	$ 39,584	$ 44,347
Deferred tax liabilities:		
Basis differences on non-consolidated entities	$ (39,884)	$ (24,441)
Basis differences on fixed and intangible assets	(34,794)	(35,154)
Basis differences on inventory	(11,165)	(10,808)
Basis differences on long-term investments	(2,777)	(4,383)
Basis differences on available for sale securities	—	(1,490)
Operating lease right of use assets	(1,998)	(2,839)
	$ (90,618)	$ (79,115)
Net deferred tax liabilities	$ (51,034)	$ (34,768)

The Company files a consolidated U.S. income tax return that includes its more than 80%-owned U.S. subsidiaries. Standalone subsidiaries had tax-effected federal and state and local net operating loss (“NOL”) carryforwards of $1,828 and $2,378 at December 31, 2022 and 2021, respectively, expiring through tax year 2027. The Company records a valuation allowance against deferred tax assets if, based on the weight of available evidence, it is more likely than not that some or all

deferred tax assets will not be realized. The Company had valuation allowances of $550 and $348 at December 31, 2022 and 2021, respectively. The valuation allowances at December 31, 2022 and 2021 primarily related to state net operating loss carryforwards of standalone subsidiaries.

On March 27, 2020, the President of the United States signed the Coronavirus Aid, Relief, and Economic Security ("CARES") Act into law. The Act includes several significant tax and payroll-related provisions for corporations, including the usage of net operating losses, bonus depreciation, interest expense, and certain payroll benefits. The Company determined that there was a minimal impact of the CARES Act on its financial statements and required disclosures.

The consolidated balance sheets of the Company include deferred income tax assets and liabilities, which represent temporary differences in the application of accounting rules established by U.S. GAAP and income tax laws.

Differences between the amounts provided for income taxes and amounts computed at the federal statutory tax rate are summarized as follows:

	Year Ended December 31,		
	2022	2021	2020
Income before provision for income taxes	$ 220,562	$ 209,961	$ 181,043
Federal income tax expense at statutory rate	46,318	44,092	38,018
Increases (decreases) resulting from:			
State income taxes, net of federal income tax benefits	10,585	13,946	12,974
Non-deductible expenses	3,511	6,205	2,859
Excess tax benefits on stock-based compensation	(285)	(561)	(206)
Changes in valuation allowance, net of equity and tax audit adjustments	202	(504)	(440)
Other	1,530	(371)	916
Income tax expense	$ 61,861	$ 62,807	$ 54,121

The Company's income tax expense is principally attributable to the Company's federal and state income taxes based on the Company's earnings. The non-deductible expenses presented in the table above largely relate to the Company's non-deductible executive compensation and Distribution expenses. The federal and state NOLs and valuation allowance are decreased by the Distribution entity and NOLs expiration.

The following table summarizes the activity related to the unrecognized tax benefits:

Balance at January 1, 2020	$ 1,647
Additions based on tax positions related to prior years	458
Settlements	(402)
Expirations of the statute of limitations	(50)
Balance at December 31, 2020	1,653
Additions based on tax positions related to prior years	1,640
Settlements	(1,065)
Expirations of the statute of limitations	(19)
Balance at December 31, 2021	2,209
Additions based on tax positions related to prior years	1,409
Settlements	—
Expirations of the statute of limitations	(351)
Balance at December 31, 2022	$ 3,267

In the event the unrecognized tax benefits of $3,267 at December 31, 2022 were recognized, such recognition would impact the effective tax rate. The Company classifies all tax-related interest and penalties as income tax expense.

It is reasonably possible the Company may recognize up to approximately $39 of unrecognized tax benefits over the next 12 months, primarily pertaining to expiring statutes of limitations on prior state and local income tax return positions.

The Company files U.S. and state and local income tax returns in jurisdictions with varying statutes of limitations. The Company, from time to time, receives notices related to audits and adjustments related to its partnerships.

14. STOCK COMPENSATION

The Company granted equity compensation under its Amended and Restated 1999 Long-Term Incentive Plan (the "1999 Plan") until the 1999 Plan expired on December 31, 2013. On May 16, 2014, the Company's stockholders approved the 2014 Management Incentive Plan (the "2014 Plan"). The 2014 Plan replaced the 1999 Plan. Like the 1999 Plan, the 2014 Plan provides for the Company to grant stock options, stock appreciation rights and restricted stock. The 2014 Plan also provides for awards based on a multi-year performance period and for annual short-term awards based on a twelve-month performance period. Shares available for issuance under the 2014 Plan are 5,262,538 shares. The Company may satisfy its obligations under any award granted under the 2014 Plan by issuing new shares. Awards previously granted under the 1999 Plan remain outstanding in accordance with their terms.

Stock Options. The Company recognized compensation expense of $339, $849 and $1,428 related to stock options in the years ended December 31, 2022, 2021 and 2020, respectively.

All awards have a contractual term of ten years and awards vest over a period of four years. The fair value of option grants is estimated at the date of grant using the Black-Scholes option pricing model. The Black-Scholes option pricing model was developed for use in estimating the fair value of traded options which have no vesting restrictions and are fully transferable. In addition, option valuation models require the input of highly subjective assumptions, including expected stock price characteristics which are significantly different from those of traded options, and because changes in the subjective input assumptions can materially affect the fair value estimate, the existing models do not necessarily provide a reliable single measure of the fair value of stock-based compensation awards.

The assumptions used under the Black-Scholes option pricing model in computing fair value of options are based on the expected option life considering both the contractual term of the option and expected employee exercise behavior, the interest rate associated with U.S. Treasury issues with a remaining term equal to the expected option life and the expected volatility of the Company's common stock over the expected term of the option.

A summary of employee stock option transactions follows:

	Number of Shares	Weighted-Average Exercise Price	Weighted-Average Remaining Contractual Term (Years)	Aggregate Intrinsic Value [1]
Outstanding on January 1, 2020	4,443,346	$ 14.80	5.0	$ 4,427
Exercised	(620,527)	$ 11.14		
Outstanding on December 31, 2020	3,822,819	$ 15.40	4.6	$ 487
Exercised	—	$ —		
Outstanding on December 31, 2021	3,822,819	$ 15.40	3.6	$ 238
Exercised	—	$ —		
Outstanding on December 31, 2022	3,822,819	$ 15.40	2.6	$ 794
Options exercisable at:				
December 31, 2020	2,540,150			
December 31, 2021	2,988,727			
December 31, 2022	3,415,944			

[1] The aggregate intrinsic value represents the amount by which the fair value of the underlying common stock ($11.86, $11.48 and $11.65 at December 31, 2022, 2021 and 2020, respectively) exceeds the option exercise price.

Additional information relating to options outstanding at December 31, 2022 follows:

	Options Outstanding			Options Exercisable			
Range of Exercise Prices	Outstanding as of 12/31/2022	Weighted-Average Remaining Contractual Life (Years)	Weighted-Average Exercise Price	Exercisable as of 12/31/2022	Weighted-Average Remaining Contractual Life (Years)	Weighted-Average Exercise Price	Aggregate Intrinsic Value
$9.86 - $11.83	1,462,190	1.8	$ 11.32	1,055,315	0.2	$ 11.47	$ —
$11.83 - $13.80	—	—	$ —	—	—	$ —	—
$13.80 - $15.77	519,278	1.4	$ 14.68	519,278	1.4	$ 14.68	—
$15.77 - $17.74	—	—	$ —	—	—	$ —	—
$17.74 - $19.71	1,841,351	3.6	$ 18.84	1,841,351	3.6	$ 18.84	—
	3,822,819	2.6	$ 15.40	3,415,944	2.2	$ 15.93	$ 794

As of December 31, 2022, there was $41 of total unrecognized compensation cost related to unvested stock options. The cost is expected to be recognized over a weighted-average period of approximately 0.16 years at December 31, 2022.

As a result of adopting ASU 2016-09, the Company reflects the net excess tax benefits of stock-based compensation in its consolidated financial statements as a component of “Cash Flows from Operating Activities.”

The Company has elected to use the long-form method under which each award grant is tracked on an employee-by-employee basis and grant-by-grant basis to determine if there is a tax benefit or tax deficiency for such award. The Company then compares the fair value expense to the tax deduction received for each grant in order to calculate the related tax benefits and deficiencies. All excess tax benefits and deficiencies are recognized as a component of income tax expense or benefit on the income statement.

The total intrinsic value of options exercised during the year ended December 31, 2020 was $835. Tax benefits related to option exercises of $104 were recorded as reductions to income tax expense for the year ended December 31, 2020.

Restricted Stock Awards. In 2022, the Company granted 770,000 restricted shares of the Company’s common stock pursuant to the 2014 Plan. The shares vest over a period of four years and the Company will recognize $8,547 of expense over the vesting period. The Company recognized expense of $1,810 for the year ended December 31, 2022.

In 2022, the Company granted an award of 300,000 shares of its common stock pursuant to its 2014 Plan subject to service and performance-based vesting (and continued employment) over a period of four-years. The Company will recognize $3,330 of expense over the vesting period. The Company recognized expense of $705 for the year ended December 31, 2022.

In 2022, the Company granted 45,000 restricted shares of the Company's common stock pursuant to the 2014 Plan. The shares vest over a period of two years and the Company will recognize $505 of expense over the vesting period. The Company recognized expense of $14 for the year ended December 31, 2022.

In 2021, the Company granted 623,500 restricted shares of the Company's common stock pursuant to the 2014 Plan. The shares vest over a period of four years and the Company will recognize $8,919 of expense over the vesting period. The Company recognized expense of $1,492 and $4,245 for the years ended December 31, 2022 and 2021, respectively.

In 2021, the Company granted an award of 250,000 shares of its common stock pursuant to its 2014 Plan subject to service and performance-based vesting (and continued employment) over a period of four-years. The Company will recognize $3,578 of expense over the vesting period. The Company recognized expense of $596 and $1,699 for the years ended December 31, 2022 and 2021, respectively.

In 2020, the Company granted 425,000 restricted shares of the Company's common stock pursuant to the 2014 Plan. The shares vest over a period of four years and the Company will recognize $5,041 of expense over the vesting period. The Company recognized expense of $839, $2,271 and $747 for the years ended December 31, 2022, 2021 and 2020, respectively.

In 2019, the Company granted 63,000 restricted shares of the Company's common stock pursuant to the 2014 Plan. The shares vest over a period of three years and the Company will recognize $564 of expense over the vesting period. The Company recognized expense of $43, $209 and $188 for the years ended December 31, 2022, 2021 and 2020, respectively.

The Company recognized expense of $2,010, $5,525, and $7,022 for the years ended December 31, 2022, 2021 and 2020, respectively, related to performance based restricted stock awards granted in 2014 and 2015.

As of December 31, 2022, there was $15,501 of total unrecognized compensation costs related to unvested restricted stock awards. The cost is expected to be recognized over a weighted-average period of approximately 1.39 years.

As of December 31, 2021, there was $10,627 of total unrecognized compensation costs related to unvested restricted stock awards.

The Company's accounting policy is to treat dividends paid on unvested restricted stock as a reduction to additional paid-in capital on the Company's consolidated balance sheets.

Included in the stock compensation costs for the year ended December 31, 2021, were expenses of $4,317 associated with the acceleration of stock compensation in connection with the Company's Distribution of Douglas Elliman.

15. CONTINGENCIES

Tobacco-Related Litigation:

Overview. Since 1954, Liggett and other United States cigarette manufacturers have been named as defendants in numerous direct, third-party and purported class actions predicated on the theory that cigarette manufacturers should be liable for damages alleged to have been caused by cigarette smoking or by exposure to secondary smoke from cigarettes. The cases have generally fallen into the following categories: (i) smoking and health cases alleging personal injury brought on behalf of individual plaintiffs ("Individual Actions"); (ii) lawsuits by individuals requesting the benefit of the *Engle* ruling ("*Engle* progeny cases"); (iii) smoking and health cases primarily alleging personal injury or seeking court-supervised programs for ongoing medical monitoring, as well as cases alleging that use of the terms "lights" and/or "ultra lights" constitutes a deceptive and unfair trade practice, common law fraud or violation of federal law, purporting to be brought on behalf of a class of individual plaintiffs ("Class Actions"); and (iv) health care cost recovery actions brought by various foreign and domestic governmental plaintiffs and non-governmental plaintiffs seeking reimbursement for health care expenditures allegedly caused by cigarette smoking and/or disgorgement of profits ("Health Care Cost Recovery Actions"). The future financial impact of the risks and expenses of litigation are not quantifiable. For the years ended December 31, 2022, 2021 and 2020, Liggett incurred tobacco product liability legal expenses and costs totaling $8,031, $6,256, and $6,476, respectively. Legal defense costs are expensed as incurred.

Litigation is subject to uncertainty and it is possible that there could be adverse developments in pending cases. With the commencement of new cases, the defense costs and the risks relating to the unpredictability of litigation increase. Management reviews on a quarterly basis with counsel all pending litigation and evaluates the probability of a loss being incurred and whether an estimate can be made of the possible loss or range of loss that could result from an unfavorable outcome. An unfavorable outcome or settlement of pending tobacco-related litigation could encourage the commencement of additional litigation. Damages awarded in tobacco-related litigation can be significant.

Bonds. Although Liggett has been able to obtain required bonds or relief from bonding requirements in order to prevent plaintiffs from seeking to collect judgments while adverse verdicts are on appeal, there remains a risk that such relief may not be obtainable in all cases. This risk has been reduced given that a majority of states now limit the dollar amount of bonds or require no bond at all. As of December 31, 2022, other than the bond regarding the Mississippi litigation (described below), there are no other litigation bonds posted.

In June 2009, Florida amended its existing bond cap statute by adding a $200,000 bond cap that applies to all Florida tobacco litigation in the aggregate and establishes individual bond caps in amounts that vary depending on the number of judgments in effect at a given time. The maximum amount of any such bond for an appeal in the Florida state courts will be no greater than $5,000. In several cases, plaintiffs challenged the constitutionality of the bond cap statute, but to date the courts have upheld the constitutionality of the statute. It is possible that the Company's consolidated financial position, results of operations, and cash flows could be materially adversely affected by an unfavorable outcome of such challenges.

Accounting Policy. The Company and its subsidiaries record provisions in their consolidated financial statements for pending litigation when they determine that an unfavorable outcome is probable and the amount of loss can be reasonably estimated. At the present time, while it is reasonably possible that an unfavorable outcome in a case may occur, except as discussed in this Note 15: (i) management has concluded that it is not probable that a loss has been incurred in any of the pending tobacco-related cases; or (ii) management is unable to reasonably estimate the possible loss or range of loss that could result from an unfavorable outcome of any of the pending tobacco-related cases and, therefore, management has not provided any amounts in the consolidated financial statements for unfavorable outcomes, if any.

Although Liggett has generally been successful in managing the litigation filed against it, litigation is subject to uncertainty and significant challenges remain. There can be no assurances that Liggett's past litigation experience will be representative of future results. Judgments have been entered against Liggett in the past, in Individual Actions and *Engle* progeny cases, and several of those judgments were affirmed on appeal and satisfied by Liggett. It is possible that the consolidated financial position, results of operations and cash flows of the Company could be materially adversely affected by an unfavorable outcome or settlement of any of the remaining smoking-related litigation. Liggett believes, and has been so advised by counsel, that it has valid defenses to the litigation pending against it. All such cases are and will continue to be vigorously defended. Liggett has entered into settlement discussions in individual cases or groups of cases where Liggett has determined it was in its best interest to do so, and it may continue to do so in the future. As cases proceed through the appellate process, the Company will consider accruals on a case-by-case basis if an unfavorable outcome becomes probable and the amount can be reasonably estimated.

Individual Actions

As of December 31, 2022, there were 53 Individual Actions pending against Liggett, where one or more individual plaintiffs allege injury resulting from cigarette smoking, addiction to cigarette smoking or exposure to secondary smoke and seek compensatory and, in some cases, punitive damages. These cases do not include the remaining *Engle* progeny cases. The following table lists the number of Individual Actions by state:

State	Number of Cases
Florida	24
Illinois	12
Hawaii	6
Nevada	4
New Mexico	3
Louisiana	2
Massachusetts	1
South Carolina	1

The plaintiffs' allegations of liability in cases in which individuals seek recovery for injuries allegedly caused by cigarette smoking are based on various theories of recovery, including negligence, gross negligence, breach of special duty, strict liability, fraud, concealment, misrepresentation, design defect, failure to warn, breach of express and implied warranties, conspiracy, aiding and abetting, concert of action, unjust enrichment, common law public nuisance, property damage, invasion of privacy, mental anguish, emotional distress, disability, shock, indemnity, violations of deceptive trade practice laws, the federal Racketeer Influenced and Corrupt Organizations Act ("RICO"), state RICO statutes and antitrust statutes. In many of these cases, in addition to compensatory damages, plaintiffs also seek other forms of relief including treble/multiple damages,

medical monitoring, disgorgement of profits and punitive damages. Although alleged damages often are not determinable from a complaint, and the law governing the pleading and calculation of damages varies from state to state and jurisdiction to jurisdiction, compensatory and punitive damages have been specifically pleaded in a number of cases, sometimes in amounts ranging into the hundreds of millions and even billions of dollars.

Defenses raised in Individual Actions include lack of proximate cause, assumption of the risk, comparative fault and/or contributory negligence, lack of design defect, statute of limitations, statute of repose, equitable defenses such as "unclean hands" and lack of benefit, failure to state a claim and federal preemption.

Engle Progeny Cases

In May 1994, the *Engle* case was filed as a class action against Liggett and others in Miami-Dade County, Florida. The class consisted of all Florida residents who, by November 21, 1996, "have suffered, presently suffer or have died from diseases and medical conditions caused by their addiction to cigarette smoking." A trial was held and the jury returned a verdict adverse to the defendants (approximately $145,000,000 in punitive damages, including $790,000 against Liggett). Following an appeal to the Third District Court of Appeal, the Florida Supreme Court in July 2006 decertified the class on a prospective basis and affirmed the appellate court's reversal of the punitive damages award. Former class members had until January 2008 to file individual lawsuits. As a result, Liggett and the Company, and other cigarette manufacturers, were sued in thousands of *Engle* progeny cases in both federal and state courts in Florida.

Cautionary Statement About Engle Progeny Cases. Since 2009, judgments have been entered against Liggett and other cigarette manufacturers in *Engle* progeny cases. A number of the judgments were affirmed on appeal and satisfied by the defendants. Many were overturned on appeal. As of December 31, 2022, 25 *Engle* progeny cases where Liggett was a defendant at trial resulted in verdicts.

There have been 16 verdicts returned in favor of the plaintiffs and nine in favor of Liggett. In five of the cases, punitive damages were awarded against Liggett. Several of the adverse verdicts were overturned on appeal and new trials were ordered. In certain cases, the judgments were entered jointly and severally with other defendants and Liggett faces the risk that one or more co-defendants decline or otherwise fail to participate in the bonding required for an appeal or to pay their proportionate or jury-allocated share of a judgment. As a result, under certain circumstances, Liggett may have to pay more than its proportionate share of any bonding or judgment related amounts. Except as discussed in this Note 15, management is unable to estimate the possible loss or range of loss from the remaining *Engle* progeny cases as there are currently multiple defendants in each case, except as discussed herein and, in most of the remaining cases, discovery has not occurred or is limited. As a result, the Company lacks information about whether plaintiffs are in fact *Engle* class members, the relevant smoking history, the nature of the alleged injury and the availability of various defenses, among other things. Further, plaintiffs typically do not specify the amount of their demand for damages.

Engle Progeny Settlements.

In October 2013, the Company and Liggett entered into a settlement with approximately 4,900 *Engle* progeny plaintiffs and their counsel. Pursuant to the terms of the settlement, Liggett agreed to pay a total of $110,000, with $61,600 paid in an initial lump sum and the balance to be paid in installments over 14 years starting in February 2015. The Company's future payments will be approximately $3,700 per annum through 2028, including an annual cost of living increase that began in 2021. In exchange, the claims of these plaintiffs were dismissed with prejudice against the Company and Liggett.

Liggett subsequently entered into two separate settlement agreements with a total of 152 *Engle* progeny plaintiffs where Liggett paid a total of $23,150. On an individual basis, Liggett settled an additional 210 *Engle* progeny cases for approximately $8,240 in the aggregate.

As of December 31, 2022, 21 *Engle* progeny cases remain pending in state court. Therefore, the Company and Liggett may still be subject to periodic adverse judgments which could have a material adverse effect on the Company's consolidated financial position, results of operations and cash flows.

Judgments Paid in Engle Progeny Cases.

As of December 31, 2022, Liggett paid in the aggregate $40,111, including interest and attorneys' fees, to satisfy the judgments in the following *Engle* progeny cases: *Lukacs*, *Campbell*, *Douglas*, *Clay*, *Tullo*, *Ward*, *Rizzuto*, *Lambert*, *Buchanan* and *Santoro*.

Liggett Only Cases

There are currently two cases where Liggett is the sole defendant: *Cowart* is an Individual Action and *Forbing* is an *Engle* progeny case. It is possible that cases where Liggett is the only defendant could increase as a result of the remaining *Engle* progeny cases and newly filed Individual Actions.

Upcoming Trials

As of December 31, 2022, there was one *Engle* progeny case (*Stein*) and ten Individual Actions (*Bennett, Camacho, Geist, Grace, Lopez, H., Martinez, McMakin, Mier, Roach* and *Tully*) scheduled for trial through December 31, 2023, where Liggett is a named defendant. Trial dates are subject to change and additional cases could be set for trial during this time.

Maryland Cases

Liggett was a defendant in 16 multi-defendant personal injury cases in Maryland alleging claims arising from asbestos and tobacco exposure ("synergy cases"). In June 2017, after the Court of Appeals (Maryland's highest court) ruled that joinder of tobacco and asbestos cases may be possible in certain circumstances and then remanded the case, the trial court dismissed all synergy cases against the tobacco company defendants, including Liggett, without prejudice. Plaintiffs may seek appellate review or file new cases against the tobacco companies.

In December 2022, the Mayor and City Council of Baltimore sued Liggett and others, claiming, among other things, that defendants' failure to use biodegradable filters on their cigarette products resulted in littering by smokers of the city's streets, sidewalks, beaches, parks, lawns and waterways, which in turn resulted in contamination of the soil and water, increased costs of clean-up and disposal of this litter, as well as the reduction of property values and tourism to the city. Plaintiffs seek compensatory damages, punitive damages, penalties, fines, disgorgement of profits and equitable relief.

Class Actions

As of December 31, 2022, two actions were pending for which either a class had been certified or plaintiffs were seeking class certification where Liggett is a named defendant. Other cigarette manufacturers are also named in these two cases.

In November 1997, in Young v. American Tobacco Co., a purported class action was brought on behalf of plaintiff and all similarly situated residents in Louisiana who, though not themselves cigarette smokers, allege they were exposed to and suffered injury from secondhand smoke from cigarettes. The plaintiffs seek an unspecified amount of compensatory and punitive damages. The case has been stayed since March 2016 pending completion of the smoking cessation program ordered by the court in Scott v. The American Tobacco Co.

In February 1998, in Parsons v. AC & S Inc., a purported class action was brought on behalf of plaintiff and all West Virginia residents who allegedly have claims arising from their exposure to cigarette smoke and asbestos fibers and seeks compensatory and punitive damages. The case has been stayed since December 2000 as a result of bankruptcy petitions filed by three co-defendants.

Plaintiffs' allegations of liability in class action cases are based on various theories of recovery, including negligence, gross negligence, strict liability, fraud, misrepresentation, design defect, failure to warn, nuisance, breach of express and implied warranties, breach of special duty, conspiracy, concert of action, violation of deceptive trade practice laws and consumer protection statutes and claims under the federal and state anti-racketeering statutes. Plaintiffs in the class actions seek various forms of relief, including compensatory and punitive damages, treble/multiple damages and other statutory damages and penalties, creation of medical monitoring and smoking cessation funds, disgorgement of profits, and injunctive and equitable relief.

Defenses raised in these cases include, among others, lack of proximate cause, individual issues predominate, assumption of the risk, comparative fault and/or contributory negligence, statute of limitations and federal preemption.

Health Care Cost Recovery Actions

As of December 31, 2022, one Health Care Cost Recovery Action was pending against Liggett where the plaintiff seeks to recover damages from Liggett and other cigarette manufacturers based on various theories of recovery as a result of alleged sales of tobacco products to minors. The case is dormant.

The claims asserted in health care cost recovery actions vary, but can include the equitable claim of indemnity, common law claims of negligence, strict liability, breach of express and implied warranty, breach of special duty, fraud, negligent misrepresentation, conspiracy, public nuisance, claims under state and federal statutes governing consumer fraud, antitrust, deceptive trade practices and false advertising, and claims under RICO. Although no specific damage amounts are typically pleaded, it is possible that requested damages might be in billions of dollars. In these cases, plaintiffs have asserted equitable

claims that the tobacco industry was "unjustly enriched" by their payment of health care costs allegedly attributable to smoking and seek reimbursement of those costs. Relief sought by some, but not all, plaintiffs include punitive damages, multiple damages and other statutory damages and penalties, injunctions prohibiting alleged marketing and sales to minors, disclosure of research, disgorgement of profits, funding of anti-smoking programs, additional disclosure of nicotine yields, and payment of attorney and expert witness fees.

Department of Justice Lawsuit

In September 1999, the United States government commenced litigation against Liggett and other cigarette manufacturers in the United States District Court for the District of Columbia. The action sought to recover, among other things, an unspecified amount of health care costs paid and to be paid by the federal government for smoking-related illnesses allegedly caused by the fraudulent and tortious conduct of defendants. In August 2006, the trial court entered a Final Judgment against each of the cigarette manufacturing defendants, except Liggett. The judgment was affirmed on appeal. As a result, the cigarette manufacturing defendants, other than Liggett, are now subject to the trial court's Final Judgment which ordered, among other things, the issuance of "corrective statements" in various media regarding the adverse health effects of smoking, the addictiveness of smoking and nicotine, the lack of any significant health benefit from smoking "low tar" or "lights" cigarettes, defendants' manipulation of cigarette design to ensure optimum nicotine delivery and the adverse health effects of exposure to environmental tobacco smoke.

MSA and Other State Settlement Agreements

In March 1996, March 1997 and March 1998, Liggett entered into settlements of smoking-related litigation with 45 states and territories. The settlements released Liggett from all smoking-related claims made by those states and territories, including claims for health care cost reimbursement and claims concerning sales of cigarettes to minors.

In November 1998, Philip Morris, R.J. Reynolds and two other companies (the "Original Participating Manufacturers" or "OPMs") and Liggett and Vector Tobacco (together with any other tobacco product manufacturer that becomes a signatory, the "Subsequent Participating Manufacturers" or "SPMs") (the OPMs and SPMs are hereinafter referred to jointly as "PMs") entered into the Master Settlement Agreement (the "MSA") with 46 states, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa and the Northern Mariana Islands (collectively, the "Settling States") to settle the asserted and unasserted health care cost recovery and certain other claims of the Settling States. The MSA received final judicial approval in each Settling State.

As a result of the MSA, the Settling States released Liggett and Vector Tobacco from:

- all claims of the Settling States and their respective political subdivisions and other recipients of state health care funds, relating to: (i) past conduct arising out of the use, sale, distribution, manufacture, development, advertising and marketing of tobacco products; (ii) the health effects of the exposure to, or research, statements or warnings about, tobacco products; and
- all monetary claims of the Settling States and their respective subdivisions and other recipients of state health care funds relating to future conduct arising out of the use of, or exposure to, tobacco products that have been manufactured in the ordinary course of business.

The MSA restricts tobacco product advertising and marketing within the Settling States and otherwise restricts the activities of PMs. Among other things, the MSA prohibits the targeting of youth in the advertising, promotion or marketing of tobacco products; bans the use of cartoon characters in all tobacco advertising and promotion; limits each PM to one tobacco brand name sponsorship during any 12-month period; bans all outdoor advertising, with certain limited exceptions; prohibits payments for tobacco product placement in various media; bans gift offers based on the purchase of tobacco products without sufficient proof that the intended recipient is an adult; prohibits PMs from licensing third parties to advertise tobacco brand names in any manner prohibited under the MSA; and prohibits PMs from using as a tobacco product brand name any nationally recognized non-tobacco brand or trade name or the names of sports teams, entertainment groups or individual celebrities.

The MSA also requires PMs to affirm corporate principles to comply with the MSA and to reduce underage use of tobacco products and imposes restrictions on lobbying activities conducted on behalf of PMs. In addition, the MSA provides for the appointment of an independent auditor to calculate and determine the amounts of payments owed pursuant to the MSA.

Under the payment provisions of the MSA, PMs are required to make annual payments of $9,000,000 (subject to applicable adjustments, offsets and reductions including a "Non-Participating Manufacturers Adjustment" or "NPM Adjustment"). These annual payments are allocated based on unit volume of domestic cigarette shipments. The payment obligations under the MSA are the several, and not joint, obligations of each PM and are not the responsibility of any parent or affiliate of a PM.

Liggett has no payment obligations under the MSA except to the extent its market share exceeds a market share exemption of approximately 1.65% of total cigarettes sold in the United States. Vector Tobacco has no payment obligations under the MSA except to the extent its market share exceeds a market share exemption of approximately 0.28% of total cigarettes sold in the United States. Liggett and Vector Tobacco's domestic shipments accounted for approximately 5.4% of the total cigarettes sold in the United States in 2022. If Liggett's or Vector Tobacco's market share exceeds their respective market share exemption in a given year, then on April 15 of the following year, Liggett and/or Vector Tobacco must pay on each excess unit an amount equal (on a per-unit basis) to that due from the OPMs for that year. On December 29, 2022, Liggett and Vector Tobacco pre-paid $268,250 of their approximate $283,000 2022 MSA obligation, the balance of which will be paid in April 2023, subject to applicable disputes or adjustments.

Certain MSA Disputes

NPM Adjustment. Liggett and Vector Tobacco contend that they are entitled to an NPM Adjustment for 2003 - 2021. The NPM Adjustment is a potential adjustment to annual MSA payments, available when PMs suffer a market share loss to NPMs for a particular year and an economic consulting firm selected pursuant to the MSA determines (or the parties agree) that the MSA was a "significant factor contributing to" that loss. A Settling State that has "diligently enforced" its qualifying escrow statute in the year in question may be able to avoid its allocable share of the NPM Adjustment. For 2003 - 2021, Liggett and Vector Tobacco, as applicable, disputed that they owed the Settling States the NPM Adjustments as calculated by the independent auditor. As permitted by the MSA, Liggett and Vector Tobacco either paid subject to dispute, withheld payment, or paid into a disputed payment account, the amounts associated with these NPM Adjustments.

In June 2010, after the PMs prevailed in 48 of 49 motions to compel arbitration, the parties commenced the arbitration for the 2003 NPM Adjustment. That arbitration concluded in September 2013. It was followed by various challenges filed in state courts by states that did not prevail in the arbitration. Those challenges resulted in reductions, but not elimination of, the amounts awarded. Since then, the PMs have settled the NPM Adjustment dispute with 39 states representing approximately 80% of the MSA allocable share.

The 2004 NPM Adjustment arbitration commenced in 2016, with the arbitration panel eventually finding three states liable for the NPM Adjustment. Two of these states have since filed motions in applicable state courts and with the arbitration panels challenging these determinations and several issues remain to be resolved by the arbitration panels that will affect the final amount of the 2004 NPM Adjustment. The parties have selected an arbitration panel to address the NPM Adjustments for 2005 - 2007 and are engaged in discovery, with individual state hearings scheduled to start in March 2023.

As a result of the settlements described above, Liggett and Vector Tobacco reduced cost of sales for the year ended December 31, 2022 by $12,278, for an aggregate reduction in costs of sales for years 2013 - 2021 of $74,550. Liggett and Vector Tobacco may be entitled to further adjustments. As of December 31, 2022, Liggett and Vector Tobacco had accrued approximately $11,100 related to the disputed amounts withheld from the non-settling states for 2004 - 2010, which may be subject to payment, with interest, if Liggett and Vector Tobacco lose the disputes for those years. As of December 31, 2022, there remains approximately $48,500 in the disputed payments account relating to Liggett and Vector Tobacco's 2011 - 2021 NPM Adjustment disputes with the non-settling states. If Liggett and Vector Tobacco lose the disputes for all or any of those years, pursuant to the MSA, no interest would be due on the amounts paid into the disputed payment account.

Other State Settlements. The MSA replaced Liggett's prior settlements with all states and territories except for Florida, Mississippi, Texas and Minnesota. Each of these four states, prior to the effective date of the MSA, negotiated and executed settlement agreements with each of the other major tobacco companies, separate from those settlements reached previously with Liggett. Except as described below, Liggett's agreements with these states remain in full force and effect. These states' settlement agreements with Liggett contained most favored nation provisions which could reduce Liggett's payment obligations based on subsequent settlements or resolutions by those states with certain other tobacco companies. Beginning in 1999, Liggett determined that, based on settlements or resolutions with United States Tobacco Company, Liggett's payment obligations to those four states were eliminated. With respect to all non-economic obligations under the previous settlements, Liggett believes it is entitled to the most favorable provisions as between the MSA and each state's respective settlement with the other major tobacco companies. Therefore, Liggett's non-economic obligations to all states and territories are now defined by the MSA.

In 2003, as a result of a dispute with Minnesota regarding its settlement agreement, Liggett agreed to pay $100 a year in any year cigarettes manufactured by Liggett are sold in that state. In November 2022, Minnesota advised Liggett that the settlement agreement had terminated pursuant to its terms and that statutory fee-in-lieu of settlement payments will be collected from wholesalers distributing Liggett's products in Minnesota. Further, the Attorneys General for Florida, Mississippi and Texas advised Liggett that they believed Liggett had failed to make payments under the respective settlement agreements with those states. In 2010, Liggett settled with Florida and agreed to pay $1,200 and to make further annual payments of $250 for a

period of 21 years, starting in March 2011, with the payments in 2022 through the duration of the agreement subject to an inflation adjustment.

Mississippi Litigation. In January 2016, the Attorney General for Mississippi filed a motion in Chancery Court in Jackson County, Mississippi to enforce the March 1996 settlement agreement among Liggett, Mississippi and other states (the "1996 Agreement") alleging that Liggett owes Mississippi at least $27,000 in compensatory damages and interest. In April 2017, the Chancery Court ruled, over Liggett's objections, that the 1996 Agreement should be enforced as Mississippi claims and referred the matter first to arbitration and then to a Special Master for further proceedings to determine the amount of damages, if any, to be awarded. In April 2021, following confirmation of the final arbitration award, the parties stipulated that the unpaid principal (exclusive of interest) purportedly due from Liggett to Mississippi pursuant to the 1996 Agreement was approximately $16,700, subject to Liggett's right to litigate and/or appeal the enforceability of the 1996 Agreement (and all issues other than the calculation of the principal amount allegedly due).

In September 2019, the Special Master held a hearing regarding Mississippi's claim for pre- and post-judgment interest. In August 2021, the Special Master issued a final report with proposed findings and recommendations that pre-judgment interest, in the amount of approximately $18,800, is due from Liggett from April 2005 - August 3, 2021. In April 2022, the Mississippi Chancery Court affirmed the Special Master's findings and a final judgment was entered by the court on June 1, 2022. Additional interest amounts will accrue if the judgment is not overturned on appeal. Liggett continues to assert that the April 2017 Chancery Court order is in error because the most favored nations provision in the 1996 Agreement eliminated all of Liggett's payment obligations to Mississippi. Liggett appealed the final judgment and posted a bond of $24,000 in June 2022. Briefing on the appeal is underway.

Liggett may be required to make additional payments to Mississippi and/or Texas which could have a material adverse effect on the Company's consolidated financial position, results of operations and cash flows.

Cautionary Statement

Management is not able to reasonably predict the outcome of the litigation pending or threatened against Liggett or the Company. Litigation is subject to many uncertainties. Liggett has been found liable in multiple Engle progeny cases and Individual Actions, several of which were affirmed on appeal and satisfied by Liggett. It is possible that other cases could be decided unfavorably against Liggett and that Liggett will be unsuccessful on appeal. Liggett may attempt to settle particular cases if it believes it is in its best interest to do so.

Management cannot predict the cash requirements related to any future defense costs, settlements or judgments, including cash required to bond any appeals, and there is a risk that Liggett may not be able to meet those requirements. An unfavorable outcome of a pending smoking-related case could encourage the commencement of additional litigation. Except as discussed in this Note 15, management is unable to estimate the loss or range of loss that could result from an unfavorable outcome of the cases pending against Liggett or the costs of defending such cases and as a result has not provided any amounts in its consolidated financial statements for unfavorable outcomes.

The tobacco industry is subject to a wide range of laws and regulations regarding the marketing, sale, taxation and use of tobacco products imposed by local, state and federal governments. There have been a number of restrictive regulatory actions, adverse legislative and political decisions and other unfavorable developments concerning cigarette smoking and the tobacco industry. These developments may negatively affect the perception of potential triers of fact with respect to the tobacco industry, possibly to the detriment of certain pending litigation, and may prompt the commencement of additional litigation or legislation.

It is possible that the Company's consolidated financial position, results of operations and cash flows could be materially adversely affected by an unfavorable outcome in any of the smoking-related litigation.

The activity in the Company's accruals for the MSA and tobacco litigation for the three years ended December 31, 2022 was as follows:

	Current Liabilities			*Non-Current Liabilities*		
	Payments due under Master Settlement Agreement	**Litigation Accruals**	**Total**	**Payments due under Master Settlement Agreement**	**Litigation Accruals**	**Total**
Balance as of January 1, 2020	$ 34,116	$ 4,249	$ 38,365	$ 17,275	$ 20,594	$ 37,869
Expenses	175,538	312	175,850	—	—	—
NPM Settlement adjustment	299	—	299	—	—	—
Change in MSA obligations capitalized as inventory	182	—	182	—	—	—
Payments	(170,513)	(4,334)	(174,847)	(197)	—	(197)
Reclassification to/(from) non-current liabilities	(855)	3,252	2,397	855	(3,252)	(2,397)
Interest on withholding	—	488	488	—	1,926	1,926
Balance as of December 31, 2020	38,767	3,967	42,734	17,933	19,268	37,201
Expenses	173,786	211	173,997	—	—	—
NPM Settlement adjustment	—	—	—	—	—	—
Change in MSA obligations capitalized as inventory	(670)	—	(670)	—	—	—
Payments, net of credits received	(204,706)	(4,091)	(208,797)	—	—	—
Reclassification to/(from) non-current liabilities	4,709	3,351	8,060	(4,709)	(3,351)	(8,060)
Interest on withholding	—	480	480	—	1,763	1,763
Balance as of December 31, 2021	11,886	3,918	15,804	13,224	17,680	30,904
Expenses	278,327	239	278,566	—	—	—
NPM Settlement adjustment	(15)	—	(15)	(2,108)	—	(2,108)
Change in MSA obligations capitalized as inventory	2,634	—	2,634	—	—	—
Payments, net of credits received	(277,994)	(7,948)	(285,942)	—	—	—
Reclassification to/(from) non-current liabilities	—	3,566	3,566	—	(3,566)	(3,566)
Interest on withholding	—	521	521	—	2,003	2,003
Balance as of December 31, 2022	$ 14,838	$ 296	$ 15,134	$ 11,116	$ 16,117	$ 27,233

***Other Matters*:**

Liggett's and Vector Tobacco's management are unaware of any material environmental conditions affecting their existing facilities. Liggett's and Vector Tobacco's management believe that current operations are conducted in material compliance with all environmental laws and regulations and other laws and regulations governing cigarette manufacturers. Compliance with federal, state and local provisions regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, has not had a material impact on the capital expenditures, results of operations or competitive position of Liggett or Vector Tobacco.

Liggett and the Company have received three separate demands for indemnification from Altria Client Services, on behalf of Philip Morris, relating to lawsuits alleging smokers' use of L&M cigarettes. The indemnification demands are purportedly issued in connection with Eve Holdings' 1999 sale of certain trademarks to Philip Morris.

Management is of the opinion that the liabilities, if any, resulting from other proceedings, lawsuits and claims pending against the Company and its consolidated subsidiaries, unrelated to tobacco product liability, should not materially affect the Company's consolidated financial position, results of operations or cash flows.

16. SUPPLEMENTAL CASH FLOW INFORMATION

	Year Ended December 31,		
	2022	2021	2020
Cash paid during the period for:			
Interest, including interest related to finance leases	$ 112,759	$ 111,759	$ 118,807
Income taxes, net	42,426	92,698	41,372

17. RELATED PARTY TRANSACTIONS

Consulting services. Beginning in April 2020, a director of the Company, who served as President and Chief Executive Officer of Liggett Group and Liggett Vector Brands until March 2020, has served as Non-Executive Chairman of the Board of Managers of Liggett Vector Brands and as a Senior Advisor to Liggett. In addition to fees earned as a director of the Company, he has received $720, $720 and $540 under the agreement for the years ended December 31, 2022, 2021 and 2020.

Douglas Elliman Inc. On December 29, 2021, the Company completed the Distribution of Douglas Elliman, which included the real estate services and PropTech investment business formerly owned by the Company through its subsidiary, New Valley.

Vector Group and Douglas Elliman entered into the Distribution Agreement and the Transition Services Agreement with respect to transition services and several ongoing commercial relationships. Under the Transition Services Agreement, Douglas Elliman paid the Company $4,200 in 2022. The Company and Douglas Elliman also entered into two Aircraft Lease Agreements for the right to lease on a flight-by-flight basis certain aircraft owned by subsidiaries of the Company. Under the agreement, Douglas Elliman paid the Company $2,418 in 2022. The Company has agreed to indemnify Douglas Elliman for certain tax matters under the Tax Disaffiliation Agreement. The Company paid Douglas Elliman $589 in 2022 and recorded Other expense in its consolidated statements of operations for the year ended December 31, 2022 related to the tax indemnifications.

As of December 31, 2022 and December 31, 2021, the Company's indemnification obligation of the contingent liability related to Douglas Elliman was valued at $0 and $2,646, respectively.

Following the Distribution, there is an overlap between certain officers of Vector Group and Douglas Elliman. The President and Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer and Treasurer, and the General Counsel and Secretary of Vector Group serve in the same role at Douglas Elliman. Furthermore, three of the members of Vector Group's Board of Directors also serve as directors of Douglas Elliman.

Douglas Elliman Realty LLC has been engaged by certain developers as the sole broker or the co-broker for several of the real estate development projects that New Valley owns an interest in through its real estate venture investments. Douglas Elliman had gross commissions of approximately $1,709, $8,956 and $10,783 from these projects for the years ended December 31, 2022, 2021 and 2020, respectively.

A son of the Company's President and Chief Executive Officer is an associate broker with Douglas Elliman and he received commissions and other payments of $925 and $870, respectively, in accordance with brokerage activities in 2021 and 2020, respectively.

Insurance. The Company's Chief Executive Officer, a firm in which he is a shareholder, and affiliates of that firm received insurance commissions aggregating approximately $257, $241 and $265 in 2022, 2021 and 2020, respectively, on various insurance policies issued for the Company and its subsidiaries.

Other. In September 2012, the Company entered into an office lease with an entity affiliated with Dr. Phillip Frost, who beneficially owns more than 5% of the Company's common stock. The lease is for space in an office building in Miami, Florida and will expire on April 30, 2028, as amended in February 2023. The amended lease provides for payments of $41 per month increasing to $48 per month. The Company recorded rental expense of $458 for the three years ended December 31, 2022, 2021 and 2020, associated with the lease.

Ladenburg Thalmann Financial Services Inc. Prior to February 14, 2020, the Company owned 15,191,205 common shares (or approximately 10.2%) of LTS, which was a publicly-traded diversified financial services company prior to its merger with Advisor Group. The Company accounted for its investment in LTS under the equity method of accounting. In connection with the merger, in February 2020, the Company received cash proceeds of $53,169. The Company recorded equity in earnings of $53,424 for the year ended December 31, 2020. The Company also received $6,009 for the redemption of its 240,000 shares of LTS 8% Series A Cumulative Redeemable Preferred Stock.

Prior to the merger, the Company and LTS were parties to a management agreement and LTS paid the Company $103 under the agreement for 2020; this amount was recorded as equity income. At the closing of the transaction, the Company's management agreement with LTS was terminated.

18. INVESTMENTS AND FAIR VALUE MEASUREMENTS

The Company's financial assets and liabilities subject to fair value measurements were as follows:

	Fair Value Measurements as of December 31, 2022			
Description	**Total**	**Quoted Prices in Active Markets for Identical Assets (Level 1)**	**Significant Other Observable Inputs (Level 2)**	**Significant Unobservable Inputs (Level 3)**
Assets:				
Money market funds [1]	$ 155,411	$ 155,411	$ —	$ —
Commercial paper [1]	54,526	—	54,526	—
Money market funds securing legal bonds [2]	24,000	24,000	—	—
Investment securities at fair value				
Equity securities at fair value				
Marketable equity securities	12,724	12,724	—	—
Mutual funds invested in debt securities	22,069	22,069	—	—
Total equity securities at fair value	34,793	34,793	—	—
Debt securities available for sale				
U.S. government securities	779	—	779	—
Corporate securities	53,814	—	53,814	—
U.S. government and federal agency	27,050	—	27,050	—
Total debt securities available for sale	81,643	—	81,643	—
Total investment securities at fair value	116,436	34,793	81,643	—
Long-term investments				
Long-term investment securities at fair value [3]	28,919	—	—	—
Total	$ 379,292	$ 214,204	$ 136,169	$ —

[1] Amounts included in Cash and cash equivalents on the consolidated balance sheets.

[2] Amounts included in current restricted assets and non-current restricted assets on the consolidated balance sheets.

[3] In accordance with Subtopic 820-10, investments that are measured at fair value using the NAV practical expedient are not classified in the fair value hierarchy.

Description	Fair Value Measurements as of December 31, 2021			
	Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:				
Money market funds [1]	$ 130,583	$ 130,583	$ —	$ —
Commercial paper [1]	24,426	—	24,426	—
Certificates of deposit [2]	110	—	110	—
Investment securities at fair value				
Equity securities at fair value				
Marketable equity securities	19,560	19,560	—	—
Mutual funds invested in debt securities	23,221	23,221	—	—
Total equity securities at fair value	42,781	42,781	—	—
Debt securities available for sale				
U.S. government securities	6,481	—	6,481	—
Corporate securities	47,531	—	47,531	—
U.S. government and federal agency	19,572	—	19,572	—
Commercial paper	29,103	—	29,103	—
International fixed-income securities	1,219	—	1,219	—
Total debt securities available for sale	103,906	—	103,906	—
Total investment securities at fair value	146,687	42,781	103,906	—
Long-term investments				
Long-term investment securities at fair value [3]	32,089	—	—	—
Total	$ 333,895	$ 173,364	$ 128,442	$ —
Liabilities:				
Fair value of contingent liability	$ 2,646	$ —	$ —	$ 2,646
Total	$ 2,646	$ —	$ —	$ 2,646

(1) Amounts included in Cash and cash equivalents on the consolidated balance sheets.

(2) Amounts included in current restricted assets and non-current restricted assets on the consolidated balance sheets.

(3) In accordance with Subtopic 820-10, investments that are measured at fair value using the NAV practical expedient are not classified in the fair value hierarchy.

The fair value of the Level 2 certificates of deposit is based on the discounted value of contractual cash flows. The discount rate is the rate offered by the financial institution. The fair value of investment securities at fair value included in Level 1 is based on quoted market prices from various stock exchanges. The Level 2 investment securities at fair value are based on quoted market prices of securities that are thinly traded, quoted prices for identical or similar assets in markets that are not active or inputs other than quoted prices such as interest rates and yield curves.

The long-term investments are based on NAV per share provided by the partnerships based on the indicated market value of the underlying assets or investment portfolio. In accordance with Subtopic 820-10, these investments are not classified under the fair value hierarchy disclosed above because they are measured at fair value using the NAV practical expedient.

In addition to assets and liabilities that are recorded at fair value on a recurring basis, the Company is required to record assets and liabilities at fair value on a nonrecurring basis. Generally, assets and liabilities are recorded at fair value on a nonrecurring basis as a result of impairment charges. The Company had no nonrecurring nonfinancial assets subject to fair value measurements as of December 31, 2022 and 2021, respectively, except for investments in real estate ventures that were impaired as of December 31, 2021.

The Company's investment in real estate ventures subject to nonrecurring fair value measurements are as follows:

Description	Year Ended December 31, 2022 Impairment Charge	Fair Value Measurement Using: Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:					
Investments in real estate ventures	$ 490	$ —	$ —	$ —	$ —

The Company estimated the fair value of its investments in real estate ventures using observable inputs such as market pricing based on recent events, however, significant judgment was required to select certain inputs from observed market data. The decline in the investments in real estate ventures was attributed to the decline in the projected sales prices and the duration of the estimated sell out of the respective real estate ventures. The $490 of impairment charges were included in equity in losses from real estate ventures for the year ended December 31, 2022.

Description	Year Ended December 31, 2021 Impairment Charge	Fair Value Measurement Using: Total	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Assets:					
Investments in real estate ventures	$ 2,713	$ —	$ —	$ —	$ —

The Company estimated the fair value of its investments in real estate ventures using observable inputs such as market pricing based on recent events, however, significant judgment was required to select certain inputs from observed market data. The decline in the investments in real estate ventures was attributed to the decline in the projected sales prices and the duration of the estimated sell out of the respective real estate ventures. The $2,713 of impairment charges were included in equity in losses from real estate ventures for the year ended December 31, 2021.

19. SEGMENT INFORMATION

The Company's business segments were Tobacco and Real Estate. The accounting policies of the segments are the same as those described in the summary of significant accounting policies.

Financial information for the Company's operations before taxes and non-controlling interests for the years ended December 31, 2022, 2021 and 2020 was as follows:

	Tobacco	Real Estate	Corporate and Other	Total
2022				
Revenues	$ 1,425,125	$ 15,884	$ —	$ 1,441,009
Operating income (loss)	347,044 [1]	8,016	(16,050)	339,010
Equity in losses from real estate ventures	—	(5,946)	—	(5,946)
Identifiable assets	343,874	137,747 [4]	426,970 [7]	908,591
Depreciation and amortization	5,901	66	1,251	7,218
Capital expenditures	9,872	1	84	9,957
2021				
Revenues	$ 1,202,497	$ 18,203	$ —	$ 1,220,700
Operating income (loss)	360,317 [2]	4,066	(43,944) [5]	320,439
Equity in earnings from real estate ventures	—	10,250	—	10,250
Identifiable assets of continuing operations	302,051	128,256 [4]	440,780 [7]	871,087
Depreciation and amortization	6,525	249	1,042	7,816
Capital expenditures	5,827	3	3,570	9,400
2020				
Revenues	$ 1,204,501	$ 24,181	$ —	$ 1,228,682
Operating income (loss)	319,536 [3]	(610)	(24,498) [6]	294,428
Equity in losses from real estate ventures		(44,728)		(44,728)
Identifiable assets of continuing operations	357,518	103,523 [4]	428,386 [7]	889,427
Depreciation and amortization	7,877	337	878	9,092
Capital expenditures	4,491	100	8,346	12,937

[1] Includes $2,123 received from a litigation settlement associated with the MSA expense (which reduced cost of sales) and $239 of litigation settlement and judgment expense.

[2] Includes $2,722 received from a litigation settlement associated with the MSA expense (which reduced cost of sales) and $211 of litigation settlement and judgment expense.

[3] Includes $337 of litigation settlement and judgment expense and $299 of expense from MSA settlement.

[4] Includes real estate investments accounted for under the equity method of accounting of $121,117, $105,062 and $85,400 as of December 31, 2022, 2021 and 2020, respectively.

[5] Includes transaction expenses of $10,468 and accelerated stock compensation of $4,317 related to the Distribution of Douglas Elliman; and $910 of gain on sale of assets.

[6] Includes $2,283 of gain on sale of assets.

[7] Includes cash of $213,988, investment securities of $116,436 and long-term investments of $44,959 as of December 31, 2022; cash of $167,383, investment securities of $146,687, and long-term investments of $53,073 as of December 31, 2021 and cash of $211,729, investment securities of $135,585, and long-term investments of $52,291 as of December 31, 2020.

20. QUARTERLY FINANCIAL RESULTS (UNAUDITED)

Unaudited quarterly data for the years ended December 31, 2022 and 2021 are as follows:

	December 31, 2022	September 30, 2022	June 30, 2022	March 31, 2022
Revenues	$ 363,770	$ 377,995	$ 387,202	$ 312,042
Gross Profit	116,188	110,972	115,964	99,227
Operating income	89,272	83,901	90,711	75,126
Net income from continuing operations	48,150	38,856	39,153	32,542
Net income applicable to common shares attributed to Vector Group Ltd.	$ 48,150	$ 38,856	$ 39,153	$ 32,542
Per basic common share:				
Net income from continuing operations applicable to common shares attributed to Vector Group Ltd.	$ 0.30	$ 0.25	$ 0.25	$ 0.21
Net income from discontinued operations applicable to common shares attributed to Vector Group Ltd.	—	—	—	—
Net income applicable to common shares attributed to Vector Group Ltd.	$ 0.30	$ 0.25	$ 0.25	$ 0.21
Per diluted common share:				
Net income from continuing operations applicable to common shares attributed to Vector Group Ltd.	$ 0.30	$ 0.25	$ 0.25	$ 0.21
Net income from discontinued operations applicable to common shares attributed to Vector Group Ltd.	—	—	—	—
Net income applicable to common shares attributed to Vector Group Ltd.	$ 0.30	$ 0.25	$ 0.25	$ 0.21

	December 31, 2021	September 30, 2021	June 30, 2021	March 31, 2021
Revenues	$ 313,673	$ 298,485	$ 337,554	$ 270,988
Gross Profit	110,373	111,041	125,148	104,596
Operating income	68,556	82,015	93,893	75,975
Net income from continuing operations	30,711	29,912	64,981	21,550
Net income from discontinued operations	14,531	18,857	28,324	10,407
Net income applicable to common shares attributed to Vector Group Ltd.	$ 45,312	$ 48,889	$ 93,305	$ 31,957
Per basic common share:				
Net income from continuing operations applicable to common shares attributed to Vector Group Ltd.	$ 0.20	$ 0.19	$ 0.41	$ 0.14
Net income from discontinued operations applicable to common shares attributed to Vector Group Ltd.	0.09	0.12	0.19	0.06
Net income applicable to common shares attributed to Vector Group Ltd.	$ 0.29	$ 0.31	$ 0.60	$ 0.20
Per diluted common share:				
Net income from continuing operations applicable to common shares attributed to Vector Group Ltd.	$ 0.20	$ 0.19	$ 0.41	$ 0.14
Net income from discontinued operations applicable to common shares attributed to Vector Group Ltd.	0.09	0.12	0.19	0.06
Net income applicable to common shares attributed to Vector Group Ltd.	$ 0.29	$ 0.31	$ 0.60	$ 0.20

It may not be possible to recalculate EPS attributable to common stockholders by adjusting EPS from continuing operations by EPS from discontinued operations because each amount is calculated independently.

VECTOR GROUP LTD.
SCHEDULE II — VALUATION AND QUALIFYING ACCOUNTS
(Dollars in Thousands)

Description	Balance at Beginning of Period	Additions Charged to Costs and Expenses	Deductions	Balance at End of Period
Year Ended December 31, 2022				
Allowances for:				
Cash discounts	$ 326	$ 33,748	$ 33,236	$ 838
Deferred tax valuation allowance	348	202	—	550
Sales returns	6,669	3,422	2,565	7,526
Total	$ 7,343	$ 37,372	$ 35,801	$ 8,914
Year Ended December 31, 2021				
Allowances for:				
Cash discounts	$ 334	$ 28,663	$ 28,671	$ 326
Deferred tax valuation allowance	852	—	504	348
Sales returns	7,356	2,439	3,126	6,669
Total	$ 8,542	$ 31,102	$ 32,301	$ 7,343
Year Ended December 31, 2020				
Allowances for:				
Cash discounts	$ 319	$ 28,046	$ 28,031	$ 334
Deferred tax valuation allowance	1,292	—	440	852
Sales returns	7,785	2,617	3,046	7,356
Total	$ 9,396	$ 30,663	$ 31,517	$ 8,542

Exhibit 4.1

VECTOR GROUP LTD.

AND EACH OF THE GUARANTORS PARTY HERETO 5.75% SENIOR SECURED NOTES

DUE 2029

INDENTURE

Dated as of January 28, 2021

U.S. BANK NATIONAL ASSOCIATION as Trustee and as Collateral Agent

TABLE OF CONTENTS

Page

Page

ARTICLE 9
AMENDMENT, SUPPLEMENT AND WAIVER

ARTICLE 10 COLLATERAL AND SECURITY

ARTICLE 11 NOTE GUARANTEES

ARTICLE 12 SATISFACTION AND DISCHARGE

ARTICLE 13 MISCELLANEOUS

EXHIBITS

INDENTURE dated as of January 28, 2021 among Vector Group Ltd., a Delaware corporation, the Guarantors (as defined) and U.S. Bank National Association as Trustee (as defined) and as Collateral Agent (as defined).

The Company, the Guarantors and the Trustee agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders (as defined) of the 5.75% Senior Secured Notes due 2029 (the "*Notes*"):

ARTICLE 1 DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.01 *Definitions.*

"*100 Maple LLC*" means 100 Maple LLC, a Delaware limited liability company.

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

"*ABL Agent*" means Wells Fargo Bank, National Association in its capacity as administrative and collateral agent under the Liggett Credit Agreement, and also includes any successor, replacement or agent acting on its behalf as ABL Agent for the ABL Secured Parties under the ABL Documents.

"*ABL Documents*" has the meaning set forth in the Intercreditor Agreement. "*ABL Lender*" has the meaning set

forth in the Intercreditor Agreement.

"*Accelerated Note Conversion*" means the conversion in advance of the scheduled conversion by their terms of any convertible debt securities issued by the Company that are held by Affiliates of the Company, in exchange for the payment by the Company to such Affiliates of accrued interest and additional Equity Interests in the Company (other than Disqualified Stock).

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

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

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

"*Additional Notes*" means additional Notes (other than the Initial Notes) issued under this Indenture in accordance with Sections 2.02 and 4.09 hereof, as part of the same series as the Initial Notes.

"*Affiliate*" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "*control*," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through

the ownership of voting securities, by agreement or otherwise; *provided*, *however*, that beneficial ownership of 10% or more of the Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms "*controlling*," "*controlled by*" and "*under common control with*" have correlative meanings.

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

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

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

(2) the excess of: (a) the present value at such redemption date of (i) the redemption price of the Note at February 1, 2024 (such redemption price being set forth in the table appearing in Section 3.07 hereof) plus (ii) all required interest payments due on the Note through February 1, 2024 (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Treasury Rate as of such redemption date plus 50 basis points; over
(2) the principal amount of the Note.

Calculation of the Applicable Premium will be made by the Company or on behalf of the Company by such Person as the Company shall designate; *provided*, *however*, that such calculation shall not be a duty or obligation of the Trustee or Collateral Agent.

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

"*Asset Sale*" means:

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

(b) the issuance or sale of Equity Interests in any of the Guarantors.

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

(1) any single transaction or series of related transactions that involves assets having a Fair Market Value of less than $3.0 million;

(2) a transfer of assets between or among the Company and the Guarantors;

(3) an issuance of Equity Interests by a Guarantor to the Company or to another Guarantor;

(4) the sale, lease, sublease, license, sublicense, conveyance or other disposition of products, services, inventory, or accounts receivable and related assets (including participations therein) in the ordinary course of business, including leases with respect to facilities that are temporarily not in use or pending their disposition, and any sale or other disposition of damaged,

worn-out or obsolete assets in the ordinary course of business or any other property that is uneconomic or no longer useful to the conduct of the business of the Company or the Guarantors;

(5) the sale or other disposition of cash or Cash Equivalents or Investments that are Permitted Investments;

(6) a Restricted Payment that does not violate the provisions of Section 4.07 or a Permitted Investment.

(7) the licensing of intellectual property to third Persons on customary terms as determined in good faith by the Board of Directors of the Company;

(8) to the extent allowable under Section 1031 of the Internal Revenue Code of 1986, any exchange of like property (excluding any boot thereon) for use in the business of the Company or its Subsidiaries;

(9) transfers of property subject to casualty or condemnation proceedings; and

(10) the granting of Permitted Liens.

"*Attributable Debt*" in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction, including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP; *provided*, *however*, that if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation."

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

"*beneficial owner*" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms "*beneficially owns*" and "*beneficially owned*" have a corresponding meaning.

"*Board of Directors*" means:

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

(2) with respect to a partnership, the Board of Directors of the general partner of the partnership;

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

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

"*Business Day*" means any day other than a Legal Holiday.

"*Capital Lease Obligation*" means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP as in effect on January 1, 2019, and the Stated Maturity thereof shall be the date of the last payment of rent or any other amount due under such lease prior to the first date upon which such lease may be prepaid by the lessee without payment of a penalty; *provided* that, notwithstanding the foregoing, in no event shall any lease that would have been categorized as an operating lease as determined in accordance with GAAP prior to giving effect to the Accounting Standards Codification Topic 842, Leases, or any other changes in GAAP subsequent to the date of this Indenture, be considered a capital lease for purposes of this Indenture.

"*Capital Stock*" means:

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

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

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

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"*Cash Equivalents*" means:

(1) United States dollars and, solely for purposes of the definition of "Permitted Investments," any national currency of any other country in which the Company or its Guarantors do business;

(2) securities issued or directly and fully guaranteed or insured by the United States government or any agency or instrumentality of the United States government (*provided* that the full faith and credit of the United States is pledged in support of those securities) having maturities of not more than one year from the date of acquisition;

(3) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances with maturities not exceeding one year and overnight bank deposits, in each case, with any domestic commercial bank or commercial banking institution that is a member of the Federal Reserve System having capital and surplus in excess of $500.0 million and a Thomson Bank Watch Rating of "B" or better;

(4) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clauses (2) and (3) above or (7) below entered into with any financial institution meeting the qualifications specified in clause (3) above or (7) below;

(5) commercial paper having one of the two highest ratings obtainable from Moody's or S&P and, in each case, maturing within one year after the date of acquisition;

(6) money market funds at least 95% of the assets of which constitute Cash Equivalents of the kinds described in clauses (1) through (5) of this definition; and

(7) marketable general obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within one year of the date of acquisition and at the time of acquisition having one of the two highest ratings obtainable from S&P or Moody's.

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

(1) any sale, transfer, lease, conveyance or other disposition (in one transaction or a series of related transactions) of all or substantially all of the Company's property or assets to any person or group of related persons (other than to any of the Company's wholly owned subsidiaries) as defined in Sections 13(d) and 14(d) of the Exchange Act, including any group acting for the purpose of acquiring, holding, voting or disposing of securities within the meaning of Rule 13d-5(b)(1) under the Exchange Act, other than any sale, transfer, lease, conveyance or other disposition in which (x) persons who, directly or indirectly, are beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of the Company's Voting Stock immediately prior to such transaction, beneficially own, directly or indirectly, immediately after such transaction at least a majority of the total voting power of the outstanding Voting Stock of the corporation or entity purchasing such properties or assets in such sale, lease, conveyance or other disposition and (y) persons who, directly or indirectly, are beneficial owners of the Company's Voting Stock immediately prior to such transaction, beneficially own, directly or indirectly, immediately after such transaction shares of common stock of the corporation or entity purchasing such properties or assets in such sale, lease, conveyance or other disposition in a proportion that does not, on the whole, materially differ from such ownership immediately prior to the transaction;

(2) the adoption of a plan relating to the liquidation or dissolution of the Company;

(3) if any "person" or "group" (as these terms are used for purposes of Sections 13(d) and 14(d) of the Exchange Act) other than the Company, its subsidiaries, and the Company's or its subsidiaries' employee benefit plans becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of more than 50% of the aggregate ordinary voting power represented by the Company's issued and outstanding stock; or

(4) the Company consolidates with, or merges with or into, another person or any person consolidates with, or merges with or into, the Company, other than any consolidation or merger in which (x) persons who, directly or indirectly, are beneficial owners (as defined in Rule 13d-3 under the Exchange Act) of the Company's Voting Stock immediately prior to such transaction, beneficially own, directly or indirectly, immediately after such transaction at least a majority of the voting power of the outstanding Voting Stock of the continuing or surviving corporation or entity and (y) persons who, directly or indirectly, are beneficial owners of the Company's Voting Stock immediately prior to such transaction beneficially own, directly or indirectly, immediately after such transaction shares of common stock of the continuing or surviving corporation or entity in a proportion that does not, on the whole, materially differ from such ownership immediately prior to the transaction.

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

"*Collateral*" means the Pledged Securities and the properties and assets at any time owned or acquired by any of the Pledgors as provided in the Collateral Documents and this Indenture other than the Excluded Assets and except:

(1) any properties and assets in which the Collateral Agent is required to release its Liens pursuant to the provisions of the Intercreditor Agreement; and

(2) any properties and assets that no longer secure the Note Guarantees or any Obligations in respect thereof pursuant to the provisions of Section 10.03 hereof,

provided that, if such Liens are required to be released as a result of the sale, transfer or other disposition of any properties or assets of any of the Guarantors, such assets or properties will cease to be excluded from the Collateral if any of the Guarantors thereafter acquires or reacquires such assets or properties.

"*Collateral Agent*" means U.S. Bank National Association, in its capacity as collateral agent under this Indenture, the Intercreditor Agreement and the Collateral Documents, together with its successors in such capacity.

"*Collateral Documents*" means all security agreements, pledge agreements, collateral assignments, mortgages, deeds of trust, collateral agency agreements or other grants or transfers for security executed and delivered by any Guarantor creating (or purporting to create) a Parity Lien upon Collateral in favor of the Collateral Agent for the benefit of the Holders, in each case, as amended, modified, renewed, restated or replaced, in whole or in part, from time to time.

"*Company*" means Vector Group Ltd., a Delaware corporation, and any and all successors thereto.

"*Consolidated EBITDA*" means for any period the Consolidated Net Income for such period, after giving pro forma effect to any Investment or acquisition or disposition of a business permitted under this Indenture as if such Investment, acquisition or disposition occurred on the first day of the relevant period, in accordance with Regulation S-X, *plus*, without duplication:

(1) provision for taxes based on income or profits or capital, including state, city and county income, franchise and similar taxes, foreign withholding taxes and foreign unreimbursed value added taxes of the Company and the Guarantors for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus*

(2) the Fixed Charges of the Company and the Guarantors (including amortization of deferred financing fees and changes in fair value of derivatives embedded within convertible debt) for such period, to the extent that such Fixed Charges were deducted in computing such Consolidated Net Income; *plus*

(3) depreciation, amortization (including amortization of intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of the Company and the Guarantors for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; *plus*

(4) any other non-cash charges (including impairment charges, write-offs of assets and the impact of purchase accounting but excluding any such charge that represents an accrual or reserve for a cash expenditure for a future period), to the extent that such non-cash charges were deducted in computing such Consolidated Net Income; *plus*

(5) any one-time, non-recurring expenses or charges related to any Equity Offering, Permitted Investment, acquisition, recapitalization or incurrence of Indebtedness permitted to be incurred under this Indenture (including a refinancing thereof), whether or not consummated, in each case to the extent such expenses or charges were deducted in computing Consolidated Net Income; *minus*

(6) non-cash items increasing such Consolidated Net Income for such period, other than (a) the accrual of revenue in the ordinary course of business and (b) reversals of prior accruals or reserves for non-cash items previously excluded from the definition of Consolidated EBITDA pursuant to clause (3) above, in each case, on a consolidated basis and determined in accordance with GAAP.

"*Consolidated Net Income*" means for any period the aggregate of the Net Income of the Company and the Guarantors for such period, on a consolidated basis, determined in accordance with GAAP; *provided* that:

(1) the Net Income (but not loss) of any Person that is not a Guarantor or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions paid in cash to the Company or a Guarantor;

(2) the Net Income of any Guarantor will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Guarantor of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement or instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Guarantor or its stockholders (except to the extent of the amount of dividends or similar distributions paid in cash to the Company or a Guarantor during such period);

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

(4) any restructuring charge or reserve to the extent that such expenses or charges were deducted in computing such Consolidated Net Income, including any restructuring costs incurred in connection with acquisitions after the date of issuance of the Notes and costs related to the closure and/or consolidation of facilities or work force reduction and severance and relocation costs incurred in connection therewith, will be excluded;

(5) any unrealized gains and losses due solely to fluctuations in currency values, the value of Investment Securities or the value of Long-Term Investments, and the related tax effects according to GAAP will be excluded;

(6) non-cash compensation recorded from grants of stock appreciation or similar rights, stock options, restricted stock or other rights will be excluded;

(7) after-tax gains and losses attributable to discontinued operations will be excluded;

(8) the after-tax effect of extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses, severance costs and curtailments or modifications or terminations to pension and post-retirement benefit plans will be excluded;

(9) any impairment charge or asset write-off, in each case pursuant to GAAP and the amortization of intangibles arising pursuant to GAAP will be excluded; and

(10) any deferred financing costs written off and premiums paid in connection with any early extinguishment of Indebtedness will be excluded.

"*Core Investments*" means investments, whether as a long or short position, in equity, debt or derivative securities, including puts, options, warrants or calls, of any Person, including hedge funds, private equity funds or other investment entities, in the ordinary course of the Company's or any Guarantor's business, but excluding any investment in (i) any Unrestricted Subsidiary of the Company, or (ii) any joint venture to which the Company, any Guarantor or any Unrestricted Subsidiary is a party.

"*Corporate Trust Office of the Trustee*" will be at the address of the Trustee specified in Section 13.0a hereof or such other address as to which the Trustee may give notice to the Company.

"*Credit Agreement Borrower*" means each of Liggett Group LLC, 100 Maple LLC and any other Guarantor that becomes a borrower under the Liggett Credit Agreement.

"*Credit Facilities*" means, one or more debt facilities (including the Liggett Credit Agreement) or commercial paper facilities, in each case, with banks or other institutional lenders providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against such receivables) or letters of credit, in each case, as amended, restated, modified, renewed, refunded, replaced (whether upon or after termination or otherwise) or refinanced (including by means of sales of debt securities to institutional investors) in whole or in part from time to time.

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

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

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

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

"*Disqualified Stock*" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature.

Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the Company to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.07 hereof. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Indenture will be the maximum amount that the Company and the Guarantors may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock, exclusive of accrued dividends.

"*Domestic Subsidiary*" means any Subsidiary of the Company that was formed under the laws of the United States or any state of the United States or the District of Columbia or that guarantees or otherwise provides direct credit support for any Indebtedness of the Company.

"*Environmental Claim*" means any investigation, notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Governmental Authority or any other Person, arising (i) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (ii) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; or (iii) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

"*Environmental Laws*" means any and all current or future foreign or domestic, federal or state (or any subdivision of either of them), statutes, ordinances, orders, rules, regulations, judgments, Governmental Authorizations, or any other requirements of Governmental Authorities relating to (i) environmental matters, including those relating to any Hazardous Materials Activity; (ii) the generation, use, storage, transportation or disposal of Hazardous Materials; or (iii) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health or welfare, in any manner applicable to the Company or any of the Guarantors or any Facility.

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

"*Equity Offering*" means any public or private sale of common stock or preferred stock of the Company (excluding Disqualified Stock) or contribution to the capital of the Company, other than:

(1) public offerings with respect to any such Person's common stock registered on Form S-8; and

(2) issuances to the Company or any Subsidiary of the Company. "*Euroclear*" means Euroclear Bank,

S.A./N.V., as operator of the Euroclear system. "*Eve*" means Eve Holdings LLC, a Delaware limited liability company.

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

"*Excluded Assets*" means any property, right or interest in which a security interest may not be granted under applicable law; real property, other than the Mebane Facility and any real property that has a Fair Market Value in excess of $12.5 million; equipment subject to purchase money or other financing; investment property or securities, including securities of Affiliates, other than the Pledged Securities; cash and deposit accounts; foreign intellectual property and all intent-to-use trademark applications; aircraft,

aircraft engines and motor vehicles; and leasehold interests in real property, each as defined under the UCC (if applicable).

"*Existing Indebtedness*" means Indebtedness of the Company and the Guarantors (other than Indebtedness under the Liggett Credit Agreement) in existence on the date of this Indenture, until such amounts are repaid.

"*Facility*" means any real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or heretofore owned, leased, operated or used by the Company or any of the Guarantors or any of their respective predecessors or Affiliates.

"*Existing Unsecured Notes*" means the Company's outstanding $555.0 million aggregate principal amount of 10.500% senior notes due 2026, issued pursuant to the Indenture dated as of November 2, 2018, between the Company, as issuer, and U.S. Bank National Association, as trustee, as amended, modified, supplemented, renewed, restated, refinanced, replaced or restructured (whether upon or after termination or otherwise) in whole or in part from time to time.

"*Fair Market Value*" means the value that would be paid by a willing buyer to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Board of Directors of the Company (unless otherwise provided in this Indenture).

"*First Priority Debt*" has the meaning set forth in the Intercreditor Agreement as in effect on the date of this Indenture.

"*First Priority Lien*" means a Lien to the extent it secures First Priority Debt.

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

(1) the consolidated interest expense of the Company and the Guarantors for such period, whether paid or accrued, including amortization of debt issuance costs, beneficial conversion features, derivatives embedded within convertible debt and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net of the effect of all payments made or received pursuant to Hedging Obligations in respect of interest rates; plus

(2) the consolidated interest expense of the Company and the Guarantors that was capitalized during such period; plus

(3) any interest on Indebtedness of another Person that is guaranteed by the Company or any of the Guarantors or secured by a Lien on assets of the Company or any of the Guarantors, whether or not such Guarantee or Lien is called upon; plus

(4) the product of (a) all dividends, whether paid or accrued and whether or not in cash, on any series of preferred stock of the Company or any of the Guarantors, other than dividends on Equity Interests payable solely in Equity Interests of the Company (other than Disqualified Stock) or to the Company or a Guarantor, *times* (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, state

and local statutory tax rate of such Person, expressed as a decimal, in each case, determined on a consolidated basis in accordance with GAAP.

"*GAAP*" means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which (except for purposes of the definition of "Capital Lease Obligations") are in effect on January 1, 2020, and without giving effect to any changes adopted or required to be adopted by the Company after such date as a result of any actual or proposed update to accounting standards.

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

"*Global Notes*" means, individually and collectively, each of the Restricted Global Notes and the Unrestricted Global Notes deposited with or on behalf of and registered in the name of the Depositary or its nominee, substantially in the form of Exhibit A hereto and that bears the Global Note Legend and that has the "Schedule of Exchanges of Interests in the Global Note" attached thereto, issued in accordance with Section 2.01, 2.06(b)(3), 2.06(b)(4), 2.06(d)(2) or 2.06(f) hereof.

"*Government Securities*" means direct obligations of, or obligations guaranteed by, the United States of America, and the payment for which the United States pledges its full faith and credit.

"*Guarantee*" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

"*Guarantors*" means each of:

(1) the Liggett Guarantors;

(2) the Domestic Subsidiaries of the Company on the date of this Indenture, other than (i) the New Valley Subsidiaries, (ii) VT Equipment Leasing LLC, (iii) Multi Solutions II, Inc. and (iv) Multi Soft II, Inc.; and

(3) any other Subsidiary of the Company that executes a Note Guarantee in accordance with the provisions of this Indenture,

and their respective successors and assigns, in each case, until the Note Guarantee of such Person has been released in accordance with the provisions of this Indenture.

"*Hazardous Materials*" means any chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority or which reasonably could be expected to pose a hazard to the health and safety of the owners, occupants or any Persons in the vicinity of any Facility or to the indoor or outdoor environment.

"*Hazardous Materials Activity*" means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Materials, including the use, manufacture, possession, storage,

holding, presence, existence, location, release, threatened release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any corrective action or response action with respect to any of the foregoing.

"*Hedging Obligations*" means, with respect to any specified Person, the obligations of such Person under:

(1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;

(2) other agreements or arrangements designed to manage interest rates or interest rate risk; and

(3) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates or commodity prices.

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

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

"*Indebtedness*" means, with respect to any specified Person, any indebtedness of such Person (excluding accrued expenses and trade payables), whether or not contingent:

(1) in respect of borrowed money;

(2) evidenced by bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof);

(3) in respect of banker's acceptances;

(4) representing Capital Lease Obligations or Attributable Debt in respect of sale and leaseback transactions;

(5) representing the balance deferred and unpaid of the purchase price of any property or services due more than six months after such property is acquired or such services are completed, except any such balance that constitutes an accrued expense or trade payable arising in the ordinary course of business and not overdue by more than 90 days; or

(6) representing any Hedging Obligations,

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

In addition, the term "*Indebtedness*" includes all Indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such Indebtedness is assumed by the specified

Person) and, to the extent not otherwise included, the Guarantee by the specified Person of any Indebtedness of any other Person.

"*Indemnified Liabilities*" means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages), penalties, claims (including Environmental Claims), costs (including the costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other response action necessary to remove, remediate, clean up or abate any Hazardous Materials Activity), expenses and disbursements of any kind or nature whatsoever (including the reasonable fees and disbursements of counsel for Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened by any Person, and any fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect or consequential and whether based on Environmental Laws, on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnitee, in any manner relating to or arising out of any Environmental Claim or any Hazardous Materials Activity relating to or arising from, directly or indirectly, any past or present activity, operation, land ownership, or practice of the Company or any of the Guarantors.

"*Indenture*" means this Indenture, as amended, supplemented, modified, renewed, restated or replaced, in whole or in part, from time to time.

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

"*Initial Notes*" means the first $875.0 million aggregate principal amount of Notes issued under this Indenture on the date hereof.

"*Initial Purchaser*" means Jefferies LLC.

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

"*Intercreditor Agreement*" means that certain Second Amended and Restated Intercreditor and Lien Subordination Agreement, dated January 28, 2021, by and among Wells Fargo Bank, National Association, as ABL Agent, U.S. Bank National Association, as Collateral Agent, Liggett Group LLC, as an initial borrower, 100 Maple LLC, as an initial borrower, and the other borrowers from time to time party thereto.

"*Investments*" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. Except as otherwise provided in this Indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.

"*Investment Securities*" means investment securities classified as such under GAAP.

"*Legal Holiday*" means a Saturday, a Sunday or a day on which banking institutions in the City of New York or at a place of payment are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday at a place of payment, payment may be made at that place on the

next succeeding day that is not a Legal Holiday, and no interest shall accrue on such payment for the intervening period.

"*Leverage Ratio*" means the ratio of (i) the sum of (A) the aggregate outstanding amount of Indebtedness of the Company and the Guarantors as of the last day of the most recently ended fiscal quarter for which financial statements are internally available as of the date of calculation on a combined consolidated basis in accordance with GAAP, less cash, cash equivalents, the Fair Market Value of Investment Securities and the Fair Market Value of Long-Term Investments of the Company and the Guarantors, plus (B) the aggregate outstanding amount of Indebtedness incurred in connection with margining of Core Investments (to the extent not included in Indebtedness under clause (i)(A) above), plus (C) the aggregate liquidation preference of all outstanding Disqualified Stock of the Company as of the last day of such fiscal quarter to (ii) the aggregate Consolidated EBITDA of the Company for the last four full fiscal quarters for which financial statements are internally available ending on or prior to the date of determination. Notwithstanding the foregoing, to the extent that Douglas Elliman Realty LLC, or any successor thereto, is classified on the Company's or any Guarantor's balance sheet as a Long Term Investment, then the book value, rather than the Fair Market Value, of such Long Term Investment will be used for purposes of the foregoing calculation.

"*Lien*" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the Uniform Commercial Code (or equivalent statutes) of any jurisdiction.

"*Liggett Credit Agreement*" means that certain Third Amended and Restated Credit Agreement, dated as of January 14, 2015, by and among Wells Fargo Bank, National Association, as administrative agent and collateral agent, Wells Fargo, National Association, as lender, Liggett Group LLC and 100 Maple LLC, as borrowers, providing for revolving credit borrowings, including any related notes, Guarantees, collateral documents, instruments and agreements executed in connection therewith, and, in each case, as amended, modified, supplemented, renewed, restated, refinanced, replaced or restructured (whether upon or after termination or otherwise) in whole or in part from time to time.

"*Liggett Group LLC*" means Liggett Group LLC, a Delaware limited liability company. "*Liggett Guarantors*" means each

of Liggett Group LLC and 100 Maple LLC.

"*Long-Term Investments*" means long-term investments classified as such under GAAP.

"*Mebane Facility*" means that certain real property located in Mebane, North Carolina and owned by 100 Maple LLC.

"*Moody's*" means Moody's Investors Service, Inc.

"*Net Income*" means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

(1) any gain or loss, together with all fees and expenses related thereto and any related provision for taxes on such gain or loss, realized in connection with:

(a) any Asset Sale; or

(b) the disposition of any securities or Investments by such Person or any of the Guarantors or the extinguishment of any Indebtedness of such Person or any of the Guarantors; and

(2) any extraordinary gain or loss, together with any related provision for taxes on such extraordinary gain or loss.

"*Net Proceeds*" means the aggregate cash proceeds received by the Company or any of the Guarantors in respect of any Asset Sale (including any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale), net of the direct costs relating to such Asset Sale, including legal, accounting and investment banking fees, and sales commissions, and any relocation expenses incurred as a result of the Asset Sale, taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, and amounts required to be applied to the repayment of Indebtedness, other than Indebtedness under a Credit Facility, secured by a Lien on the asset or assets that were the subject of such Asset Sale and any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

"*New Valley Subsidiaries*" means New Valley LLC, a Delaware limited liability company, and its Subsidiaries.

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

"*Note Guarantee*" means the Guarantee by each Guarantor of the Company's obligations under this Indenture and the Notes, executed pursuant to the provisions of this Indenture.

"*Noteholder Documents*" means this Indenture, the Notes, the Note Guarantees, and the Collateral Documents, in each case, as amended, modified, supplemented, renewed, restated or replaced, in whole or in part, from time to time as provided thereby.

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

"*Obligations*" means any principal (including reimbursement obligations with respect to letters of credit whether or not drawn), interest (including, to the extent legally permitted, all interest accrued thereon after the commencement of any insolvency or liquidation proceeding at the rate, including any applicable post-default rate, even if such interest is not enforceable, allowable or allowed as a claim in such proceeding), premium (if any), fees, indemnifications, reimbursements, expenses and other liabilities payable under the documentation governing any Indebtedness.

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

"*Officers' Certificate*" means a certificate signed by the Chairman of the Board, the President, any Executive Vice President, any Senior Vice President or any Vice President, and by the Chief

Financial Officer, the Treasurer, an Assistant Treasurer, the Controller, the Secretary or an Assistant Secretary, of the Company, that meets the requirements of Section 13.05 hereof. One of the officers signing an Officers' Certificate given pursuant to Section 4.04 shall be the principal executive, financial or accounting officer of the Company.

"*Opinion of Counsel*" means an opinion from legal counsel who is reasonably acceptable to the Trustee, that meets the requirements of Section 13.05 hereof. The counsel may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

"*Parity Lien*" means a Lien granted under a Collateral Document to the Collateral Agent, at any time, upon any property of any Guarantor providing security to secure Parity Lien Obligations.

"*Parity Lien Debt*" means:

(1) the Initial Notes; and

(2) any other Indebtedness of the Company other than intercompany Indebtedness and Existing Indebtedness (A) pursuant to Additional Notes or (B) otherwise permitted to be incurred under this Indenture that is, or the Guarantees of which are, secured by the Collateral equally and ratably with the Notes and the Note Guarantees; *provided* that, in the case of this clause (B), an authorized representative of the holders of such Indebtedness shall have entered into (i) a supplement or joinder to the Intercreditor Agreement and any other documents required by the Intercreditor Agreement, in each case, to the extent required by the Intercreditor Agreement, and (ii) a customary intercreditor agreement with the Collateral Agent and any other documents required by such intercreditor agreement, in each case in this clause (ii) reasonably satisfactory to the Collateral Agent.

"*Parity Lien Obligations*" means Parity Lien Debt and all other Obligations in respect thereof.

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

"*Permitted Investments*" means:

(1) any Investment in the Company or in a Guarantor;

(2) any Investment in Cash Equivalents;

(3) any Investment by the Company or any Guarantor in a Person, if as a result of such Investment:

(c) such Person becomes a Guarantor; or

(d) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Guarantor;

(4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.10 hereof.

(5) any acquisition of assets or Capital Stock solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company;

(6) any Investments received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Company or any Guarantor, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (B) litigation, arbitration or other disputes with Persons who are not Affiliates;

(7) loans or advances to employees made in the ordinary course of business of the Company or any Guarantor in an aggregate principal amount not to exceed $1.0 million at any one time outstanding;

(8) repurchases of the Notes;

(9) any Investment by the Company or any Guarantor in Core Investments;

(10) Investments represented by Hedging Obligations;

(11) Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment in the ordinary course of business or consistent with past practice;

(12) provision of services to customers, joint ventures in which the Company or a Guarantor holds or acquires an ownership interest, strategic alliances or Unrestricted Subsidiaries in the ordinary course of business or consistent with past practice;

(13) Investments existing on the date of this Indenture; and

(14) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause

(14) that are at the time outstanding, not to exceed $10.0 million. "*Permitted Liens*" means:

(1) Liens in favor of the ABL Agent securing First Priority Debt;

(2) Liens held by the Collateral Agent equally and ratably securing the Initial Notes (or the Note Guarantees thereof, as applicable) and all future Parity Lien Debt and other Parity Lien Obligations;

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

(4) Liens on property of a Person existing at the time such Person is merged with or into or consolidated with the Company or any Guarantor; *provided*, *however*, that such Liens were in existence prior to the contemplation of such merger or consolidation and do not extend to any assets other than those of the Person merged into or consolidated with the Company or the Guarantor;

(5) Liens on property (including Capital Stock) existing at the time of acquisition of the property by the Company or any Guarantor; *provided*, *however*, that such Liens were in existence prior to, and not incurred in contemplation of, such acquisition;

(6) Liens to secure the performance of statutory obligations (including obligations under worker's compensation, unemployment insurance or similar legislation), surety or appeal bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business, as well as obligations under the trade contracts and leases (exclusive of obligations for the payment of borrowed money) and cash deposits in connection with acquisitions otherwise permitted under this Indenture;

(7) Liens existing on the date of this Indenture;

(8) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; *provided*, *however*, that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(9) Liens imposed by law, such as carriers', warehousemen's, landlords' and mechanics' Liens, in each case, incurred in the ordinary course of business;

(10) survey exceptions, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other restrictions as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(11) Liens created for the benefit of (or to secure) the Notes (or the Note Guarantees);

(12) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under this Indenture; *provided*, *however*, that:

(a) the new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof); and

(b) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (x) the outstanding principal amount, or, if greater, committed amount, of the Permitted Refinancing Indebtedness and (y) an amount necessary to pay any fees and expenses (including upfront fees and original issue discount), including premiums (including tender premiums), related to such renewal, refunding, refinancing, replacement, defeasance or discharge;

(13) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by Section 4.09(b)(10) hereof covering only the assets acquired with or financed by such Indebtedness;

(14) Liens arising by reason of any judgment, decree or order not giving rise to an Event of Default so long as such Lien is adequately bonded and any appropriate legal proceedings

which may have been duly initiated for the review of such judgment shall not have been finally terminated or the period within such proceedings may be initiated shall not have expired; and

(15) Liens to secure obligations permitted by Section 4.09(b)(14) hereof; *provided*

that such Liens do not comprise Liens on any of the Collateral. "*Permitted Prior Liens*" means:

(1) Liens described in clauses (1), (4), (5), (7) or (13) of the definition of "Permitted Liens;" and

(2) Permitted Liens that arise by operation of law and are not voluntarily granted, to the extent entitled by law to priority over the Liens created by the Collateral Documents.

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

(1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged (plus all accrued interest on the Indebtedness and the amount of all fees and expenses (including upfront fees and original issue discount), including premiums (including tender premiums), incurred in connection therewith);

(2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged;

(3) if the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged is subordinated in right of payment to the Notes, such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and is subordinated in right of payment to, the Notes on terms at least as favorable to the holders of Notes as those contained in the documentation governing the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged;

(4) such Indebtedness is incurred either by the Company or by the Guarantor who is the obligor on the Indebtedness being renewed, refunded, refinanced, replaced, defeased or discharged; and

(5) such Permitted Refinancing Indebtedness, and any guarantee thereof, may only be secured by a Lien if (a) the Indebtedness renewed, refunded, refinanced, replaced, defeased or discharged, or any guarantee thereof, was secured by a Lien (the "*Original Lien*") and (b) the Lien securing such Permitted Refinancing Indebtedness (i) does not have a higher priority than the Original Lien and (ii) is limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the Original Lien arose, could secure the Original Lien (plus improvements and accessions to such property or proceeds or distributions thereof).

"*Person*" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"*Pledged Securities*" means all of the Capital Stock of each of Liggett Group LLC and Vector Tobacco.

"*Pledgor*" means each of Liggett Group LLC, 100 Maple LLC and Vector Tobacco and any successor thereto who is required to assume their obligations under this Indenture or the Collateral Documents.

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

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

promulgated under the Securities Act.

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

"*Responsible Officer*," when used with respect to the Trustee, means any officer within the Corporate Trust Administration of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers with direct responsibility for administering this Indenture, and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

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

Global Note bearing the Private Placement Legend. "*Restricted Investment*" means an Investment other than a Permitted

Investment.

"*Restricted Period*" means the 40-day distribution compliance period as defined in Regulation S. "*Rule 144*" means Rule 144

promulgated under the Securities Act.

"*Rule 144A*" means Rule 144A promulgated under the Securities Act. "*Rule 903*" means Rule 903

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

"*S&P*" means Standard & Poor's Ratings Group.

"*Sale of Collateral*" means any Asset Sale involving a sale or other disposition of Collateral. "*SEC*" means the Securities and

Exchange Commission.

"*Secured Indebtedness*" means all Indebtedness of the Company and the Guarantors that is secured by Liens on any of their assets, including, but not limited to, Indebtedness pursuant to the Liggett Credit Agreement and the Notes.

"*Secured Leverage Ratio*" means the ratio calculated in accordance with the definition herein of "*Leverage Ratio*" except that "*Secured Indebtedness*" shall be substituted for all occurrences of "*Indebtedness*" in such definition.

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

"*Significant Subsidiary*" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of this Indenture.

"*Springing Maturity Condition*" means the condition whereby the entire aggregate principal amount of the Existing Unsecured Notes (including, for avoidance of doubt, any amendment, modification, supplement, renewal, restatement, refinancing, replacement or restructuring (whether upon or after termination or otherwise) thereof)) has not been repurchased (and cancelled), redeemed, defeased, repaid or satisfied and discharged or refinanced with Indebtedness with a maturity date that is at least 91 days after the maturity date of the Notes in full prior to the Springing Maturity Date.

"*Springing Maturity Date*" means the date that is 91 days before the final stated maturity date of the Existing Unsecured Notes.

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

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

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity 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); and

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

"*TIA*" means the Trust Indenture Act of 1939, as amended (15 U.S.C. §§ 77aaa-77bbbb).

"*Treasury Rate*" means, as of any redemption date, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to the redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from the redemption

date to February 1, 2024, or in the case of a satisfaction and discharge or a defeasance, at least two Business Days prior to the date on which the Company deposits the amounts required under this Indenture; *provided*, *however*, that if the period from the redemption date to February 1, 2024 is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"*Trustee*" means U.S. Bank National Association until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder.

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

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

"*Unrestricted Subsidiary*" means any Subsidiary of the Company other than any Subsidiary that is a Guarantor and other than any Subsidiary owning or operating the business currently operated by Liggett Group LLC.

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

"*Vector Tobacco*" means Vector Tobacco Inc., a Virginia corporation.

"*VGR Holding*" means VGR Holding LLC, a Delaware limited liability company.

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

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

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

(2) the then outstanding principal amount of such Indebtedness. "*Zoom*" means Zoom E-Cigs LLC, a Delaware limited liability company.

Section 1.02 *Other Definitions.*

Term	Defined in Section
"*Affiliate Transaction*"	4.11
"*Asset Sale Offer*"	3.09
"*Authentication Order*"	2.02
"*Change of Control Offer*"	4.14
"*Change of Control Payment*"	4.14
"*Change of Control Payment Date*"	4.14
"*Covenant Defeasance*"	8.03
"*DTC*"	2.03
"*Event of Default*"	6.01
"*Excess Proceeds*"	4.10
"*incur*"	4.09
"*Interest Payment Date*"	Exhibit A
"*Legal Defeasance*"	8.02
"*Offer Amount*"	3.09
"*Offer Period*"	3.09
"*Paying Agent*"	2.03
"*Permitted Debt*"	4.09
"*Payment Default*"	6.01
"*Purchase Date*"	3.09
"*Registrar*"	2.03
"*Restricted Payments*"	4.07

Section 1.03 *Trust Indenture Act Not Applicable.*

This Indenture has not been qualified under the TIA and no provision of the TIA shall be deemed a part of, or applicable to, this Indenture, except to the extent (and only to the extent) specifically provided in Section 7.03 hereof.

Section 1.04 *Rules of Construction.*

Unless the context otherwise requires:

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

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

(3) "or" is not exclusive;

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

(5) "include," "includes" and "including" shall be deemed to be followed by the words "without limitation."

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

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

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

ARTICLE 2 THE NOTES

Section 2.01 *Form and Dating.*

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

The terms and provisions contained in the Notes will constitute, and are hereby expressly made, a part of this Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

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

Section 2.02 *Execution and Authentication.*

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

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

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

The Trustee will, upon receipt of a written order of the Company stating the CUSIP number, principal amount, name of Holder and date of authentication for each Note, signed by two Officers (an "*Authentication Order*"), authenticate Notes for original issue that may be validly issued under this Indenture, including any Additional Notes. The aggregate principal amount of Notes outstanding at any time may not exceed the aggregate principal amount of Notes authorized for issuance by the Company pursuant to one or more Authentication Orders, except as provided in Section 2.07 hereof.

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

Section 2.03 *Registrar and Paying Agent.*

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

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

The Company initially appoints the Trustee to act as the Registrar and Paying Agent and to act as Custodian with respect to the Global Notes.

None of the Trustee, any Paying Agent or the Registrar shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Note in global form or for maintaining, supervising or reviewing any records relating to such beneficial ownership interests. The Trustee and the Registrar shall be entitled to deal with any Depositary, and any nominee thereof, that is the Holder of any such Global Note for all purposes of this Indenture relating to such Global Note (including the payment of principal, premium, if any, and interest the giving of instructions or directions by or to the owner or holder of a beneficial ownership interest in such Global Note) as the sole Holder of such Global Note and shall have no obligations to the beneficial owners thereof. None of the Trustee, any Paying Agent or the Registrar shall have any responsibility or liability for any acts or omissions of any such depositary with respect to such Global Note, for the records of any such Depositary, including records in respect of beneficial ownership interests in respect of any such Global Note, for any transactions between such Depositary and any participant in such Depositary or between or among any such Depositary, any such participant and/or any holder or owner of a beneficial interest in such Global Note or for any transfers of beneficial interests in any such Global Note.

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

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

Section 2.05 *Holder Lists.*

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

Section 2.06 *Transfer and Exchange.*

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

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

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

(3) there has occurred and is continuing a Default or Event of Default with respect to the Notes.

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

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

(1) *Transfer of Beneficial Interests in the Same Global Note*. Beneficial interests in any Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Restricted Global Note in accordance with the transfer restrictions set forth in the Private Placement Legend; *provided*, *however*, that prior to the expiration of the Restricted Period, transfers of beneficial interests in the Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person (other than

an Initial Purchaser). Beneficial interests in any Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.06(b)(1).

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

(A) both:

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

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

(B) both:

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

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

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

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

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

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

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

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

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

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

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

If any such transfer is effected pursuant to this subparagraph (4) at a time when an Unrestricted Global Note has not yet been issued, the Company shall issue and, upon receipt of an Authentication Order in accordance with Section 2.02 hereof, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred pursuant to this subparagraph (4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) if such Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with

Rule 144, a certificate to the effect set forth in Exhibit B hereto, including the certifications in item (3)(a) thereof;

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

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

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

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

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

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

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

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

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

(3) *Unrestricted Definitive Notes to Beneficial Interests in Unrestricted Global Notes.* A Holder of an Unrestricted Definitive Note may exchange such Note for a beneficial

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

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

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

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

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

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

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

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

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

(B) if the Holder of such Restricted Definitive Notes proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted

Definitive Note, a certificate from such Holder in the form of Exhibit B hereto, including the certifications in item (4) thereof;

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

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

(f) *[Reserved]*.

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

(1) *Private Placement Legend.*

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

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THIS SECURITY MAY NOT BE OFFERED, SOLD OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THIS SECURITY IS HEREBY NOTIFIED THAT THE SELLER OF THIS SECURITY MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THIS SECURITY BY ITS ACCEPTANCE HEREOF REPRESENTS THAT IT IS (1) A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT), (2) NOT A U.S. PERSON AND IS ACQUIRING ITS NOTE IN AN "OFFSHORE TRANSACTION" PURSUANT TO RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, OR (3) AN INSTITUTIONAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (a) (1), (2), (3) OR (7) OF RULE 501 UNDER THE SECURITIES ACT.

THE HOLDER OF THIS SECURITY AGREES FOR THE BENEFIT OF VECTOR GROUP LTD. THAT (A) PRIOR TO THE EXPIRATION OF THE HOLDING PERIOD APPLICABLE TO SALES OF THIS SECURITY UNDER RULE 144(K) UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION), THIS SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED ONLY (I) TO VECTOR GROUP LTD. OR ANY SUBSIDIARY THEREOF, (II) TO A PERSON WHOM THE SELLER REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A, (III) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT

PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), (IV) PURSUANT TO OFFERS AND SALES TO NON-U.S. PERSONS THAT OCCUR OUTSIDE THE UNITED STATES WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT, (V) TO AN INSTITUTIONAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (a) (1), (2), (3) OR (7) OF RULE 501 UNDER THE SECURITIES ACT THAT IS ACQUIRING THIS SECURITY FOR ITS OWN ACCOUNT, OR FOR THE ACCOUNT OF SUCH AN INSTITUTIONAL "ACCREDITED INVESTOR," FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO, OR FOR OFFER OR SALE IN CONNECTION WITH, ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, (VI) PURSUANT TO ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT OR (VII) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, IN EACH CASE IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES, AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THIS SECURITY OF THE RESALE RESTRICTIONS REFERRED TO IN CLAUSE (A) ABOVE. THIS LEGEND WILL BE REMOVED UPON THE EARLIER OF THE TRANSFER OF THIS SECURITY PURSUANT TO CLAUSE (A) (VII) ABOVE OR UPON ANY TRANSFER OF THIS SECURITY UNDER RULE 144(K) UNDER THE SECURITIES ACT (OR ANY SUCCESSOR PROVISION). THE INDENTURE CONTAINS A PROVISION REQUIRING THE TRUSTEE TO REFUSE TO REGISTER THE TRANSFER OF THIS SECURITY IN VIOLATION OF THE FOREGOING RESTRICTION.

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

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

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

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

MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS MAY BE REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN."

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

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

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

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

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

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

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

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

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

(C) to register the transfer of or to exchange a Note between a record date and the next succeeding Interest Payment Date.

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

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

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

Section 2.07 *Replacement Notes.*

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

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

Section 2.08 *Outstanding Notes.*

The Notes outstanding at any time are all the Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation, those reductions in the interest in a Global Note effected by the Trustee in accordance with the provisions hereof, and those described in this Section 2.08 as not outstanding. Except as set forth in Section 2.09 hereof, a Note does not cease to be outstanding because the Company or an Affiliate of the Company holds the Note; however, Notes held by the Company or a Subsidiary of the Company shall not be deemed to be outstanding for purposes of Section 3.07(a) hereof.

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

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

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

Section 2.09 *Treasury Notes.*

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

Section 2.10 *Temporary Notes.*

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

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

Section 2.11 *Cancellation.*

The Company at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent will forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else will cancel all Notes surrendered for registration of transfer, exchange, payment, replacement or cancellation and will destroy canceled Notes (subject to the record retention requirement of the Exchange Act) in accordance with its customary practices. The Company may not issue new Notes to replace Notes that it has paid or that have been delivered to the Trustee for cancellation.

Section 2.12 *Defaulted Interest.*

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

ARTICLE 3 REDEMPTION AND PREPAYMENT

Section 3.01 *Notices to Trustee.*

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

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

(2) the redemption date;

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

(4) the redemption price.

Any redemption referenced in such Officers' Certificate may be cancelled by the Company at any time prior to notice of redemption being delivered to any Holder and thereafter shall be null and void.

If the redemption price is not known at the time such notice is to be given, the actual redemption price, calculated as described in the terms of the Notes, will be set forth in an Officers' Certificate of the Company delivered to the Trustee no later than two Business Days prior to the redemption date.

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

If less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time, the Trustee will select Notes for redemption or purchase on a *pro rata* or by lot basis unless otherwise required by law, DTC's procedures or applicable stock exchange requirements.

In the event of partial redemption or purchase by lot, the particular Notes to be redeemed or purchased will be selected, unless otherwise provided herein, not less than 10 nor more than 60 days prior to the redemption or purchase date by the Trustee from the outstanding Notes not previously called for redemption or purchase.

The Trustee will promptly notify the Company in writing of the Notes selected for redemption or purchase and, in the case of any Note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Notes and portions of Notes selected will be in amounts of $2,000 or whole multiples of $1,000 in excess thereof; except that if all of the Notes of a Holder are to be redeemed or purchased, the entire outstanding amount of Notes held by such Holder, even if not a multiple of $1,000, shall be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption or purchase also apply to portions of Notes called for redemption or purchase.

Section 3.03 *Notice of Redemption.*

Subject to the provisions of Section 3.09 hereof, at least 10 days but not more than 60 days before a redemption date, the Company will deliver (including by electronic means) a notice of redemption to each Holder whose Notes are to be redeemed, except that redemption notices may be delivered (including by electronic means) more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture pursuant to Articles 8 or 12 hereof.

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

(1) the redemption date;

(2) the redemption price;

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

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

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

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

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

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

At the Company's request, the Trustee will give the notice of redemption in the Company's name and at its expense; *provided*, *however*, that the Company has delivered to the Trustee, at least 15 days prior to the redemption date (or such shorter period as agreed by the Trustee), an Officers' Certificate requesting that the Trustee give such notice and a complete form of Notice setting forth the information to be stated in such notice as provided in the preceding paragraph.

Section 3.04 *Effect of Notice of Redemption.*

Except as provided in this Section 3.04, once a notice of redemption is delivered in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price.

Notices of redemption may be subject to one or more conditions precedent, including completion of an Equity Offering. If a redemption is subject to one or more conditions precedent, a notice of redemption may state, in the Company's discretion, that the redemption date may be delayed until such time as all conditions are met, or such redemption may not occur and such redemption notice may be rescinded in the event any or all of such conditions shall not have been satisfied by the redemption date as stated in such redemption notice, or by the redemption date as so delayed. The Company will provide prompt written notice to the Trustee no later than 11:00 a.m. New York City time on the date fixed for redemption rescinding or extending such redemption in the event that any such condition precedent shall not have occurred, and such redemption and notice of redemption shall be rescinded and of no force or effect, or extended, as applicable. Upon receipt of such notice from the Company rescinding or extending such redemption, the Trustee will promptly deliver a copy of such notice to the Holders of the Notes to be redeemed in the same manner in which the notice of redemption was given.

Section 3.05 *Deposit of Redemption or Purchase Price.*

Prior to 11:00 a.m. (New York City time) on the redemption or purchase date, the Company will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of and accrued interest on all Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent will promptly return to the Company any money deposited with the Trustee or the Paying

Agent by the Company in excess of the amounts necessary to pay the redemption or purchase price of and accrued interest on all Notes to be redeemed or purchased.

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

Section 3.06 *Notes Redeemed or Purchased in Part.*

Upon surrender of a Note that is redeemed or purchased in part, the Company will issue and, upon receipt of an Authentication Order, the Trustee will authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered.

Section 3.07 *Optional Redemption.*

(a) At any time prior to February 1, 2024, the Company may on any one or more occasions redeem up to 40% of the aggregate principal amount of Notes issued under this Indenture at a redemption price of 105.75% of the principal amount thereof, plus accrued and unpaid interest, if any, to the redemption date, with the net cash proceeds of a sale of common Equity Interests (other than Disqualified Stock) of the Company; *provided* that:

(1) at least 60% of the aggregate principal amount of Notes originally issued under this Indenture (excluding Notes held by the Company and its Subsidiaries) remains outstanding immediately after the occurrence of such redemption; and

(2) the redemption occurs within 90 days of the date of the closing of such sale of Equity Interests.

(b) At any time prior to February 1, 2024, the Company may also redeem all or a part of the Notes, upon not less than 10 nor more than 60 days' prior notice, at a redemption price equal to 100% of the principal amount of Notes to be redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to, the applicable date of redemption, subject to the rights of Holders on the relevant record date to receive interest due on the relevant Interest Payment Date.

(c) Except pursuant to Sections 3.07(a), (b) and (e) hereof, the Notes will not be redeemable at the Company's option prior to February 1, 2024.

(d) On or after February 1, 2024, the Company may redeem all or a part of the Notes upon not less than 10 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, on the Notes redeemed to the applicable redemption date, if redeemed during the twelve-month period beginning on February 1 of the years indicated below, subject to the rights of Holders on the relevant record date to receive interest on the relevant Interest Payment Date:

Year	Percentage
2024	102.875 %
2025	101.438 %
2026 and thereafter	100.000%

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

(e) In the event that Holders of not less than 90% of the aggregate principal amount of the outstanding Notes validly tender and do not withdraw such Notes in a Change of Control Offer, Asset Sale Offer or other tender offer and the Company (or a third party making the offer) purchases all of the Notes validly tendered and not withdrawn by such Holders, all of the Holders of the Notes that remain outstanding will be deemed to have consented to a redemption of the Notes on the terms set forth in this paragraph, and accordingly, the Company or third party offeror, as applicable, will have the right, upon not less than 10 nor more than 60 days' prior notice to the Holders and the Trustee, given not more than 30 days following the purchase pursuant to such offer described above, to redeem (in the case of the Company) or purchase (in the case of a third party offeror) all of the Notes that remain outstanding following such purchase at a redemption price or purchase price, as the case may be, equal to the price paid to each other Holder in such offer (which may be less than par) plus, to the extent not included in such price, accrued and unpaid interest on the Notes that remain outstanding, to but excluding the date of redemption (subject to the right of Holders of record on the relevant record date to receive interest due on an Interest Payment Date that is on or prior to the redemption date).

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

Section 3.08 *Mandatory Redemption; Open Market Purchases.*

The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes. The Company may at any time and from time to time purchase Notes in the open market or otherwise provided any such purchase does not otherwise violate the provisions of this Indenture.

Section 3.09 *Offer to Purchase by Application of Excess Proceeds.*

In the event that, pursuant to Section 4.10 hereof, the Company is required to commence an offer to all Holders to purchase Notes (an "*Asset Sale Offer*"), it will follow the procedures specified below.

The Asset Sale Offer shall be made to all Holders and all holders of other Indebtedness that is *pari passu* with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets. The Asset Sale Offer will remain open for a period of at least 20 Business Days following its commencement and not more than 30 Business Days, except to the extent that a longer period is required by applicable law (the "*Offer Period*"). No later than three Business Days after the termination of the Offer Period (the "*Purchase Date*"), the Company will apply all Excess Proceeds (the "*Offer Amount*") to the purchase of Notes and such other *pari passu* Indebtedness (on a *pro rata* basis, if applicable) or, if less than the Offer Amount has been tendered, all Notes and other Indebtedness tendered in response to the Asset Sale Offer. Payment for any Notes so purchased will be made in the same manner as interest payments are made.

If the Purchase Date is on or after an interest record date and on or before the related Interest Payment Date, any accrued and unpaid interest will be paid to the Person in whose name a Note is

registered at the close of business on such record date, and no additional interest will be payable to Holders who tender Notes pursuant to the Asset Sale Offer.

Upon the commencement of an Asset Sale Offer, the Company will deliver (including by electronic means) a notice to the Trustee and each of the Holders, with a copy to the Trustee. The notice will contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The notice, which will govern the terms of the Asset Sale Offer, will state:

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

(2) the Offer Amount, the purchase price and the Purchase Date;

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

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

(5) that Holders electing to have a Note purchased pursuant to an Asset Sale Offer may elect to have Notes purchased only in denominations of $2,000 and integral multiples of $1,000 in excess thereof;

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

(7) that Holders will be entitled to withdraw their election if the Company, the Depositary or the Paying Agent, as the case may be, receives, not later than the expiration of the Offer Period, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

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

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

On or before the Purchase Date, the Company will, to the extent lawful, accept for payment, on a *pro rata* basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes tendered, and will deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officers’ Certificate stating that such Notes or portions thereof were accepted for payment by the Company in

accordance with the terms of this Section 3.09. The Company, the Depositary or the Paying Agent, as the case may be, will promptly (but in any case not later than five days after the Purchase Date) deliver (including by electronic means) to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company will promptly issue a new Note, and the Trustee, upon written request from the Company, will authenticate and deliver (or cause to be transferred by book entry) such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly delivered (including by electronic means) by the Company to the Holder thereof. The Company will publicly announce the results of the Asset Sale Offer on the Purchase Date.

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

ARTICLE 4 COVENANTS

Section 4.01 *Payment of Notes.*

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

The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the then applicable interest rate on the Notes to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest at the same rate to the extent lawful.

Section 4.02 *Maintenance of Office or Agency.*

The Company will maintain in the Borough of Manhattan, the City of New York, an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company fails to maintain any such required office or agency or fails to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands (but not service of process) may be made at the Corporate Trust Office of the Trustee.

The Company may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided*, *however*, that no such designation or rescission will in any manner relieve the Company of its obligation to maintain an office or agency in the Borough of Manhattan, the City of New York for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency.

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

Section 4.03 *Reports.*

(a) Whether or not required by the rules and regulations of the SEC, so long as any Notes are outstanding, the Company will furnish to the Holders of Notes or cause the Trustee to furnish to the Holders of Notes, within the time periods specified in the SEC's rules and regulations (including, for the avoidance of doubt, any extension periods pursuant thereto):

(1) all quarterly and annual reports that would be required to be filed with the SEC on Forms 10-Q and 10-K if the Company were required to file such reports; and

(2) all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports.

All such reports will be prepared in all material respects in accordance with all of the rules and regulations applicable to such reports. Each annual report on Form 10-K will include a report on the Company's consolidated financial statements by the Company's independent accountants. In addition, the Company will file a copy of each of the reports referred to in clauses (1) and (2) above with the SEC for public availability within the time periods specified in the rules and regulations applicable to such reports (including, for the avoidance of doubt, any extension periods pursuant thereto) (unless the SEC will not accept such a filing) and will post the reports on its website within those time periods.

If, at any time, the Company is no longer subject to the periodic reporting requirements of the Exchange Act for any reason, the Company will nevertheless continue filing the reports specified in the preceding paragraph with the SEC within the time periods in the SEC's rules and regulations (including, for the avoidance of doubt, any extension periods pursuant thereto) unless the SEC will not accept such a filing. The Company will not take any action for the purpose of causing the SEC not to accept any such filings. If, notwithstanding the foregoing, the SEC will not accept the Company's filings for any reason, the Company will post the reports referred to in the preceding paragraph on its website within the time periods that would apply if the Company were required to file those reports with the SEC (including, for the avoidance of doubt, any extension periods pursuant to the SEC's rules and regulations).

(b) To the extent required by the SEC, the quarterly and annual financial information required by paragraph (a) of this Section 4.03 will include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, and in Management's Discussion and Analysis of Financial Condition and Results of Operations, of the financial condition and results of operations of the Company and the Guarantors separate from the financial condition and results of operations of the Unrestricted Subsidiaries of the Company.

(c) For so long as any Notes remain outstanding, if at any time the Company and the Guarantors are not required to file with the SEC the reports required by paragraphs (a) and (b) of this Section 4.03, the Company and the Guarantors will furnish to the Holders and to securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(d) Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates). The Trustee is under no duty to examine such reports, information or documents to ensure compliance with the provisions of this Indenture or to ascertain the correctness or otherwise of the information or the statements contained therein. The Trustee is entitled to assume such compliance

and correctness unless a Responsible Officer of the Trustee is informed otherwise. The Trustee shall have no responsibility for the filing, timeliness or content of reports.

Section 4.04 *Compliance Certificate.*

(a) The Company and each Guarantor shall deliver to the Trustee, within 90 days after the end of each fiscal year, commencing with the fiscal year ending December 31, 2021, an Officers' Certificate stating that:

(1) a review of the activities of the Company and its Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company has kept, observed, performed and fulfilled its obligations under this Indenture and the Collateral Documents, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge no Default or Event of Default has occurred and is continuing (or, if a Default or Event of Default has occurred and is continuing, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto; and

(2) in the opinion of the signing Officers, either (A)(i) action has been taken with respect to the recording, registering, filing, re-recording, re-registering and re-filing of this Indenture, financing statements or continuation statements as is necessary to maintain the Liens of the Collateral Documents and reciting with respect to the security interests in the Collateral the details of such action or referring to prior Officers' Certificates in which such details are given, and (ii) based on relevant laws as in effect on the date of such Officers' Certificate, all financing statements and continuation statements have been executed and filed that are necessary as of such date and during the succeeding 12 months to maintain the Liens of the Collateral Documents and reciting the details of such actions; or (B) no such action is necessary to maintain such Liens.

(b) So long as any of the Notes are outstanding, the Company will deliver to the Trustee, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

(c) Except with respect to receipt of Note payments when due and any Default or Event of Default information contained in the Officers' Certificate delivered to it pursuant to this Section 4.04, the Trustee shall have no duty to review, ascertain or confirm the Company's compliance with, or the breach of, any representation, warranty or covenant made in this Indenture.

(d) The Company shall give prompt written notice to the Trustee if the Springing Maturity Condition has been satisfied.

Section 4.05 *Taxes.*

The Company will pay, and will cause each of its Subsidiaries to pay, prior to delinquency, all material taxes, assessments, and governmental levies except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Holders of the Notes.

Section 4.06 *Stay, Extension and Usury Laws.*

The Company and each of the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company and each of the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07 *Restricted Payments.*

(a) Neither the Company nor any Guarantor will, directly or indirectly:

(1) declare or pay any dividend or make any other payment or distribution on account of the Company's or such Guarantor's Equity Interests (including any payment in connection with any merger or consolidation involving the Company or any Guarantor) or to the direct or indirect holders of the Company's or any such Guarantor's Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company and other than dividends or any other payments or distributions payable to the Company or a Guarantor);

(2) purchase, redeem or otherwise acquire or retire for value (including in connection with any merger or consolidation involving the Company) any Equity Interests of the Company;

(3) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Company or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee (excluding any intercompany Indebtedness between or among the Company and any of the Guarantors), except a payment of interest or principal at the Stated Maturity thereof; or

(4) make any Restricted Investment

(all such payments and other actions set forth in these clauses (1) through (4) above being collectively referred to as "*Restricted Payments*"), unless at the time of such Restricted Payment, the Company's Consolidated EBITDA for the most recently ended four full fiscal quarters for which internal financial statements are available is no less than $75.0 million, provided that the Company shall not be permitted to make any distribution or dividend of any Equity Interests in, or non-cash assets of, any Guarantor.

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

(1) the payment of any dividend or other distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend or other distribution or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend or other distribution or redemption payment would have complied with the provisions of this Indenture;

(2) so long as no Event of Default has occurred and is continuing or would be caused thereby, the making of any Restricted Payment in exchange for, or out of the net cash proceeds of

the substantially concurrent sale (other than to a Subsidiary of the Company) of, Equity Interests of the Company (other than Disqualified Stock) or from the substantially concurrent contribution of common equity capital to the Company;

(3) so long as no Event of Default has occurred and is continuing or would be caused thereby, the repurchase, redemption, defeasance, discharge or other acquisition or retirement for value of Indebtedness of the Company or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness;

(4) the repurchase, redemption, defeasance, discharge or other acquisition or retirement for value of Disqualified Stock of the Company or a Guarantor with the net cash proceeds from a substantially concurrent incurrence of other Disqualified Stock;

(5) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Guarantor to the holders of its Equity Interests on a *pro rata* basis (except for dividends by a Guarantor to the Company or another Guarantor, which may be made on a non-pro rata basis);

(6) the repurchase of Equity Interests deemed to occur upon the exercise of stock options, warrants or other convertible or exchangeable securities to the extent such Equity Interests represent a portion of the exercise price of those stock options, warrants or other convertible or exchangeable securities, or the reduction in Equity Interests to account for payment in respect of withholding, income or similar taxes, paid on behalf of the employee recipients or other qualified recipients;

(7) the repurchase, redemption, defeasance or other acquisition or retirement of Equity Interests held by any future, present or former officers, directors or employees (or their transferees, estates or beneficiaries under their estates), upon death, disability, retirement, severance or termination of employment or pursuant to any management benefit plan or agreement under which the Equity Interests were issued; *provided* that the aggregate price paid for all such Equity Interests repurchased, redeemed, defease or otherwise acquired or retired shall not exceed $2.5 million in any calendar year (with unused amounts in any calendar year being carried over to the next succeeding calendar year, but not calendar years subsequent to such next succeeding calendar year);

(8) so long as no Event of Default has occurred and is continuing or would be caused thereby, the declaration and payment of regularly scheduled or accrued dividends to holders of any class or series of Disqualified Stock of the Company or any Guarantor issued on or after the date of this Indenture in accordance with the Leverage Ratio and Secured Leverage Ratio tests described in Section 4.09(a) hereof; and

(9) the distribution of the Equity Interests of Eve to the Company in order to contribute such Equity Interests to Vector Tobacco, provided that Eve shall remain a Guarantor.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Guarantor, as the case may be, pursuant to the Restricted Payment. The Fair Market Value of any assets or securities that are required to be valued by this Section 4.07 will be determined by the Board of Directors of the Company whose resolution with respect thereto will be delivered to the Trustee. The Board of Directors' determination must be based upon an opinion or appraisal issued by an

accounting, appraisal or investment banking firm of national standing if the Fair Market Value exceeds $10.0 million.

Section 4.08 *Dividend and Other Payment Restrictions Affecting Subsidiaries.*

(a) Neither the Company nor any Guarantor will, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Guarantor to:

(1) pay dividends or make any other distributions on its Capital Stock to the Company or any Guarantor, or with respect to any other interest or participation in, or measured by, its profits, or pay any Indebtedness owed to the Company or any Guarantor;

(2) make loans or advances to the Company or any of the Guarantors; or

(3) sell, lease or transfer any of its properties or assets to the Company or any Guarantor.

(b) The restrictions in Section 4.08(a) hereof will not apply to encumbrances or restrictions existing under or by reason of:

(1) agreements governing Existing Indebtedness and Credit Facilities, and any collateral documents with respect thereto, as in effect on the date of this Indenture and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; *provided*, *however*, that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in the more restrictive of (x) those agreements and (y) this Indenture;

(2) this Indenture, the Notes, the Note Guarantees and the Collateral Documents;

(3) applicable law, rule, regulation or order;

(4) any instrument governing Indebtedness or Capital Stock of a Person acquired by the Company or any of the Guarantors as in effect at the time of such acquisition (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided*, *however*, that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;

(5) customary non-assignment provisions in contracts, leases and licenses entered into in the ordinary course of business or that restrict the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract;

(6) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in clause (3) of Section 4.08(a) hereof;

(7) any agreement for the sale or other disposition of a Guarantor that restricts distributions by that Guarantor pending the sale or other disposition;

(8) Permitted Refinancing Indebtedness; *provided*, *however*, that the encumbrances and restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the more restrictive of (x) the agreements governing the Indebtedness being refinanced and (y) this Indenture, as determined in good faith by the Board of Directors of the Company;

(9) Liens permitted to be incurred under the provisions of Section 4.12 hereof that limit the right of the debtor to dispose of the assets subject to such Liens;

(10) provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements entered into with the approval of the Company's or a Guarantor's Board of Directors, which limitation is applicable only to the assets that are the subject of such agreements;

(11) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(12) provisions limiting the disposition or distribution of assets in joint venture agreements entered into (i) in the ordinary course of business or (ii) with the approval of the Company's or a Guarantor's Board of Directors or chief financial officer, which limitation or prohibition is applicable only to the assets that are the subject of such agreements;

(13) net worth provisions in leases and other agreements entered into by the Company or any Guarantor in the ordinary course of business; or

(14) agreements governing Indebtedness permitted to be incurred pursuant to Section 4.09 hereof; *provided*, *however*, that the Board of Directors of the Company determines in good faith (such determination to be evidenced by a resolution of the Board of Directors) that such encumbrances and restrictions are not materially more restrictive, taken as a whole, than those in the more restrictive of (x) the Liggett Credit Agreement (as in effect on the date of this Indenture) and (y) this Indenture, and would not reasonably be expected to impair the ability of the Company to make payments of interest and scheduled payments of principal on the Notes, in each case as and when due, or to impair any Guarantor's ability to honor its Note Guarantee.

Section 4.09 *Incurrence of Indebtedness and Issuance of Preferred Stock.*

(a) Neither the Company nor any Guarantor will, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "*incur*") any Indebtedness (including Acquired Debt), and the Company will not issue any Disqualified Stock and none of the Guarantors will issue any shares of preferred stock; *provided*, *however*, that the Company may incur Indebtedness (including Acquired Debt) or issue Disqualified Stock, and the Guarantors may incur Indebtedness (including Acquired Debt) or issue preferred stock, if the Leverage Ratio and the Secured Leverage Ratio for the Company's most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is incurred or such Disqualified Stock or preferred stock is issued, as the case may be, would have been no greater than 3.0 to 1.0 in respect of the Leverage Ratio and 1.5 to 1.0 in respect of the Secured Leverage Ratio, determined on a pro forma basis (including a pro forma application of the net proceeds therefrom), as if the additional Indebtedness had been incurred or the Disqualified Stock or preferred stock had been issued, as the case may be, at the beginning of such four-quarter period.

(b) The provisions of Section 4.09(a) hereof will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "*Permitted Debt*"):

(1) the incurrence by the Company and any of the Guarantors of additional Indebtedness and letters of credit under Credit Facilities in an aggregate principal amount at any one time outstanding under this clause (1) (with letters of credit being deemed to have a principal amount equal to the maximum potential liability of the Company and the Guarantors thereunder) not to exceed $100.0 million *less* the aggregate amount of all Net Proceeds of Asset Sales applied by the Company or any of the Guarantors since the date of this Indenture to repay any term Indebtedness under a Credit Facility or to repay any revolving credit Indebtedness under a Credit Facility and effect a corresponding commitment reduction thereunder pursuant to Section 4.10 hereof;

(2) the incurrence by the Company and the Guarantors of the Existing Indebtedness;

(3) the incurrence by the Company and the Guarantors of Indebtedness represented by the Notes and the related Note Guarantees to be issued on the date of this Indenture;

(4) the incurrence by the Company or any of the Guarantors of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge any Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under Section 4.09(a) hereof or clauses (2), (3), (4) and (10) of this Section 4.09(b);

(5) the incurrence by the Company or any of the Guarantors of intercompany Indebtedness between or among the Company and any of the Guarantors; *provided*, *however*, that:

(A) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Guarantor and

(B) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Guarantor,

will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Guarantor, as the case may be, that was not permitted by this clause (5);

(6) the issuance by any of the Guarantors to the Company or to any of the Guarantors of shares of preferred stock; *provided*, *however*, that:

(A) any subsequent issuance or transfer of Equity Interests that results in any such preferred stock being held by a Person other than the Company or a Guarantor; and

(B) any sale or other transfer of any such preferred stock to a Person that is not either the Company or a Guarantor,

will be deemed, in each case, to constitute an issuance of such preferred stock by such Guarantor that was not permitted by this clause (6);

(7) the guarantee by the Company or any of the Guarantors of Indebtedness of the Company or a Guarantor that was permitted to be incurred by another provision of this Section

4.09; *provided*, *however*, that if the Indebtedness being guaranteed is subordinated to or *pari passu* with the Notes, then the Guarantee shall be subordinated or *pari passu*, as applicable, to the same extent as the Indebtedness guaranteed;

(8) the incurrence by the Company or any of the Guarantors of Indebtedness in respect of workers' compensation claims, self-insurance obligations, bankers' acceptances, performance and surety bonds, appeal or other similar bonds in the ordinary course of business, and in any such case any reimbursement obligations in connection therewith;

(9) the incurrence by the Company or any of the Guarantors of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five Business Days;

(10) the incurrence by the Company or any of the Guarantors of Indebtedness represented by Capital Lease Obligations, purchase money obligations or other obligations, in each case incurred for the purpose of financing all or any part of the purchase price, cost or value of any equipment used in the business of the Company or any of the Guarantors, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (10), not to exceed $25.0 million at any time outstanding;

(11) the incurrence by the Company or any of the Guarantors of Hedging Obligations;

(12) Indebtedness of the Company or any of the Guarantors to the extent the net proceeds thereof are promptly deposited to defease or satisfy and discharge all outstanding Notes in full as provided in Articles 8 and 12 hereof;

(13) obligations of the Company and any of the Guarantors arising from agreements of the Company or a Guarantor providing for indemnification, adjustment of purchase price or similar obligations, in each case incurred or assumed in connection with the disposition of any business, assets or a Subsidiary of the Company in accordance with the terms of this Indenture, other than Guarantees by the Company or any Guarantor of Indebtedness incurred by any Person acquiring all or any portion of such business, assets or a Subsidiary of the Company for the purpose of financing such acquisition; *provided*, *however*, that the maximum aggregate liability in respect of all such obligations shall not exceed the gross proceeds, including the Fair Market Value as determined in good faith by the Board of Directors of the Company of non-cash proceeds (the Fair Market Value of such non-cash proceeds being measured at the time received and without giving effect to any subsequent changes in value), actually received by the Company and the Guarantors in connection with such disposition; or

(14) obligations (other than Parity Lien Obligations) of the Company and any of the Guarantors arising from the entering into, maintaining or disposing of, Core Investments, including purchasing of any Core Investment on margin, any capital call obligations, make-well arrangements, hedging obligations of any nature or any obligations regarding a short position in any of such Core Investments.

The Company will not incur, and will not permit any Guarantor to incur, any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Company or such Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the Notes and the applicable Note Guarantee on substantially identical

terms; *provided*, *however*, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Company solely by virtue of being unsecured or by virtue of being secured on a first or junior Lien basis.

For purposes of determining compliance with this Section 4.09, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (14) above, or is entitled to be incurred pursuant to Section 4.09(a) hereof, the Company will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.09. Indebtedness under Credit Facilities outstanding on the date on which Notes are first issued and authenticated under this Indenture will initially be deemed to have been incurred on such date in reliance on the exception provided by clause (1) of the definition of Permitted Debt. Indebtedness permitted by this covenant need not be permitted by reference to one provision permitting such Indebtedness but may be permitted in part by one such provision and in part by one or more other provisions of this Section 4.09 permitting such Indebtedness. The outstanding principal amount of any particular Indebtedness shall be counted only once such that (without limitation) any obligation arising under any guarantee, Lien, letter of credit or similar instrument supporting such Indebtedness shall be disregarded. The accrual of interest, the accretion or amortization of original issue discount, the payment of interest on any Indebtedness in the form of additional Indebtedness with the same terms, the reclassification of preferred stock as Indebtedness due to a change in accounting principles, and the payment of dividends on Disqualified Stock in the form of additional shares of the same class of Disqualified Stock will not be deemed to be an incurrence of Indebtedness or an issuance of Disqualified Stock for purposes of this Section 4.09. Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Company or any Guarantor may incur pursuant to this Section 4.09 shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

(c) The amount of any Indebtedness outstanding as of any date will be:

(1) the accreted value of the Indebtedness, in the case of any Indebtedness issued with original issue discount;

(2) the principal amount of the Indebtedness, in the case of any other Indebtedness; and

(3) in respect of Indebtedness of another Person secured by a Lien on the assets of the specified Person, the lesser of:

(A) the Fair Market Value of such assets at the date of determination; and

(B) the amount of the Indebtedness of the other Person.

Section 4.10 *Asset Sales.*

Except as set forth in the third paragraph of this Section 4.10, neither the Company nor any Guarantor will consummate an Asset Sale unless:

(1) the Company or the Guarantor, as the case may be, receives consideration at the time of the Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of; and

(2) at least 75% of the consideration received in the Asset Sale by the Company or such Guarantor is in the form of cash. For purposes of this provision, each of the following will be deemed to be cash:

(A) any liabilities, as shown on the Company's most recent consolidated balance sheet, of the Company or any Guarantor (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Note Guarantee) that are assumed by the transferee of any such assets pursuant to a customary novation agreement that releases the Company or such Guarantor from further liability;

(B) any securities, notes or other obligations received by the Company or any such Guarantor from such transferee that are, subject to ordinary settlement periods, converted by the Company or such Guarantor into cash within 90 days of such Asset Sale, to the extent of the cash received in that conversion; and

(C) any stock or assets of the kind referred to in clauses (2) or (4) of the next paragraph of this Section 4.10.

Within 365 days after the receipt of any Net Proceeds from an Asset Sale, other than a Sale of Collateral; *provided* that if during such 365-day period the Company or applicable Guarantor enters into a definitive binding agreement committing it to apply such Net Proceeds in accordance with the requirements of clauses (2), (3) or (4) below after such 365th day, such 365th day period will be extended with respect to the amount of Net Proceeds so committed until such Net Proceeds are required to be applied in accordance with such agreement (but such extension will in no event be for a period longer than 180 days) (or, if earlier, the date of termination of such agreement), the Company (or the applicable Guarantor, as the case may be) may apply such Net Proceeds at its option:

(1) to repay Indebtedness and other Obligations under the Liggett Credit Agreement and correspondingly reduce commitments with respect thereto;

(2) to acquire all or substantially all of the assets of, or any Capital Stock of, another business, if, after giving effect to any such acquisition of Capital Stock, the business is or becomes a Guarantor;

(3) to make a capital expenditure; or

(4) to acquire other assets that are not classified as current assets under GAAP and that are used or useful in the conduct of the Company's or any Guarantor's business.

Notwithstanding the above, the Company may consummate any Asset Sale with respect to assets other than Equity Interests in, or assets of, any Guarantor without complying with the provisions of this Section 4.10.

Within 365 days after the receipt of any Net Proceeds from an Asset Sale that constitutes a Sale of Collateral, the Guarantor that owned those assets may apply those Net Proceeds to purchase other long- term assets that would constitute Collateral or to repay First Priority Debt and, if such First Priority Debt is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto; *provided* that if during such 365-day period the Company or applicable Guarantor enters into a definitive binding agreement committing it to apply such Net Proceeds in accordance with this sentence after such 365th day, such 365-day period will be extended with respect to the amount of Net Proceeds so committed until such Net Proceeds are required to be applied in accordance with such agreement (but such extension will

in no event be for a period longer than 180 days) (or, if earlier, the date of termination of such agreement).

Pending the final application of any Net Proceeds, the Company may temporarily reduce revolving credit borrowings or otherwise invest the Net Proceeds in any manner that is not prohibited by this Indenture.

Any Net Proceeds from Asset Sales (other than Asset Sales described in the third paragraph of this Section 4.10) that are not applied or invested as provided in the second or fourth paragraphs of this Section 4.10, as applicable, will constitute "*Excess Proceeds*." When the aggregate amount of Excess Proceeds exceeds $10.0 million, within five days thereof, the Company will make an Asset Sale Offer to all Holders and all holders of other Indebtedness that is *pari passu* with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to percentages corresponding to the applicable optional redemption price in effect on the repurchase date, and for periods prior to February 1, 2024, the first optional redemption price of the principal amount plus accrued and unpaid interest, if any, to the date of purchase, and will be payable in cash. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and other *pari passu* Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee (as directed by the Company) will select the Notes and other *pari passu* Indebtedness to be purchased on a *pro rata* basis. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of Section 3.09 hereof or this Section 4.10, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under Section 3.09 hereof or this Section 4.10 by virtue of such compliance.

Section 4.11 *Transactions with Affiliates.*

(a) Except as provided in Section 4.11(c), neither the Company nor any Guarantor will make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each, an "*Affiliate Transaction*"), unless:

(1) the Affiliate Transaction is on terms that are no less favorable to the Company or the relevant Guarantor than those that would have been obtained in a comparable transaction by the Company or such Guarantor with an unrelated Person; and

(2) the Company delivers to the Trustee:

(A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $3.0 million, a resolution of the Board of Directors of the Company set forth in an Officers' Certificate certifying that such Affiliate Transaction complies with clause (1) of this Section 4.11(a) and that such

Affiliate Transaction has been approved by a majority of the disinterested members, if any, of the Board of Directors of the Company; and

(B) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $10.0 million, an opinion as to the fairness to the Company or such Guarantor of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.11(a) hereof:

(1) any consulting or employment agreement or arrangement, employee benefit plan, officer indemnification agreement or any similar arrangement entered into by the Company or any of the Guarantors and payments pursuant thereto;

(2) transactions between or among the Company and/or the Guarantors;

(3) transactions with a Person (other than an Unrestricted Subsidiary of the Company) that is an Affiliate of the Company solely because the Company owns, directly or through a Guarantor, an Equity Interest in, or controls, such Person;

(4) payment of reasonable directors' fees (including the issuance of restricted stock) to directors of the Company and other reasonable compensation, benefits and indemnities paid or provided by the Company to the directors of the Company in their capacities as directors;

(5) any sale, grant, award or issuance of Equity Interests (other than Disqualified Stock) of the Company, including the exercise of options and warrants, to Affiliates, officers, directors or employees of the Company;

(6) Restricted Payments that do not violate Section 4.07 hereof;

(7) loans or advances to employees in the ordinary course of business not to exceed $1.0 million in the aggregate at any one time outstanding;

(8) Permitted Investments; and

(9) Accelerated Note Conversions.

(c) If on the date of any Affiliate Transaction (other than an Affiliate Transaction between any of the Liggett Guarantors and any Affiliate of the Company other than the Company or another Guarantor) the Company's Consolidated EBITDA for the most recently ended four full fiscal quarters for which internal financial statements are available is no less than $75.0 million, the provisions of Section 4.11(a) shall not apply to the consummation of such Affiliate Transaction.

Section 4.12 *Liens.*

Neither the Company nor any Guarantor will, directly or indirectly, create, incur, or assume any Lien of any kind on any asset now owned or hereafter acquired, except Permitted Liens.

Section 4.13 *Corporate Existence.*

Subject to Article 5 hereof, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect:

(1) its corporate existence, and the corporate, partnership or other existence of each of its Subsidiaries, in accordance with the respective organizational documents (as the same may be amended from time to time) of the Company or any such Subsidiary; and

(2) the rights (charter and statutory), licenses and franchises of the Company and its Subsidiaries;

provided, *however*, that the Company shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence of any of its Subsidiaries, if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

Section 4.14 *Offer to Repurchase Upon Change of Control.*

(a) Upon the occurrence of a Change of Control, each Holder of Notes will have the right to require the Company to make an offer (a "*Change of Control Offer*") to repurchase all or any part (equal to $2,000 or an integral multiple of $1,000 in excess thereof) of that Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest, if any, on the Notes repurchased to the date of purchase, subject to the rights of Holders on the relevant record date to receive interest due on the relevant Interest Payment Date (the "*Change of Control Payment*"). Within 30 days following any Change of Control, the Company will deliver (including by electronic means) a notice to each Holder, with a copy to the Trustee, describing the transaction or transactions that constitute the Change of Control and stating:

(1) that the Change of Control Offer is being made pursuant to this Section 4.14 and that all Notes tendered will be accepted for payment;

(2) the purchase price and the purchase date, which shall be no earlier than 30 days and no later than 60 days from the date such notice is delivered (including by electronic means) (the "*Change of Control Payment Date*");

(3) that any Note not tendered will continue to accrue interest;

(4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest after the Change of Control Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes, with the form entitled "Option of Holder to Elect Purchase" attached to the Notes completed, or transfer by book-entry transfer, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of

Control Payment Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have the Notes purchased; and

(7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to $2,000 in principal amount or an integral multiple of
$1,000 in excess thereof.

The Company will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change of Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of Sections 3.09 or 4.14 hereof, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under Sections 3.09 or 4.14 hereof by virtue of such compliance.

(b) On the Change of Control Payment Date, the Company will, to the extent lawful:

(1) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and

(3) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Company.

The Paying Agent will promptly deliver (including by electronic means) (but in any case not later than five days after the Change of Control Payment Date) to each Holder of Notes properly tendered the Change of Control Payment for such Notes, and the Trustee will promptly authenticate and deliver (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any. The Company will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(c) Notwithstanding anything to the contrary in this Section 4.14, the Company will not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.14 and Section 3.09 hereof and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to Section 3.07 hereof, unless and until there is a default in payment of the applicable redemption price. A Change of Control Offer may be made in advance of a Change of Control, conditional upon such Change of Control, if a definitive agreement is in place for the Change of Control at the time of the Change of Control Offer. Notes repurchased pursuant to a Change of Control Offer will be retired and cancelled.

Section 4.15 *Limitation on Sale and Leaseback Transactions.*

Neither the Company nor any Guarantor will enter into any sale and leaseback transaction; *provided*, *however*, that the Company or any Guarantor may enter into a sale and leaseback transaction if:

(1) the Company or that Guarantor, as applicable, could have (a) incurred Indebtedness in an amount equal to the Attributable Debt relating to such sale and leaseback transaction under the Leverage Ratio and Secured Leverage Ratio tests in Section 4.09(a) hereof and (b) incurred a Lien to secure such Indebtedness pursuant to the provisions of Section 4.12 hereof;

(2) the gross cash proceeds of that sale and leaseback transaction are at least equal to the Fair Market Value, as determined in good faith by the Board of Directors of the Company and set forth in an Officers' Certificate delivered to the Trustee, of the property that is the subject of that sale and leaseback transaction; and

(3) the transfer of assets in that sale and leaseback transaction is permitted by, and the Company applies the proceeds of such transaction in compliance with, Section 4.10 hereof.

Section 4.16 *Payments for Consent.*

Neither the Company nor any Guarantor will, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of Notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture, the Collateral Documents or the Notes unless such consideration is offered to be paid and is paid to all Holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

Section 4.17 *Additional Note Guarantees.*

If the Company or any of the Guarantors acquires or creates another Domestic Subsidiary after the date of this Indenture (i) engaged directly or indirectly in the cigarette businesses or (ii) that is or becomes a borrower, obligor or guarantor under the Liggett Credit Agreement, then that newly acquired or created Domestic Subsidiary will become a Guarantor and execute a supplemental indenture and, in the case of (ii), Collateral Documents consistent with those entered into by the Credit Agreement Borrowers, and deliver an opinion of counsel satisfactory to the trustee within 15 Business Days of the date on which it was acquired or created. The form of such Note Guarantee is attached as Exhibit E hereto.

Section 4.18 *Unrestricted Subsidiaries.*

In no event may the business operated by Liggett Group LLC on the date of this Indenture be transferred to or held by an Unrestricted Subsidiary.

ARTICLE 5 SUCCESSORS

Section 5.01 *Merger, Consolidation, or Sale of Assets.*

The Company shall not, directly or indirectly: (1) consolidate or merge with or into another Person (whether or not the Company is the surviving corporation); or (2) sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties and assets (not including any properties or assets of, or Equity Interests in, any Unrestricted Subsidiaries) of the Company and the Guarantors taken as a whole, in one or more related transactions, to another Person, unless:

(1) either:

(A) the Company is the surviving corporation; or

(B) the Person formed by or surviving any such consolidation or merger (if other than the Company) or to which such sale, assignment, transfer, conveyance or other disposition has been made is (i) a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia or (ii) a limited partnership or limited liability company organized or existing under the laws of the United States, any state thereof or the District of Columbia that has a wholly-owned Subsidiary that is a corporation organized or existing under the laws of the United States, any state of the United States or the District of Columbia, which corporation becomes a co-issuer of the Notes pursuant to a supplemental indenture duly and validly executed by the successor Person and the Trustee;

(2) the Person formed by or surviving any such consolidation or merger (if other than the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of the Company under the Notes, this Indenture and the Collateral Documents pursuant to agreements reasonably satisfactory to the Trustee;

(3) immediately after such transaction, no Default or Event of Default exists; and

(4) the Company or the Person formed by or surviving any such consolidation or merger (if other than the Company), or to which such sale, assignment, transfer, conveyance or other disposition has been made, would, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period, be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Leverage Ratio and Secured Leverage Ratio tests set forth in Section 4.09(a) hereof.

In addition, the Company will not, directly or indirectly, lease all or substantially all of the properties and assets of it and the Guarantors taken as a whole (not including any properties or assets of, or Equity Interests in, any Unrestricted Subsidiaries), in one or more related transactions, to any other Person.

The Company shall deliver, or cause to be delivered, to the Trustee an Officers' Certificate and an Opinion of Counsel, each to the effect that such consolidation, merger, sale, conveyance, assignment, transfer, lease or other disposition complies with the requirements of this Indenture and that all conditions precedent provided for in this Indenture relating to such transaction have been complied with.

This Section 5.01 will not apply to:

(1) a merger of the Company with an Affiliate solely for the purpose of reincorporating the Company in another jurisdiction; or

(2) any consolidation or merger, or any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among the Company and any of the Guarantors that are not any of the Liggett Guarantors.

For the avoidance of doubt, this Section 5.01 will not apply to any sale, assignment, transfer, conveyance, lease or other disposition of the properties or assets of, or Equity Interests in, any Unrestricted Subsidiary.

Notwithstanding anything to the contrary in this Section 5.01, or any other provisions in this Indenture (including Section 11.04), the Company shall not consolidate or merge with or into any of the Liggett Guarantors, nor sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties and assets of the Company and the Guarantors taken as a whole, in one or more transactions, to any of the Liggett Guarantors.

Section 5.02 *Successor Corporation Substituted.*

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties and assets of the Company in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof, the successor Person formed by such consolidation or into or with which the Company is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition, the provisions of this Indenture referring to the "Company" shall refer instead to the successor Person and not to the Company), and may exercise every right and power of the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; *provided*, *however*, that the predecessor Company shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale of all of the Company's assets in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof.

ARTICLE 6 DEFAULTS AND REMEDIES

Section 6.01 *Events of Default.*

Each of the following is an "*Event of Default*":

(1) default for 30 days in the payment when due of interest on the Notes;

(2) default in the payment when due (at maturity, upon redemption or otherwise) of the principal of, or premium, if any, on, the Notes or default in the payment when due of a Change of Control Payment;

(3) failure by the Company or any of the Guarantors for 30 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with the provisions of Sections 4.07,
4.09 or 4.10 hereof;

(4) failure by the Company or any of the Guarantors for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with any of the other agreements in this Indenture or the Collateral Documents;

(5) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of the Guarantors (or the payment of which is guaranteed by the Company or any of the Guarantors), whether such Indebtedness or Guarantee now exists, or is created after the date of this Indenture, if that default:

(A) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "*Payment Default*"); or

(B) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates $10.0 million or more and such acceleration is not annulled within 30 days thereof or such Payment Default continues for 30 days;

(6) failure by the Company or any of the Guarantors to pay final non-appealable judgments entered by a court or courts of competent jurisdiction aggregating in excess of
$10.0 million (net of any amounts as to which a reputable and solvent third party insurer has accepted full coverage), which judgments are not paid, discharged, bonded or stayed for a period of 60 days;

(7) the Company or any of the Guarantors that is a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law:

(A) commences a voluntary case,

(B) consents to the entry of an order for relief against it in an involuntary case,

(C) consents to the appointment of a custodian of it or for all or substantially all of its property,

(D) makes a general assignment for the benefit of its creditors, or

(E) generally is not paying its debts as they become due;

(8) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any of the Guarantors that is a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary in an involuntary case;

(B) appoints a custodian of the Company or any of the Guarantors that is a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of the Company or any of the Guarantors that is a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary; or

(C) orders the liquidation of the Company or any of the Guarantors that is a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days;

(9) breach by the Company or any of the Guarantors of any material representation or warranty or agreement in the Collateral Documents, and such failure shall continue for a period of 60 days after written notice to the Company by the Trustee, the Collateral Agent or the Holders of at least 25% in aggregate principal amount of the notes then outstanding voting as a single class;

(10) the repudiation by the Company or any of the Guarantors of any of its obligations under the Collateral Documents or the unenforceability of the Collateral Documents against the Company or any of the Guarantors for any reason; and

(11) except as permitted by this Indenture, any Note Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Guarantor, or any Person acting on behalf of any Guarantor, denies or disaffirms its obligations under its Note Guarantee.

Section 6.02 *Acceleration.*

In the case of an Event of Default specified in clause (7) or (8) of Section 6.01 hereof, with respect to the Company, any Guarantor that is a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary, all outstanding Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately.

Upon any such declaration, the Notes shall become due and payable immediately.

The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may, on behalf of all of the Holders, rescind an acceleration and its consequences, if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal, interest or premium, if any, that has become due solely because of the acceleration) have been cured or waived.

Section 6.03 *Other Remedies.*

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium, if any, and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 *Waiver of Past Defaults.*

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the

payment of the principal of, premium, if any, or interest on the Notes (including in connection with an offer to purchase); *provided*, *however*, that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 *Control by Majority.*

Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture that the Trustee determines may be unduly prejudicial to the rights of other Holders of Notes (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such directions are unduly prejudicial to such Holders) or that may involve the Trustee in personal liability, loss or expense that is not adequately indemnified in the judgment of the Trustee.

Section 6.06 *Limitation on Suits.*

Except to enforce the right to receive payment of principal, premium, if any, or interest, when due, no Holder may pursue any remedy with respect to this Indenture or the Notes unless:

(1) such Holder gives to the Trustee written notice that an Event of Default is continuing;

(2) Holders of at least 25% in aggregate principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;

(3) such Holder or Holders offer the Trustee security or indemnity, satisfactory to the Trustee, against any loss, liability or expense;

(4) the Trustee does not comply with the request within 60 days after receipt of the request and the offer of security or indemnity; and

(5) during such 60-day period, Holders of a majority in aggregate principal amount of the then outstanding Notes do not give the Trustee a direction (which has not been withdrawn) inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07 *Rights of Holders of Notes to Receive Payment.*

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder; *provided* that a Holder shall not have the right to institute any such suit for the enforcement of payment if and to the extent that the institution or prosecution thereof or the

entry of judgment therein would, under applicable law, result in the surrender, impairment, waiver or loss of the Lien of this Indenture upon any property subject to such Lien.

Section 6.08 *Collection Suit by Trustee.*

If an Event of Default specified in Section 6.01(1) or (2) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest remaining unpaid on, the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 *Trustee May File Proofs of Claim.*

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.07 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 *Priorities.*

If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order:

First: to the Trustee (acting in any capacity), its agents and attorneys for amounts due hereunder, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any, and interest, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11 *Undertaking for Costs.*

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder of a Note pursuant to Section 6.07 hereof, or a suit by Holders of more than 10% in aggregate principal amount of the then outstanding Notes.

ARTICLE 7 TRUSTEE

Section 7.01 *Duties of Trustee.*

(a) If an Event of Default has occurred of which a Responsible Officer of the Trustee has actual knowledge and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(1) the duties of the Trustee will be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liabilities for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(2) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(3) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any loss, liability or expense for which it is not adequately indemnified in the reasonable judgment of the Trustee. The Trustee will be under no obligation to exercise any of its rights and powers under this Indenture at the request or direction of any Holder, unless such Holder has offered to the Trustee security and indemnity, satisfactory to the Trustee against any loss, liability or expense.

(f) The Trustee will not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law. In the absence of written investment direction from the Company, all cash received by the Trustee shall be placed in a non-interest bearing trust account, and in no event shall the Trustee be liable for the selection of investments or for investment losses incurred thereon or for losses incurred as a result of the liquidation of any such investment prior to its maturity date or the failure of the party directing such investment to provide timely written investment direction, and the Trustee shall have no obligation to invest or reinvest any amounts held hereunder in the absence of such written investment direction from the Company.

Section 7.02 *Rights of Trustee.*

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel will be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee will not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(f) The Trustee will be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against the losses, liabilities and expenses that might be incurred by it in compliance with such request or direction.

(g) The rights, privileges, protections, immunities and benefits given to the Trustee, including its rights to be indemnified, are extended to and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(h) The Trustee may request that the Company deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be signed by any person authorized to sign an Officers' Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

(i) The permissive rights of the Trustee to do certain things enumerated in this Indenture shall not be construed as a duty and the Trustee shall not be answerable for other than its negligence or willful default with respect to such permissive rights.

(j) The Trustee shall not be bound to make any inquiry or investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, note or other paper or document unless requested in writing so to do by the holders of a majority in aggregate principal amount of the Notes affected then outstanding; *provided however*, that if the payment within a reasonable time to the Trustee of the costs and expenses or liabilities likely to be incurred by it in the making of such investigation is, in the opinion of the Trustee, not reasonably assured to the Trustee by the security conferred upon it by the terms of this Indenture, the Trustee may require indemnity reasonably satisfactory to the Trustee against such costs, expenses or liabilities as a condition to so proceeding; and the reasonable expense of such investigation shall be paid by the Company, or, if paid by the Trustee shall be repaid by the Company upon demand.

(k) The Trustee shall not be responsible or liable for special, indirect, punitive or consequential loss or damage of any kind whatsoever (including loss or profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

(l) The Trustee shall not be required to give any note, bond, or surety in respect of the execution of the trusts and powers under this Indenture.

(m) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including acts of God; earthquakes; fire; flood; terrorism; wars and other military disturbances; sabotage; epidemics; riots; interruptions; loss or malfunction of utilities, computer (hardware or software) or communication services; accidents; labor disputes; act of civil or military authorities and governmental action.

(n) The Trustee shall not be charged with knowledge of any default or Event of Default unless either (1) a Responsible Officer of the Trustee shall have actual knowledge of the default or Event of Default or (2) written notice of such default or Event of Default shall have been given to the Trustee by the Company or by any Holder and such notice references the Notes and this Indenture and states that it is a notice of Default.

(o) The Trustee shall not be liable or responsible for any action or inaction of the Depositary or any other clearinghouse or depositary.

(p) The Trustee shall have no obligation to undertake any calculation hereunder or have any liability for any calculation performed in connection herewith or the transactions contemplated hereunder.

Section 7.03 *Individual Rights of Trustee.*

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would

have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days or resign. Any Agent may do the same with like rights and duties. The Trustee shall be subject to the provisions of TIA § 311(a), excluding any creditor relationship listed in TIA § 311(b), as if such provisions were set forth in this Indenture.

Section 7.04 *Trustee's Disclaimer.*

The Trustee will not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it will not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it will not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

Section 7.05 *Notice of Defaults.*

If a Default or Event of Default occurs and is continuing and if it is actually known to the Trustee, the Trustee will deliver (including by electronic means) to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, premium, if any, or interest on, any Note, the Trustee may withhold the notice if and so long as a committee of its Responsible Officers in good faith determines that withholding the notice is in the interests of the Holders of the Notes.

Section 7.06 *[Reserved].*

Section 7.07 *Compensation and Indemnity.*

(a) The Company will pay to the Trustee (acting in any capacity) from time to time reasonable compensation for its acceptance of this Indenture and services hereunder. The Trustee's compensation will not be limited by any law on compensation of a trustee of an express trust. The Company will reimburse the Trustee promptly upon request for all reasonable disbursements, advances and expenses incurred or made by it in addition to the compensation for its services. Such expenses will include the reasonable compensation, disbursements and expenses of the Trustee's agents and counsel.

(b) The Company and the Guarantors will indemnify the Trustee (acting in any capacity) (including its officers, directors, employees and agents) against any and all losses, liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company and the Guarantors (including this Section 7.07) and defending itself against any claim (whether asserted by the Company, the Guarantors, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its negligence or willful misconduct as determined by a final non- appealable decision of a court of competent jurisdiction. The Trustee will notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company will not relieve the Company or any of the Guarantors of their obligations hereunder. The Company or such Guarantor will defend the claim and the Trustee will cooperate in the defense. The Trustee may have separate counsel and the Company will pay the reasonable fees and expenses of such counsel. Neither the Company nor any Guarantor need pay for any settlement made without its consent, which consent will not be unreasonably withheld.

(c) The obligations of the Company and the Guarantors under this Section 7.07 will survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

(d) To secure the Company's and the Guarantors' payment obligations in this Section 7.07, the Trustee will have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien will survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

(e) When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(7) or (8) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

Section 7.08 *Replacement of Trustee.*

(a) A resignation or removal of the Trustee and appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

(b) The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in aggregate principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing at least 30 days prior to such removal. The Company may remove the Trustee if:

(1) the Trustee fails to comply with Section 7.10 hereof;

(2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(3) a custodian or public officer takes charge of the Trustee or its property; or

(4) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

(d) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of at least 10% in aggregate principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee at the expense of the Company.

(e) If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.10 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will deliver (including by electronic means) a notice of its succession to

Holders. The retiring Trustee will promptly transfer all property held by it as Trustee to the successor Trustee; *provided* all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07 hereof. The retiring or removed Trustee shall have no responsibility or liability for the action or inaction of any successor Trustee. Notwithstanding replacement of the Trustee pursuant to this Section 7.08, the Company's obligations under Section 7.07 hereof will continue for the benefit of the retiring Trustee.

Section 7.09 *Successor Trustee by Merger, etc.*

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Trustee.

Section 7.10 *Eligibility; Disqualification.*

There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States of America or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has a combined capital and surplus of at least $100.0 million as set forth in its most recent published annual report of condition.

ARTICLE 8
LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01 *Option to Effect Legal Defeasance or Covenant Defeasance.*

The Company may at any time, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

Section 8.02 *Legal Defeasance and Discharge.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from their obligations with respect to all outstanding Notes (including the Note Guarantees) on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company and the Guarantors will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Note Guarantees), which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in clauses (1) and (2) below, and to have satisfied all their other obligations under such Notes, the Note Guarantees and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following provisions which will survive until otherwise terminated or discharged hereunder:

(1) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, or interest or premium, if any, on, such Notes when such payments are due from the trust referred to in Section 8.04 hereof;

(2) the Company's obligations with respect to such Notes under Article 2 and Section 4.02 hereof;

(3) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's and the Guarantors' obligations in connection therewith; and

(4) this Article 8.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03 *Covenant Defeasance.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from each of their obligations under the covenants contained in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.14, 4.15, 4.16, 4.17 and 4.18 hereof and clause (4) of Section 5.01 hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*Covenant Defeasance*"), and the Notes will thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but will continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes will not be deemed outstanding for accounting purposes). For this purpose, Covenant Defeasance means that, with respect to the outstanding Notes and Note Guarantees, the Company and the Guarantors may omit to comply with and will have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply will not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes and Note Guarantees will be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(3) through 6.01(6) and 6.01(9) through 6.01(11) hereof will not constitute Events of Default.

Section 8.04 *Conditions to Legal or Covenant Defeasance.*

In order to exercise either Legal Defeasance or Covenant Defeasance under either Section 8.02 or 8.03 hereof:

(1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank, appraisal firm, or firm of independent public accountants, to pay the principal of, premium, if any, and interest on, the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the Notes are being defeased to such stated date for payment or to a particular redemption date;

(2) in the case of an election under Section 8.02 hereof, the Company must deliver to the Trustee an Opinion of Counsel to the Trustee confirming that:

(A) the Company has received from, or there has been published by, the Internal Revenue Service a ruling; or

(B) since the date of this Indenture, there has been a change in the applicable federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Legal Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(3) in the case of an election under Section 8.03 hereof, the Company must deliver to the Trustee an Opinion of Counsel confirming that the Holders of the outstanding Notes will not recognize income, gain or loss for federal income tax purposes as a result of such Covenant Defeasance and will be subject to federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(4) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(5) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries is bound;

(6) the Company must deliver to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of Notes over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding any creditors of the Company or others; and

(7) the Company must deliver to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05 *Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.*

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "*Trustee*") pursuant to Section 8.04 hereof in respect of the outstanding Notes will be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04

hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Notwithstanding anything in this Article 8 to the contrary, the Trustee will deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(1) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06 *Repayment to Company.*

Subject to applicable escheatment laws, any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on, any Note and remaining unclaimed for two years after such principal, premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) will be discharged from such trust; and the Holder of such Note will thereafter be permitted to look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, will thereupon cease.

Section 8.07 *Reinstatement.*

If the Trustee or Paying Agent is unable to apply any U.S. dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's and the Guarantors' obligations under this Indenture and the Notes and the Note Guarantees will be revived and reinstated as though no deposit had occurred pursuant to Section
8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided*, *however*, that, if the Company makes any payment of principal of, premium, if any, or interest on, any Note following the reinstatement of its obligations, the Company will be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9
AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 *Without Consent of Holders of Notes.*

Notwithstanding Section 9.02 of this Indenture, and subject to the Intercreditor Agreement, the Company, the Guarantors and the Trustee may amend or supplement this Indenture, the Collateral Documents, the Intercreditor Agreement, the Notes or the Note Guarantees without the consent of any Holder of Notes:

(1) to cure any ambiguity, defect or inconsistency;

(2) to provide for uncertificated Notes in addition to or in place of certificated Notes (*provided* that the uncertificated notes are issued in registered form for purposes of Section 163(f) of the Internal Revenue Code of 1986);

(3) to provide for the assumption of the Company's or a Guarantor's obligations to the Holders of the Notes and Note Guarantees by a successor to the Company or such Guarantor pursuant to Article 5 or Article 11 hereof;

(4) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder;

(5) [Reserved];

(6) to conform the text of this Indenture, the Collateral Documents, the Note Guarantees or the Notes to any provision of the "Description of Notes" section of the Company's Offering Memorandum dated January 12, 2021, relating to the initial offering of the Notes, to the extent that such provision in that "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture, the Collateral Documents, the Note Guarantees or the Notes;

(7) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture as of the date hereof;

(8) to allow any Guarantor to execute a supplemental indenture and/or a Note Guarantee with respect to the Notes; or

(9) to make, complete or confirm any grant of Collateral permitted or required by this Indenture or any of the Collateral Documents or any release of Collateral that becomes effective as set forth in this Indenture or any of the Collateral Documents.

For the avoidance of doubt, no amendment to, or deletion of, any of the covenants contained in Sections 4.07, 4.08, 4.09, 4.11, 4.12, 4.15, 4.16 4.17, 4.18 or 5.01 hereof shall be deemed to impair or affect any rights of holders of the notes to receive payment of principal of, or premium, if any, or interest on, the Notes.

Section 9.02 *With Consent of Holders of Notes.*

Except as provided below in this Section 9.02, and subject to the Intercreditor Agreement, the Company and the Trustee may amend or supplement this Indenture (including Section 3.09, 4.10 and 4.14 hereof), the Collateral Documents, the Intercreditor Agreement or the Notes and the Note Guarantees with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including Additional Notes, if any) voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof and subject to the Intercreditor Agreement, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture, the Collateral Documents, the Intercreditor Agreement or the Notes or the Note Guarantees may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including Additional Notes, if any) voting as a single class (including consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes). None of this Indenture, the Notes, the Note Guarantees or the Collateral Documents may be amended, modified or supplemented in any way that would contravene the Intercreditor Agreement. Section 2.08 hereof shall determine which Notes are considered to be "outstanding" for purposes of this Section 9.02.

However, without the consent of each Holder affected or, in the case of clauses (8) and (9) below only, the consent of Holders of at least 95% in aggregate principal amount of the Notes then outstanding, an amendment, supplement or waiver under this Section 9.02 may not (with respect to any Notes held by a non-consenting Holder):

(1) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(2) reduce the principal of or change the fixed maturity of any Note or change the dates or prices or calculations set forth above with respect to Section 3.07 hereof);

(3) reduce the rate of or change the time for payment of interest, including default interest, on any Note;

(4) waive a Default or Event of Default in the payment of principal of, or premium, if any, or interest on, the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

(5) make any Note payable in money other than that stated in the Notes;

(6) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, or interest or premium, if any, on, the Notes;

(7) waive a redemption payment with respect to any Note (other than a payment required by Sections 3.09, 4.10 or 4.14 hereof);

(8) release all or substantially all of the Collateral from the Liens securing the Note Guarantees;

(9) release any Guarantor from any of its obligations under its Note Guarantee or this Indenture if the assets or properties of that Guarantor constitute all or substantially all of the Collateral, except in accordance with the terms of this Indenture and the Intercreditor Agreement; or

(10) make any change in the preceding amendment and waiver provisions.

It is not be necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it is sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company will deliver (including by electronic means) to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to deliver such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amended or supplemental indenture or waiver.

Section 9.03 *[Reserved].*

Section 9.04 *Revocation and Effect of Consents.*

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.05 *Notation on or Exchange of Notes.*

The Trustee may place an appropriate notation about an amendment, supplement or waiver on any Note thereafter authenticated. The Company in exchange for all Notes may issue and the Trustee shall, upon receipt of an Authentication Order, authenticate new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note will not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 *Trustee to Sign Amendments, etc.*

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof and, in the case of any amended or supplemental indenture pursuant to Section 9.02, the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of the Notes as set forth therein, the Trustee will join with the Company and the Guarantors in the execution of such amended or supplemental indenture and make any further appropriate agreements and stipulations that may be therein contained, unless such amended or supplemental indenture directly affects the Trustee's own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amended or supplemental Indenture.

The Company may not sign an amended or supplemental indenture until the Board of Directors of the Company approves it. In executing any amended or supplemental indenture, the Trustee will be entitled to receive and (subject to Section 7.01 hereof) will be fully protected in relying upon, in addition to the documents required by Section 13.04 hereof, an Officers' Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture, and that such supplemental indenture is the legal, valid and binding obligation of the Company, enforceable against it in accordance with its terms.

ARTICLE 10 COLLATERAL AND SECURITY

Section 10.01 *Security.*

The payment of all amounts due under the Note Guarantees of the Pledgors and the performance of all Obligations of each of the Pledgors to the Holders will be secured, equally and ratably with any other Parity Lien Obligations of such Pledgors in respect of the Notes, by Liens on the Collateral of such

Pledgors, subject to Permitted Prior Liens, as provided in the Collateral Documents and the Intercreditor Agreement. The payment of all amounts due under the Note Guarantee of VGR Holding and the performance of all Obligations of VGR Holding to the Holders will be secured, equally and ratably with any other Parity Lien Obligations of VGR Holding in respect of the Notes, by Liens on the Pledged Securities as provided in the Collateral Documents. The Collateral Documents shall provide for the grant by the Pledgors and VGR Holding to the Collateral Agent of security interests in the Collateral securing their Note Guarantees subject in the case of the Credit Agreement Borrowers to the terms of the Intercreditor Agreement.

Section 10.02 *Equal and Ratable Sharing of Collateral by Holders of Parity Lien Debt.*

All Parity Liens granted at any time by the Pledgors or VGR Holding shall secure, equally and ratably, all present and future Parity Lien Obligations and all proceeds of all Parity Liens granted at any time by the Pledgors or VGR Holding shall be allocated and distributed equally and ratably on account of the Parity Lien Debt and other Parity Lien Obligations.

Section 10.03 *Release of Liens in Respect of Note Guarantees.*

Whether prior to or after the First Priority Debt has been paid in full, assets included in the Collateral shall be released from the Liens securing the Note Guarantees under any one or more of the following circumstances:

(a) the sale, lease, sublease, license, sublicense, conveyance or other disposition of products, services, inventory, or accounts receivable and related assets (including participations therein) in the ordinary course of business, including leases with respect to facilities that are temporarily not in use or pending their disposition, and any sale or other disposition of damaged, worn-out or obsolete assets in the ordinary course of business or any other property that is uneconomic or no longer useful to the conduct of the business of the Company or the Guarantors, which such transactions are hereby expressly permitted under this Indenture;

(b) as to any Collateral sold, transferred or otherwise disposed of by a Guarantor to a Person that is not (either before or after such sale, transfer or disposition) the Company or a Guarantor in a transaction or other circumstance that complies with the provisions of Section 4.10 hereof and is permitted by the Noteholder Documents, and, if the First Priority Debt has not been paid in full, the ABL Documents; *provided* that such Liens will not be released if such sale or disposition is subject to the provisions of Section 5.01 hereof;

(c) if any Guarantor is released from its Note Guarantee, that Guarantor’s assets will also be released from the Liens securing the Note Guarantee;

(d) in whole or in part, with the consent of the Holders of the requisite percentage of Notes in accordance with Article 9;

(e) if required in connection with certain foreclosure actions, or the exercise of other remedies in respect of Collateral, by the ABL Agent in respect of First Priority Debt in accordance with the terms of the Intercreditor Agreement;

(f) upon a Legal Defeasance or Covenant Defeasance of the Notes as set forth under Article 8;

(g) upon satisfaction and discharge of this Indenture as set forth under Article 12; or

(h) upon payment in full and discharge of all Notes outstanding under this Indenture and all Obligations that are outstanding, due and payable under this Indenture at the time the Notes are paid in full and discharged.

Section 10.04 *Relative Rights.*

Nothing in the Noteholder Documents or the Intercreditor Agreement shall:

(a) impair, as between the Company and the Holders, the obligation of the Company, which is absolute and unconditional, to pay principal of, interest and premium, if any, on the Notes in accordance with their terms or any other obligation of the Company or any Guarantor;

(b) affect the relative rights of Holders as against any other creditors of the Company or any Guarantor (other than holders of First Priority Liens, Permitted Prior Liens or other Parity Liens);

(c) restrict the right of any Holder to sue for payments that are then due and owing (but not enforce any judgment in respect thereof against any Collateral to the extent specifically prohibited under the Intercreditor Agreement);

(d) restrict or prevent any Holder or the Collateral Agent from exercising any of its rights or remedies upon a Default or Event of Default not specifically restricted or prohibited by the Intercreditor Agreement; or

(e) restrict or prevent any Holder or the Collateral Agent from taking any lawful action in an insolvency or liquidation proceeding not specifically restricted or prohibited by the Intercreditor Agreement.

Section 10.05 *Further Assurances.*

The Company and each of the Guarantors providing security for their Note Guarantees will do or cause to be done all acts and things that may be reasonably required, or that the Collateral Agent from time to time may reasonably request, to assure and confirm that the Collateral Agent holds, for the benefit of the holders of Parity Lien Obligations in respect of the Notes, duly created and enforceable and perfected Parity Liens upon the Collateral (including any categories of property or assets that are included as Collateral under the Collateral Documents or otherwise become Collateral after the Notes are issued), in each case, as contemplated by, and with the Lien priority required under, the Intercreditor Agreement and the Collateral Documents, including the filing of UCC financing and continuation statements and amendments thereto, and any other filings or recordings necessary or required by the Collateral Documents to maintain such Liens. The Collateral Agent hereby authorizes the Company and each of the Guarantors to file and record any UCC financing and continuation statements and amendments thereto, and any other filings or recordings necessary or required by the Collateral Documents to maintain such Liens that are reasonably required in connection with the foregoing.

Upon the reasonable request of the Collateral Agent or the Trustee at any time and from time to time, the Company and each of the applicable Guarantors will promptly execute, acknowledge and deliver such security documents, instruments, certificates, notices and other documents, and take such other actions as shall be reasonably required, or that the Collateral Agent may reasonably request, to create, perfect, protect, assure or enforce the Liens and benefits intended to be conferred, in each case as contemplated by the Collateral Documents for the benefit of the holders of Parity Lien Obligations in respect of the Notes, including any real property acquired by Pledgors in the future that has a Fair Market Value in excess of $12.5 million.

The Company and the applicable Guarantors will:

(1) keep their properties adequately insured at all times by financially sound and reputable insurers;

(2) maintain such other insurance, to such extent and against such risks (and with such deductibles, retentions and exclusions), including fire and other risks insured against by extended coverage and coverage for acts of terrorism, as is customary with companies in the same or similar businesses operating in the same or similar locations, including public liability insurance against claims for personal injury or death or property damage occurring upon, in, about or in connection with the use of any properties owned, occupied or controlled by them;

(3) maintain such other insurance as may be required by law;

(4) maintain title insurance on all real property Collateral insuring the Collateral Agent's Parity Lien on that property, subject only to Permitted Prior Liens and other exceptions to title approved by the Collateral Agent; and

(5) maintain such other insurance as may be required by the Collateral Documents.

Upon the request of the Collateral Agent, the Company and the Guarantors will furnish to the Collateral Agent full information as to their property and liability insurance carriers. Holders of Parity Lien Obligations in respect of the Notes, as a class, will be named as additional insureds, with a waiver of subrogation, on all insurance policies of the applicable Guarantors and the Collateral Agent will be named as loss payee, with 30 days' notice of cancellation or material change, on all property and casualty insurance policies of the applicable Guarantors.

Subject to Section 7.01, neither the Trustee nor the Collateral Agent nor any of their respective officers, directors, employees, attorneys or agents will be responsible or liable for the existence, genuineness, value or protection of any Collateral, for the legality, enforceability, effectiveness or sufficiency of the Collateral Documents, for the obtaining or maintaining insurance on any Collateral, for the creation, perfection, priority, sufficiency or protection of any Lien, or any defect or deficiency as to any such matters.

Section 10.06 *Collateral Agent.*

(a) The Company has appointed U.S. Bank National Association to serve as Collateral Agent under the Intercreditor Agreement and the Collateral Documents, for the benefit of the Holders of the Notes.

(b) The Collateral Agent is authorized and empowered to appoint one or more co-collateral agents as it deems necessary or appropriate.

(c) The Collateral Agent (directly or through co-trustees, agents or sub-agents) will hold, and will be entitled to enforce, all Liens on the Collateral.

(d) The Collateral Agent will be subject to such directions as may be given it by the Trustee from time to time as required or permitted by this Indenture. Except as directed by the Trustee and as required or permitted by this Indenture, the Intercreditor Agreement or as directed by the Holders with the requisite consent of such Holders, the Collateral Agent will not be obligated to:

(1) act upon directions purported to be delivered to it by any other Person;

(2) foreclose upon or otherwise enforce any Lien; or

(3) take any other action whatsoever with regard to any or all of the Collateral Documents, the Liens created thereby or the Collateral.

The Company shall do or cause to be done all such acts and things as may be necessary or proper, or as may be required by the provisions of the Intercreditor Agreement and the Noteholder Documents, to assure and confirm to the Trustee and the Collateral Agent the security interest in the Collateral contemplated hereby, by the Intercreditor Agreement, the Noteholder Documents or any part thereof, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the Guarantees secured thereby, according to the intent and purposes herein and therein expressed.

(e) The Collateral Agent will be accountable only for amounts that it actually receives as a result of the enforcement of Liens created by the Collateral Documents.

(f) In acting as Collateral Agent, the Collateral Agent may rely upon and enforce each and all of the rights, powers, protections, immunities, indemnities and benefits of the Trustee under Article 7 mutatis mutandis, and, in connection therewith, references to the Trustee shall be deemed to include the Collateral Agent and references to this Indenture shall be deemed to include the Collateral Documents and references to negligence with respect to the Trustee will be deemed to be gross negligence with respect to the Collateral Agent.

(g) Each successor Trustee will become the successor Collateral Agent as and when the successor Trustee becomes the Trustee.

Section 10.07 *Authorization of Actions to Be Taken.*

(a) Each Holder of Notes, by its acceptance thereof, consents and agrees to the terms of each Collateral Document and the Intercreditor Agreement, as originally in effect and as amended, supplemented or replaced from time to time in accordance with its terms or the terms of this Indenture, authorizes and directs the Trustee and the Collateral Agent to enter into the Collateral Documents, authorizes and empowers the Trustee and the Collateral Agent to execute and deliver the Intercreditor Agreement, and authorizes and empowers each of the Trustee and the Collateral Agent to bind the Holders of Notes as set forth in the Collateral Documents and the Intercreditor Agreement and to perform its obligations and exercise its rights and powers thereunder.

(b) The Collateral Agent and the Trustee are authorized and empowered to receive for the benefit of the Holders any funds collected or distributed under the Collateral Documents or the Intercreditor Agreement and to make further distributions of such funds to the Holders according to the provisions of this Indenture.

(c) Subject to the provisions of Sections 7.01, 7.02 and 10.03 and the terms of the Intercreditor Agreement, the Trustee may, upon an Event of Default, in its sole discretion and without the consent of the Holders of Notes, direct, on behalf of the Holders, the Collateral Agent to take all actions it deems necessary or appropriate in order to:

(1) foreclose upon or otherwise enforce any or all of the Liens on the Collateral;

(2) enforce any of the terms of the Collateral Documents or Intercreditor Agreement; or

(3) collect and receive payment of any and all Obligations of the Pledgors and VGR Holding.

The Trustee will have power to (and to instruct the Collateral Agent to) institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Collateral by any acts that may be unlawful or in violation of the Collateral Documents, the Intercreditor Agreement or this Indenture, and such suits and proceedings as the Trustee may deem expedient to preserve or protect its interests and the interests of the Holders in the Collateral (including power to (and to instruct the Collateral Agent to) institute and maintain suits or proceedings to restrain the enforcement of or compliance with any legislative or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of, or compliance with, such enactment, rule or order would impair the security interest hereunder or be prejudicial to the interests of the Holders, the Trustee or the Collateral Agent).

Section 10.08 *Perfection Opinions.*

The Company will furnish to the Collateral Agent and the Trustee no later than the fifth anniversary of the date hereof and on or prior to each fifth anniversary thereafter, an Opinion of Counsel, dated as of such date: (1) (A) stating that, in the opinion of such counsel, action has been taken with respect to the recording, registering, filing, re-recording, re-registering and re-filing of this Indenture, financing statements or continuation statements as is necessary to maintain the Liens of the Collateral Documents and reciting with respect to the security interests in the Collateral the details of such action or referring to prior Opinions of Counsel in which such details are given, and (B) stating that, in the opinion of such counsel, based on relevant laws as in effect on the date of such Opinion of Counsel, all financing statements and continuation statements have been executed and filed that are necessary as of such date and during the succeeding 12 months to maintain the Liens of the Collateral Documents and reciting the details of such actions; or (2) stating that, in the opinion of such counsel, no such action is necessary to maintain such Liens.

Section 10.09 *Certificates of the Company.*

The Company will furnish to the Trustee and the Collateral Agent, prior to each proposed release of Collateral pursuant to the Collateral Documents (other than with respect to Collateral released pursuant to Section 10.03(a) of this Indenture):

(1) an Officers' Certificate identifying the Collateral to be released, the applicable provisions of this Indenture and the Collateral Documents that authorize such release and stating that the conditions precedent to such release have been satisfied; and

(2) an Opinion of Counsel stating that the conditions precedent to such release have been satisfied.

Upon receipt of such Officers' Certificate and Opinion of Counsel and any necessary or proper instruments of termination, satisfaction or release, the Trustee shall, or shall cause the Collateral Agent, to promptly execute, deliver or acknowledge (at the Company's expense and without recourse, representation or warranty) such instruments or releases to evidence the release of any Collateral permitted to be released pursuant to this Indenture or the Collateral Documents. Neither the Trustee nor the Collateral Agent shall be liable for any such release undertaken in good faith in reliance upon any

such Officers' Certificate or Opinion of Counsel. For the avoidance of doubt, the release of Liens on the Collateral pursuant to Section 10.03(a) shall be automatic. All purchasers and grantees of any property or rights purporting to be released herefrom shall be entitled to rely upon any release executed by the Collateral Agent hereunder as sufficient for the purpose of this Indenture and as constituting a good and valid release of the property therein described from the Lien of this Indenture or the Noteholder Documents. No purchaser or grantee of any property or rights purporting to be released herefrom shall be bound to ascertain the authority of the Trustee or the Collateral Agent to execute the release or to inquire as to the existence of any conditions herein prescribed for the exercise of such authority; nor shall any purchaser or grantee of any property or rights permitted by this Indenture to be sold or otherwise disposed of by the Company be under any obligation to ascertain or inquire into the authority of the Company to make such sale or other disposition. Each Holder, by its acceptance of the Notes, consents to and authorizes the Collateral Agent to enter into any documentation as contemplated by this Section 10.09.

Section 10.10 *[Reserved]*.

Section 10.11 *Environmental Indemnity.*

(a) Each of the Company and the Guarantors jointly and severally agrees to defend (subject to Indemnitees' selection of counsel), indemnify, pay and hold harmless the Trustee and each Holder and each of their respective Affiliates and each and all of the directors, officers, partners, trustees, employees, attorneys and agents, and (in each case) their respective heirs, representatives, successors and assigns (each of the foregoing, an "*Indemnitee*") from and against any and all Indemnified Liabilities; *provided* that no Indemnitee shall be entitled to indemnification hereunder with respect to any Indemnified Liability to the extent such Indemnified Liability is found by a final and nonappealable decision of a court of competent jurisdiction to have resulted directly and primarily from the gross negligence or willful misconduct of such Indemnitee.

(b) All amounts due under Section 10.11(a) hereof shall be payable not later than 10 days after written demand therefor.

(c) To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in Section 10.11(a) hereof may be unenforceable in whole or in part because they are violative of any law or public policy, each of the Company and Guarantors shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

(d) Neither the Company nor any Guarantor shall ever assert any claim against any Indemnitee, on any theory of liability, for any lost profits or special, indirect or consequential damages or (to the fullest extent lawful) any punitive damages arising out of, in connection with, or as a result of, this Indenture or any other Noteholder Document or any agreement or instrument or transaction contemplated hereby or relating in any respect to any Indemnified Liability, and each of the Company and Guarantors hereby forever waives, releases and agrees not to sue upon any claim for any such lost profits or special, indirect, consequential or (to the fullest extent lawful) punitive damages, whether or not accrued and whether or not known or suspected to exist in its favor.

(e) The agreements in this Section 10.11 shall survive repayment of the Notes and all other amounts payable hereunder and the resignation and removal of the Trustee or Collateral Agent.

ARTICLE 11 NOTE GUARANTEES

Section 11.01 *Guarantee.*

(a) Subject to this Article 11, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

(1) the principal of, premium, if any, and interest on, the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders or the Trustee hereunder or thereunder will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) The Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of the validity, regularity or enforceability of the Notes or this Indenture, the absence of any action to enforce the same, any waiver or consent by any Holder of the Notes with respect to any provisions hereof or thereof, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance which might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Note Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(c) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

(d) Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee. The Guarantors will have the right to

seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantee.

Section 11.02 *Limitation on Guarantor Liability.*

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 11, result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent transfer or conveyance.

Section 11.03 *Execution and Delivery of Note Guarantee.*

To evidence its Note Guarantee set forth in Section 11.01 hereof, each Guarantor hereby agrees that a notation of such Note Guarantee substantially in the form attached as Exhibit E hereto will be endorsed by an Officer of such Guarantor on each Note authenticated and delivered by the Trustee and that this Indenture will be executed on behalf of such Guarantor by one of its Officers.

Each Guarantor hereby agrees that its Note Guarantee set forth in Section 11.01 hereof will remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Note Guarantee.

If an Officer whose signature is on this Indenture or on the Note Guarantee no longer holds that office at the time the Trustee authenticates the Note on which a Note Guarantee is endorsed, the Note Guarantee will be valid nevertheless.

The delivery of any Note by the Trustee, after the authentication thereof hereunder, will constitute due delivery of the Note Guarantee set forth in this Indenture on behalf of the Guarantors.

In the event that the Company acquires any Domestic Subsidiary after the date of this Indenture, if required by Section 4.17 hereof, the Company will cause such Domestic Subsidiary to comply with the provisions of Section 4.17 hereof and this Article 11, the extent applicable.

Section 11.04 *Guarantors May Consolidate, etc., on Certain Terms.*

Except as otherwise provided in Section 11.05 hereof, no Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Company or another Guarantor, unless:

(1) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(2) either:

(A) subject to Section 11.05 hereof, the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger unconditionally assumes all the obligations of that Guarantor under this Indenture, any applicable Collateral Documents and its Note Guarantee on the terms set forth herein or therein, pursuant to a supplemental indenture and appropriate Collateral Documents in form and substance reasonably satisfactory to the Trustee; or

(B) the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of this Indenture, including Section 4.10 hereof.

In case of any such consolidation, merger, sale or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the Note Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person will succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Note Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Note Guarantees so issued will in all respects have the same legal rank and benefit under this Indenture as the Note Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Note Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 4 and 5 hereof, and notwithstanding clauses 2(a) and (b) above, nothing contained in this Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

Section 11.05 *Releases.*

(a) In the event of any sale or other disposition of:

(1) all or substantially all of the assets of any Guarantor (including by way of merger or consolidation) in a manner that does not violate the provisions of Section 4.10 or Section 5.01 hereof; or

(2) all of the Capital Stock of any Guarantor to a Person that is not (either before or after giving effect to such transaction) the Company or a Guarantor in a manner that does not violate the provisions of Section 4.10 hereof,

then, in the case of each of the foregoing clauses (1) and (2), such Guarantor will automatically be released and relieved of any obligations under its Note Guarantee. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of Section 4.10 or 5.01 hereof, as applicable, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee (it being understood that such release will occur automatically, regardless of when or if the Trustee executes any such documents in order to evidence such release).

(b) In the event of any dissolution or liquidation of any Guarantor in a manner permitted under this Indenture, such Guarantor will automatically be released and relieved of any obligation under

its Note Guarantee. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such dissolution or liquidation was permitted under this Indenture, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee (it being understood that such release will occur automatically, regardless of when or if the Trustee executes any such documents in order to evidence such release).

(1) In the case of Zoom, if at any time Zoom ceases to be a guarantor of the Existing Unsecured Notes (including any renewal, refinancing or replacement thereof), Zoom will automatically be released and relieved of any obligation under its Note Guarantee; *provided* that at such time, Zoom owns no material assets and has no material operations. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such release was made in accordance with this clause (c), the Trustee will execute any documents reasonably required in order to evidence the release of Zoom from its obligations under its Note Guarantee (it being understood that such release will occur automatically, regardless of when or if the Trustee executes any such documents in order to evidence such release).

(2) Upon Legal Defeasance in accordance with Article 8 hereof or satisfaction and discharge of this Indenture in accordance with Article 12 hereof, each Guarantor will automatically be released and relieved of any obligations under its Note Guarantee. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such Legal Defeasance or satisfaction and discharge has occurred under this Indenture, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee (it being understood that such release will occur automatically, regardless of when or if the Trustee executes any such documents in order to evidence such release).

(3) Any Guarantor not released from its obligations under its Note Guarantee as provided in this Section 11.05 will remain liable for the full amount of principal of and interest and premium, if any, on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 11.

ARTICLE 12 SATISFACTION AND DISCHARGE

Section 12.01 *Satisfaction and Discharge.*

This Indenture will be discharged and will cease to be of further effect as to all Notes issued hereunder, when:

(1) either:

(a) all Notes that have been authenticated, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been irrevocably deposited in trust and thereafter repaid to the Company, have been delivered to the Trustee for cancellation; or

(b) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the delivery (including by electronic means) of a notice of redemption or otherwise or will become due and payable within one year and the Company or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in U.S. dollars, non-callable Government

Securities, or a combination thereof, in such amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption;

(2) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(3) the Company or any Guarantor has paid or caused to be paid all sums payable by it under this Indenture; and

(4) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or on the redemption date, as the case may be.

In addition, the Company must deliver an Officers' Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 12.01, the provisions of Sections 12.02 and 8.06 hereof will survive. In addition, nothing in this Section 12.01 will be deemed to discharge those provisions of Section 7.07 hereof, that, by their terms, survive the satisfaction and discharge of this Indenture.

Section 12.02 *Application of Trust Money.*

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 12.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 12.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 12.01 hereof; *provided* that if the Company has made any payment of principal of, premium, if any, or interest on, any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE 13 MISCELLANEOUS

Section 13.01 *[Reserved]*.

Section 13.02 *Notices.*

Any notice or communication by the Company, any Guarantor or the Trustee to the others is duly given if in writing and delivered in Person or by first class mail (registered or certified, return receipt requested), facsimile transmission or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company and/or any Guarantor:

Vector Group Ltd.
4400 Biscayne Blvd. 10th Floor Miami, Florida 33137 Attention:
Marc N. Bell, Esq. Facsimile No.: (305) 579-8016

With a copy to:
Sullivan & Cromwell LLP 125 Broad Street
New York, New York 10004 Attention: Inosi Nyatta Facsimile
No.: (212) 558-3588

If to the Trustee:

U.S. Bank National Association, Global Corporate Trust Services 60
Livingston Avenue
EP-MN-WS3C
St. Paul, MN 55107-2292
Attention: Joshua A. Hahn Facsimile No.: (651) 466-7430

The Company, any Guarantor or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by facsimile; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder will be delivered by electronic means or mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register kept by the Registrar. Failure to mail a notice or communication to a Holder or any defect in it will not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company delivers (including by electronic means) or mails a notice or communication to Holders, it will deliver (including by electronic means) or mail a copy to the Trustee and each Agent at the same time.

Section 13.03 *[Reserved]*.

Section 13.04 *Certificate and Opinion as to Conditions Precedent.*

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(1) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 13.05 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(2) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 13.05 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied; *provided*, *however*, that such opinion shall not be required in connection with issuance of the Initial Notes.

Section 13.05 *Statements Required in Certificate or Opinion.*

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture must include:

(1) a statement that the Person making such certificate or opinion has read such covenant or condition;

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

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

(4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 13.06 *Rules by Trustee and Agents.*

The Trustee may make reasonable rules for action by or at a meeting of Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

Section 13.07 *No Personal Liability of Directors, Officers, Employees and Stockholders.*

No past, present or future director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors

under the Notes, this Indenture, the Note Guarantees, the Collateral Documents or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

Section 13.08 *Governing Law.*

THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THIS INDENTURE, THE NOTES AND THE NOTE GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

Section 13.09 *No Adverse Interpretation of Other Agreements.*

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 13.10 *Successors.*

All agreements of the Company in this Indenture and the Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors. All agreements of each Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 11.05 hereof.

Section 13.11 *Severability.*

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

Section 13.12 *Counterpart Originals.*

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, but all of them together represent the same agreement. Notwithstanding anything to the contrary in this Indenture, the words “execution,” “executed,” “signed,” “signature,” “delivery” and words of like import in or relating to this Indenture or any document to be signed in connection with this Indenture shall be deemed to include electronic signatures (including digital signatures provided by DocuSign (or such other digital signature provider as agreed by the Company and the Trustee from time to time), deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually or facsimile executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means. The exchange of copies of this Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes.

Section 13.13 *Table of Contents, Headings, etc.*

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions hereof.

Section 13.14 *Waiver of Jury Trial.*

EACH OF THE COMPANY AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

Section 13.15 *Security Advice Waiver.*

The Company acknowledges that regulations of the Comptroller of the Currency might grant the Company the right to receive brokerage confirmations of the security transactions as they occur. The Company specifically waives such notification to the extent permitted by law and will receive periodic cash transaction statements that will detail all investment transactions, if any.

Section 13.16 *USA Patriot Act.*

The parties hereto acknowledge that in accordance with the U.S.A. Patriot Act, the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties hereto agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the U.S.A. Patriot Act.

[Signatures on following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Very truly yours,

The Company:

VECTOR GROUP LTD.

By: /s/ James B. Kirkland III Name: James B. Kirkland III
Title: Senior Vice President, Chief Financial Officer, Treasurer and Assistant Secretary

Guarantors:

VGR HOLDING LLC

By: /s/ James B. Kirkland III Name: James B. Kirkland III
Title: Senior Vice President, Treasurer and Chief Financial Officer

LIGGETT GROUP LLC

By: /s/ Nicholas P. Anson Name: Nicholas P. Anson
Title: President and Chief Operating Officer

LIGGETT VECTOR BRANDS LLC

By: /s/ Nicholas P. Anson Name: Nicholas P. Anson
Title: President and Chief Operating Officer

VECTOR TOBACCO INC.

By: /s/ Marc N. Bell Name: Marc N. Bell
Title: Senior Vice President, General Counsel and Secretary

LIGGETT & MYERS HOLDINGS INC.

By: /s/ James B. Kirkland III Name: James B. Kirkland III
Title: Senior Vice President and Treasurer

100 MAPLE LLC

By: /s/ Victoria Spier Evans Name: Victoria Spier Evans Title: Secretary

VGR AVIATION LLC

By: /s/ Robert O. Plunket Name: Robert O. Plunket Title: President

EVE HOLDINGS LLC

By: /s/ Nicholas P. Anson Name: Nicholas P. Anson
Title: President and Chief Operating Officer

ZOOM E-CIGS LLC

By: /s/ Nicholas P. Anson Name: Nicholas P. Anson Title: President

Trustee:

U.S. BANK NATIONAL ASSOCIATION

By: /s/ Joshua A. Hahn Name: Joshua A. Hahn Title: Vice President

EXHIBIT A

[Face of Note]

CUSIP/CINS

5.75% Senior Secured Notes due 2029

No.__ $__

VECTOR GROUP LTD.

promises to pay to [__] or registered assigns,

the principal sum of___DOLLARS on (x) if the Springing Maturity Condition does not apply, February 1, 2029, or (y) if the Springing Maturity Condition does apply, the Springing Maturity Date.

Interest Payment Dates: February 1 and August 1 Record Dates: January 15 and July

15

Dated:__, 20

VECTOR GROUP LTD.

By:____ Name:
Title:

This is one of the Notes referred to in the within-mentioned Indenture:

U.S. BANK NATIONAL ASSOCIATION, as Trustee

By:____ Name:
Title:

[Back of Note]
5.75% Senior Secured Notes due 2029

[Insert the Global Note Legend, if applicable pursuant to the provisions of the Indenture] [Insert the Private Placement Legend, if applicable pursuant to the provisions of the Indenture]

Capitalized terms used herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

(1) *INTEREST*. Vector Group Ltd., a Delaware corporation (the "*Company*"), promises to pay interest on the principal amount of this Note at 5.75% per annum from __, 20_ until maturity on (x) if the Springing Maturity Condition does not apply, February 1, 2029, or (y) if the Springing Maturity Condition does apply, the Springing Maturity Date. The Company will pay interest, if any, semi-annually in arrears on February 1 and August 1 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an "*Interest Payment Date*"). Interest on the Notes will accrue from the most recent date to which interest has been paid or, if no interest has been paid, from the date of issuance; *provided* that if there is no existing Default in the payment of interest, and if this Note is authenticated between a record date referred to on the face hereof and the next succeeding Interest Payment Date, interest shall accrue from such next succeeding Interest Payment Date; *provided further* that the first Interest Payment Date shall be____, 20_. The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace periods) from time to time on demand at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

(2) *METHOD OF PAYMENT*. The Company will pay interest on the Notes (except defaulted interest) to the Persons who are registered Holders of Notes at the close of business on the February 1 or August 1 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date, except as provided in Section 2.12 of the Indenture with respect to defaulted interest. The Notes will be payable as to principal, premium, if any, and interest at the office or agency of the Company maintained for such purpose within or without the City and State of New York, or, at the option of the Company, payment of interest may be made by check mailed to the Holders at their addresses set forth in the register of Holders; *provided* that payment by wire transfer of immediately available funds will be required with respect to principal of and interest, premium, if any, on, all Global Notes and all other Notes the Holders of which will have provided wire transfer instructions to the Company or the Paying Agent. Such payment will be in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts.

(3) *PAYING AGENT AND REGISTRAR*. Initially, U.S. Bank National Association, the Trustee under the Indenture, will act as Paying Agent and Registrar. The Company may change any Paying Agent or Registrar without notice to any Holder. The Company or any of its Subsidiaries may act in any such capacity.

(4) *INDENTURE AND COLLATERAL*.

(a) The Company issued the Notes under an Indenture dated as of January 28, 2021 (the "*Indenture*") among the Company, the Guarantors and the Trustee. The Notes are subject to all such terms, and Holders are referred to the Indenture and such Act for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. The Indenture does not limit the aggregate principal amount of Notes that may be issued thereunder.

(b) The payment of all amounts due under the Note Guarantees of the Pledgors and the performance of all Obligations of each of the Pledgors to the Holders will be secured, equally and ratably with any other Parity Lien Obligations of such Pledgors in respect of the Notes, by Liens on the Collateral of such Pledgors as provided in the Collateral Documents and the Intercreditor Agreement. The payment of all amounts due under the Note Guarantee of VGR Holding and the performance of all Obligations of VGR Holding to the Holders will be secured, equally and ratably with any other Parity Lien Obligations of VGR Holding in respect of the Notes, by Liens on the Pledged Securities as provided in the Collateral Documents. The Collateral Documents shall provide for the grant by the Pledgors and VGR Holding to the Collateral Agent of security interests in the Collateral securing their Note Guarantees subject, where applicable, to the terms of the Intercreditor Agreement.

(5) *OPTIONAL REDEMPTION.*

(a) At any time prior to February 1, 2024, the Company may on any one or more occasions redeem up to 40% of the aggregate principal amount of Notes issued under the Indenture at a redemption price of 105.75% of the principal amount thereof, plus accrued and unpaid interest, if any, to the redemption date, with the net cash proceeds of a sale of common Equity Interests (other than Disqualified Stock) of the Company; provided, however, that:

(i) at least 60% of the aggregate principal amount of Notes originally issued under the Indenture (excluding Notes held by the Company and its Subsidiaries) remains outstanding immediately after the occurrence of such redemption; and

(ii) the redemption occurs within 90 days of the date of the closing of such sale of Equity Interests.

(b) At any time prior to February 1, 2024, the Company may also redeem all or a part of the Notes, upon not less than 10 nor more than 60 days' prior notice, at a redemption price equal to 100% of the principal amount of Notes to be redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to the applicable date of redemption, subject to the rights of Holders on the relevant record date to receive interest due on the relevant Interest Payment Date.

(c) Except pursuant to paragraphs (a) and (b) above and paragraph (e) below, the Notes will not be redeemable at the Company's option prior to February 1, 2024.

(d) On or after February 1, 2024, the Company may redeem all or a part of the Notes upon not less than 10 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest, if any, on the Notes redeemed to the applicable redemption date, if redeemed during the twelve-month period beginning on February 1 of the years indicated below, subject to the rights of Holders on the relevant record date to receive interest on the relevant Interest Payment Date:

Year	Percentage
2024	102.875%
2025	101.438%
2026 and thereafter	100.000%

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

(e) In the event that Holders of not less than 90% of the aggregate principal amount of the outstanding Notes validly tender and do not withdraw such notes in a Change of Control Offer, Asset Sale Offer or other tender offer and the Company (or a third party making the offer) purchases all of the Notes validly tendered and not withdrawn by such Holders, all of the Holders of the Notes that remain outstanding will be deemed to have consented to a redemption of the Notes on the terms set forth in this paragraph, and accordingly, the Company or third party offeror, as applicable, will have the right, upon not less than 10 nor more than 60 days' prior notice to the Holders and the Trustee, given not more than 30 days following the purchase pursuant to such offer described above, to redeem (in the case of the Company) or purchase (in the case of a third party offeror) all of the Notes that remain outstanding following such purchase at a redemption price or purchase price, as the case may be, equal to the price paid to each other Holder in such offer (which may be less than par) plus, to the extent not included in such price, accrued and unpaid interest on the Notes that remain outstanding, to but excluding the date of redemption (subject to the right of Holders of record on the relevant record date to receive interest due on an Interest Payment Date that is on or prior to the redemption date).

(6) *MANDATORY REDEMPTION.* The Company is not be required to make mandatory redemption or sinking fund payments with respect to the Notes.

(7) *REPURCHASE AT THE OPTION OF HOLDER.*

(a) Upon the occurrence of a Change of Control, each Holder of Notes will have the right to require the Company to make an offer (a "*Change of Control Offer*") to repurchase all or any part (equal to $2,000 or an integral multiple of $1,000 in excess thereof) of that Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest, if any, on the Notes repurchased to the date of purchase, subject to the rights of Holders on the relevant record date to receive interest due on the relevant Interest Payment Date (the "*Change of Control Payment*"). Within 30 days following any Change of Control, the Company will deliver (including by electronic means) a notice to each Holder, with a copy to the Trustee, describing the transaction or transactions that constitute the Change of Control as required by the Indenture.

(b) If the Company or a Guarantor consummates any Asset Sales, within five days of each date on which the aggregate amount of Excess Proceeds exceeds $10.0 million, the Company will commence an offer to all Holders of Notes and all holders of other Indebtedness

that is *pari passu* with the Notes containing provisions similar to those set forth in the Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets (an "*Asset Sale Offer*") pursuant to Section 3.09 and 4.10 of the Indenture to purchase the maximum principal amount of Notes (including any Additional Notes) and such other *pari passu* Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to percentages corresponding to the applicable optional redemption price in effect on the repurchase date, and for periods prior to February 1, 2024, the first optional redemption price of the principal amount plus accrued and unpaid interest, if any, to the date of purchase, and will be payable in cash, in accordance with the procedures set forth in the Indenture. To the extent that the aggregate amount of Notes (including any Additional Notes) and other *pari passu* Indebtedness tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company (or such Guarantor) may use such deficiency for any purpose not otherwise prohibited by the Indenture. If the aggregate principal amount of Notes and other *pari passu* Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee shall select the Notes and such other *pari passu* Indebtedness to be purchased on a *pro rata* basis. Holders of Notes that are the subject of an offer to purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Notes purchased by completing the form entitled "*Option of Holder to Elect Purchase*" attached to the Notes.

(8) *NOTICE OF REDEMPTION*. Notice of redemption will be delivered (including by electronic means) at least 10 days but not more than 60 days before the redemption date to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be delivered (including by electronic means) more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction or discharge of the Indenture. Notes in denominations larger than $2,000 may be redeemed in part but only in whole multiples of $1,000, unless all of the Notes held by a Holder are to be redeemed.

(9) *DENOMINATIONS*, *TRANSFER*, *EXCHANGE*. The Notes are in registered form without coupons in denominations of $2,000 and integral multiples of $1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part. Also, the Company need not exchange or register the transfer of any Notes for a period of 15 days before a selection of Notes to be redeemed or during the period between a record date and the corresponding Interest Payment Date.

(10) *PERSONS DEEMED OWNERS*. The registered Holder of a Note may be treated as its owner for all purposes.

(11) *AMENDMENT*, *SUPPLEMENT AND WAIVER*. Subject to the Intercreditor Agreement, the Indenture, the Notes, the Note Guarantees or the Collateral Documents may be amended or supplemented as provided in the Indenture and the Collateral Documents, as applicable.

(12) *DEFAULTS AND REMEDIES*. Events of Default and remedies in respect thereof are as provided in the Indenture.

(13) *TRUSTEE DEALINGS WITH COMPANY*. The Trustee, in its individual or any other capacity, may make loans to, accept deposits from, and perform services for the Company or its

Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

(14) *NO RECOURSE AGAINST OTHERS*. No past, present or future director, officer, employee, incorporator or stockholder of the Company or any of the Guarantors, as such, will not have any liability for any obligations of the Company or the Guarantors under the Notes, the Note Guarantees, the Collateral Documents or the Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

(15) *AUTHENTICATION*. This Note will not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

(16) *ABBREVIATIONS*. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN COM (= tenants in common), TEN ENT (= tenants by the entireties), JT TEN (= joint tenants with right of survivorship and not as tenants in common), CUST (= Custodian), and U/G/M/A (= Uniform Gifts to Minors Act).

(17) *CUSIP NUMBERS*. Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP numbers to be printed on the Notes, and the Trustee may use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption, and reliance may be placed only on the other identification numbers placed thereon.

(18) *GOVERNING LAW.* THE INTERNAL LAW OF THE STATE OF NEW YORK WILL GOVERN AND BE USED TO CONSTRUE THE INDENTURE, THIS NOTE AND THE NOTE GUARANTEES WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to:

Vector Group Ltd.
4400 Biscayne Blvd. 10th Floor Miami, Florida 33137 Attention:
Marc N. Bell, Esq.

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: __

(Insert assignee's legal name)

_____

(Insert assignee's soc. sec. or tax I.D. no.)

_____

_____

_____

_____

(Print or type assignee's name, address and zip code)

and irrevocably appoint __ to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: __

Your Signature: __

(Sign exactly as your name appears on the face of this Note)

Signature Guarantee*: __

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

Option of Holder to Elect Purchase

If you want to elect to have this Note purchased by the Company pursuant to Section 4.10 or 4.14 of the Indenture, check the appropriate box below:

Section 4.10 Section 4.14

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 4.10 or Section 4.14 of the Indenture, state the amount you elect to have purchased:

$__

Date: __

Your Signature: __
(Sign exactly as your name appears on the face of this Note)

Tax Identification No.: __

Signature Guarantee*: __

* Participant in a recognized Signature Guarantee Medallion Program (or other signature guarantor acceptable to the Trustee).

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL NOTE *

The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease (or increase)	Signature of authorized officer of Trustee or Custodian

* *This schedule should be included only if the Note is issued in global form.*

EXHIBIT B

FORM OF CERTIFICATE OF TRANSFER

[*Company address block*] [*Registrar address block*]

Re: 5.75 Senior Secured Notes due 2029

Reference is hereby made to the Indenture, dated as of January 28, 2021 (the "*Indenture*"), among Vector Group Ltd., as issuer (the "*Company*"), the Guarantors party thereto and U.S. Bank National Association, as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

___, (the "*Transferor*") owns and proposes to transfer the Note[s] or interest in such Note[s] specified in Annex A hereto, in the principal amount of $___in such Note[s] or interests (the "*Transfer*"), to_____(the "*Transferee*"), as further specified in Annex A hereto. In connection with the Transfer, the Transferor hereby certifies that:

[CHECK ALL THAT APPLY]

1. **Check if Transferee will take delivery of a beneficial interest in the 144A Global Note or a Restricted Definitive Note pursuant to Rule 144A**. The Transfer is being effected pursuant to and in accordance with Rule 144A under the Securities Act of 1933, as amended (the "*Securities Act*"), and, accordingly, the Transferor hereby further certifies that the beneficial interest or Definitive Note is being transferred to a Person that the Transferor reasonably believes is purchasing the beneficial interest or Definitive Note for its own account, or for one or more accounts with respect to which such Person exercises sole investment discretion, and such Person and each such account is a "qualified institutional buyer" within the meaning of Rule 144A in a transaction meeting the requirements of Rule 144A, and such Transfer is in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the 144A Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

2. **Check if Transferee will take delivery of a beneficial interest in the Regulation S Global Note or a Restricted Definitive Note pursuant to Regulation S**. The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and, accordingly, the Transferor hereby further certifies that (i) the Transfer is not being made to a Person in the United States and (x) at the time the buy order was originated, the Transferee was outside the United States or such Transferor and any Person acting on its behalf reasonably believed and believes that the Transferee was outside the United States or (y) the transaction was executed in, on or through the facilities of a designated offshore securities market and neither such Transferor nor any Person acting on its behalf knows that the transaction was prearranged with a buyer in the United States, (ii) no directed selling efforts have been made in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S under the Securities Act; (iii) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act and (iv) if the proposed transfer is being made prior to the expiration of the Restricted Period, the transfer is not being made to a U.S. Person or for the account or benefit of a
U.S. Person (other than an Initial Purchaser). Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the

restrictions on Transfer enumerated in the Private Placement Legend printed on the Regulation S Global Note and/or the Restricted Definitive Note and in the Indenture and the Securities Act.

3. **Check and complete if Transferee will take delivery of a beneficial interest in the IAI Global Note or a Restricted Definitive Note pursuant to any provision of the Securities Act other than Rule 144A or Regulation S**. The Transfer is being effected in compliance with the transfer restrictions applicable to beneficial interests in Restricted Global Notes and Restricted Definitive Notes and pursuant to and in accordance with the Securities Act and any applicable blue sky securities laws of any state of the United States, and accordingly the Transferor hereby further certifies that (check one):

(a) such Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act;

or

(b) such Transfer is being effected to the Company or a subsidiary thereof;

or

(c) such Transfer is being effected pursuant to an effective registration statement under the Securities Act and in compliance with the prospectus delivery requirements of the Securities Act;

or

(d) such Transfer is being effected to an Institutional Accredited Investor and pursuant to an exemption from the registration requirements of the Securities Act other than Rule 144A, Rule 144, Rule 903 or Rule 904, and the Transferor hereby further certifies that it has not engaged in any general solicitation within the meaning of Regulation D under the Securities Act and the Transfer complies with the transfer restrictions applicable to beneficial interests in a Restricted Global Note or Restricted Definitive Notes and the requirements of the exemption claimed, which certification is supported by (1) a certificate executed by the Transferee in the form of Exhibit D to the Indenture and (2) if such Transfer is in respect of a principal amount of Notes at the time of transfer of less than $250,000, an Opinion of Counsel provided by the Transferor or the Transferee (a copy of which the Transferor has attached to this certification), to the effect that such Transfer is in compliance with the Securities Act. Upon consummation of the proposed transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the IAI Global Note and/or the Restricted Definitive Notes and in the Indenture and the Securities Act.

4. **Check if Transferee will take delivery of a beneficial interest in an Unrestricted Global Note or of an Unrestricted Definitive Note**.

(a) **Check if Transfer is pursuant to Rule 144**. (i) The Transfer is being effected pursuant to and in accordance with Rule 144 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private

Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(b) **Check if Transfer is Pursuant to Regulation S**. (i) The Transfer is being effected pursuant to and in accordance with Rule 903 or Rule 904 under the Securities Act and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any state of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will no longer be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes, on Restricted Definitive Notes and in the Indenture.

(c) **Check if Transfer is Pursuant to Other Exemption**. (i) The Transfer is being effected pursuant to and in compliance with an exemption from the registration requirements of the Securities Act other than Rule 144, Rule 903 or Rule 904 and in compliance with the transfer restrictions contained in the Indenture and any applicable blue sky securities laws of any State of the United States and (ii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act. Upon consummation of the proposed Transfer in accordance with the terms of the Indenture, the transferred beneficial interest or Definitive Note will not be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Global Notes or Restricted Definitive Notes and in the Indenture.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

_____

[Insert Name of Transferor]

By:____ Name:
Title:

Dated: __

ANNEX A TO CERTIFICATE OF TRANSFER

1. The Transferor owns and proposes to transfer the following:

[CHECK ONE OF (a) OR (b)]

(a) a beneficial interest in the:

(i) 144A Global Note (CUSIP__), or

(ii) Regulation S Global Note (CUSIP__), or

(iii) IAI Global Note (CUSIP__); or

(b) a Restricted Definitive Note.

2. After the Transfer the Transferee will hold:

[CHECK ONE]

(a) a beneficial interest in the:

(i) 144A Global Note (CUSIP__), or

(ii) Regulation S Global Note (CUSIP__), or

(iii) IAI Global Note (CUSIP__); or

(iv) Unrestricted Global Note (CUSIP__); or

(b) a Restricted Definitive Note; or

(c) an Unrestricted Definitive Note,

in accordance with the terms of the Indenture.

FORM OF CERTIFICATE OF EXCHANGE

[*Company address block*] [*Registrar address block*]

Re: 5.75% Senior Secured Notes due 2029

(CUSIP__)

Reference is hereby made to the Indenture, dated as of January 28, 2021 (the "*Indenture*"), among Vector Group Ltd. as issuer (the "*Company*"), the Guarantors party thereto and U.S. Bank National Association as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

__, (the "*Owner*") owns and proposes to exchange the Note[s] or interest in such Note[s] specified herein, in the principal amount of $__in such Note[s] or interests (the "*Exchange*"). In connection with the Exchange, the Owner hereby certifies that:

1. **Exchange of Restricted Definitive Notes or Beneficial Interests in a Restricted Global Note for Unrestricted Definitive Notes or Beneficial Interests in an Unrestricted Global Note**

(a) **Check if Exchange is from beneficial interest in a Restricted Global Note to beneficial interest in an Unrestricted Global Note**. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a beneficial interest in an Unrestricted Global Note in an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Global Notes and pursuant to and in accordance with the Securities Act of 1933, as amended (the "*Securities Act*"), (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the beneficial interest in an Unrestricted Global Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(b) **Check if Exchange is from beneficial interest in a Restricted Global Note to Unrestricted Definitive Note**. In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(c) **Check if Exchange is from Restricted Definitive Note to beneficial interest in an Unrestricted Global Note**. In connection with the Owner's Exchange of a Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and

(iv) the beneficial interest is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

(d) **Check if Exchange is from Restricted Definitive Note to Unrestricted Definitive Note**. In connection with the Owner's Exchange of a Restricted Definitive Note for an Unrestricted Definitive Note, the Owner hereby certifies (i) the Unrestricted Definitive Note is being acquired for the Owner's own account without transfer, (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to Restricted Definitive Notes and pursuant to and in accordance with the Securities Act, (iii) the restrictions on transfer contained in the Indenture and the Private Placement Legend are not required in order to maintain compliance with the Securities Act and (iv) the Unrestricted Definitive Note is being acquired in compliance with any applicable blue sky securities laws of any state of the United States.

2. **Exchange of Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes for Restricted Definitive Notes or Beneficial Interests in Restricted Global Notes**

(a) **Check if Exchange is from beneficial interest in a Restricted Global Note to Restricted Definitive Note.** In connection with the Exchange of the Owner's beneficial interest in a Restricted Global Note for a Restricted Definitive Note with an equal principal amount, the Owner hereby certifies that the Restricted Definitive Note is being acquired for the Owner's own account without transfer. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the Restricted Definitive Note issued will continue to be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the Restricted Definitive Note and in the Indenture and the Securities Act.

(b) **Check if Exchange is from Restricted Definitive Note to beneficial interest in a Restricted Global Note**. In connection with the Exchange of the Owner's Restricted Definitive Note for a beneficial interest in the [CHECK ONE] 144A Global Note, Regulation S Global Note, IAI Global Note with an equal principal amount, the Owner hereby certifies (i) the beneficial interest is being acquired for the Owner's own account without transfer and (ii) such Exchange has been effected in compliance with the transfer restrictions applicable to the Restricted Global Notes and pursuant to and in accordance with the Securities Act, and in compliance with any applicable blue sky securities laws of any state of the United States. Upon consummation of the proposed Exchange in accordance with the terms of the Indenture, the beneficial interest issued will be subject to the restrictions on transfer enumerated in the Private Placement Legend printed on the relevant Restricted Global Note and in the Indenture and the Securities Act.

This certificate and the statements contained herein are made for your benefit and the benefit of the Company.

[Insert Name of Transferor]

By:____ Name:
Title:

Dated: __

FORM OF CERTIFICATE FROM ACQUIRING INSTITUTIONAL ACCREDITED INVESTOR

[*Company address block*] [*Registrar address block*]

Re: 5.75% Senior Secured Notes due 2029

Reference is hereby made to the Indenture, dated as of January 28, 2021 (the "Indenture"), among Vector Group Ltd. as issuer (the "Company"), the Guarantors party thereto and U.S. Bank National Association as trustee. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed purchase of $__aggregate principal amount of:

(a) a beneficial interest in a Global Note, or

(b) a Definitive Note, we confirm that:

1. We understand that any subsequent transfer of the Notes or any interest therein is subject to certain restrictions and conditions set forth in the Indenture and the undersigned agrees to be bound by, and not to resell, pledge or otherwise transfer the Notes or any interest therein except in compliance with, such restrictions and conditions and the Securities Act of 1933, as amended (the "*Securities Act*").

2. We understand that the offer and sale of the Notes have not been registered under the Securities Act, and that the Notes and any interest therein may not be offered or sold except as permitted in the following sentence. We agree, on our own behalf and on behalf of any accounts for which we are acting as hereinafter stated, that if we should sell the Notes or any interest therein, we will do so only (A) to the Company or any subsidiary thereof, (B) in accordance with Rule 144A under the Securities Act to a "qualified institutional buyer" (as defined therein), (C) to an institutional "accredited investor" (as defined below) that, prior to such transfer, furnishes (or has furnished on its behalf by a U.S. broker-dealer) to you and to the Company a signed letter substantially in the form of this letter and, if such transfer is in respect of a principal amount of Notes, at the time of transfer of less than $250,000, an Opinion of Counsel in form reasonably acceptable to the Company to the effect that such transfer is in compliance with the Securities Act, (D) outside the United States in accordance with Rule 904 of Regulation S under the Securities Act, (E) pursuant to the provisions of Rule 144(k) under the Securities Act or (F) pursuant to an effective registration statement under the Securities Act, and we further agree to provide to any Person purchasing the Definitive Note or beneficial interest in a Global Note from us in a transaction meeting the requirements of clauses (A) through (E) of this paragraph a notice advising such purchaser that resales thereof are restricted as stated herein.

3. We understand that, on any proposed resale of the Notes or beneficial interest therein, we will be required to furnish to you and the Company such certifications, legal opinions and other information as you and the Company may reasonably require to confirm that the proposed sale complies with the foregoing restrictions. We further understand that the Notes purchased by us will bear a legend to the foregoing effect.

4. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) and have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we and any accounts for which we are acting are each able to bear the economic risk of our or its investment.

5. We are acquiring the Notes or beneficial interest therein purchased by us for our own account or for one or more accounts (each of which is an institutional "accredited investor") as to each of which we exercise sole investment discretion.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

_____

[Insert Name of Accredited Investor]

By:____ Name:
Title:

Dated: __

[FORM OF NOTATION OF GUARANTEE]

For value received, each Guarantor (which term includes any successor Person under the Indenture) has, jointly and severally, unconditionally guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture dated as of January 28, 2021 (the "*Indenture*") among Vector Group Ltd. (the "*Company*"), the Guarantors party thereto and U.S. Bank National Association as trustee (the "*Trustee*"), (a) the due and punctual payment of the principal of, premium, if any, and interest on, the Notes, whether at maturity, by acceleration, redemption or otherwise, the due and punctual payment of interest on overdue principal of and interest on the Notes, if any, if lawful, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee all in accordance with the terms of the Indenture and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Note Guarantee and the Indenture are expressly set forth in Article 11 of the Indenture and reference is hereby made to the Indenture for the precise terms of the Note Guarantee. Capitalized terms used but not defined herein have the meanings given to them in the Indenture.

[NAME OF GUARANTOR(S)]

By:____ Name:
Title:

[FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT GUARANTORS]

SUPPLEMENTAL INDENTURE (this "*Supplemental Indenture*"), dated as of____, 20_, among___(the "*Guaranteeing Subsidiary*"), a subsidiary of Vector Group Ltd. (or its permitted successor), a Delaware corporation (the "*Company*"), the Company, the other Guarantors (as defined in the Indenture referred to herein) and__, as trustee under the Indenture referred to below (the "*Trustee*").

W I T N E S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the "*Indenture*"), dated as of January 28, 2021 providing for the issuance of 5.75% Senior Secured Notes due 2029 (the "*Notes*");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "*Note Guarantee*"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in the Note Guarantee and in the Indenture including Article 11 thereof.

4. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guaranteeing Subsidiary, as such, shall have any liability for any obligations of the Company or any Guaranteeing Subsidiary under the Notes, any Note Guarantees, the Collateral Documents, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.

5. NEW YORK LAW TO GOVERN. THE INTERNAL LAW OF THE STATE OF NEW YORK SHALL GOVERN AND BE USED TO CONSTRUE THIS SUPPLEMENTAL INDENTURE WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

6. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

7. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

8. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated:__, 20__

[GUARANTEEING SUBSIDIARY]

By:____ Name:
Title:

VECTOR GROUP LTD.

By:____ Name:
Title:

[EXISTING GUARANTORS]

By:____ Name:
Title:

[TRUSTEE],
as Trustee

By:____ Authorized Signatory

Exhibit 4.2

PLEDGE AGREEMENT

DATED JANUARY 28, 2021

between

VGR HOLDING LLC

and

U.S. BANK NATIONAL ASSOCIATION

as Collateral Agent

CONTENTS

Clause Page

THIS AGREEMENT (this "**Agreement**") is dated January 28, 2021

BETWEEN:

(1) **VGR HOLDING LLC**, a Delaware limited liability company, as pledgor (the "**Pledgor**"); and

(2) **U.S. BANK NATIONAL ASSOCIATION**, as collateral agent for the Noteholders under the Indenture described below (in this capacity, the "**Collateral Agent**").

BACKGROUND:

The Pledgor enters into this Agreement in connection with the Indenture, dated January 28, 2021 (as amended, supplemented, or otherwise modified from time to time, the "**Indenture**"), by and among Vector Group Ltd. ("**Vector Group**"), the Guarantors party thereto and U.S. Bank National Association, as trustee (together with any successor in such capacity, the "**Trustee**"). Pursuant to the Indenture, Vector Group is issuing Notes and Pledgor is guaranteeing the Notes as provided in the Indenture. Pledgor now wishes to secure its obligations under the Indenture by entering into this Agreement.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement:

"**Finance Documents**" means the Indenture, all Notes issued from time to time under the Indenture, this Agreement and all other pledges, security agreements, control agreements and other agreements and documents entered into the connection with the transactions contemplated by the Indenture.

"**Guarantors**" means the Pledgor and the other guarantors under the Indenture. "**Issuer**" means each of Liggett Group and Vector Tobacco.

"**Liggett Group**" means Liggett Group LLC, a Delaware limited liability company. "**Note**" means any note issued from time to time under the Indenture.

"**Noteholder**" means any Person which from time to time is the holder of a Note. "**Obligors**" means Vector Group, the Pledgor and the other Guarantors. "**Pledged Collateral**" means:

(a) the Pledged Equity Interests;

(b) all additional shares, securities, and interests in either Issuer, and all warrants, rights, and options to purchase or receive shares, securities, or interests in either Issuer, in which the Pledgor at any time has or obtains any interest;

(c) all management rights, all voting rights and any interest in any capital account of Pledgor in either Issuer;

(d) all dividends, interest, revenues, income, distributions, and proceeds of any kind, whether cash, instruments, securities, or other property, received by or distributable to the Pledgor in respect of, or in exchange for, the Pledged Equity Interests or any other Pledged Collateral; and

(e) to the extent not listed above as original Pledged Collateral, proceeds and products of, and accessions to, each of the above assets.

"**Pledged Equity Interests**" means all equity interests in the Issuers, which equity interests as they exist on the date hereof are described in Schedule I (Pledged Equity Interests) to this Agreement.

"**Secured Liabilities**" means each liability and obligation specified in Clause 2 (Secured Liabilities).

"**Secured Parties**" means the Trustee, the Collateral Agent, the Paying Agent, the Registrar and the Noteholders.

"**Security**" means any security interest created by this Agreement.

"**Security Period**" means the period beginning on the date of this Agreement and ending on the date on which all the Secured Liabilities have been indefeasibly, unconditionally and irrevocably paid and discharged in full (other than in respect of contingent obligations for which no claim has been asserted). The Security Period will be extended to take into account any extension or reinstatement of this Agreement under Clause 3.2(b) (General).

"**UCC**" means the Uniform Commercial Code as in effect from time to time in the State of New York.

"**Vector Tobacco**" means Vector Tobacco Inc., a Virginia corporation.

1.2 Construction

(a) Any term defined in the UCC and not defined in this Agreement has the meaning given to that term in the UCC.

(b) Any term defined in the Indenture and not defined in this Agreement or the UCC has the meaning given to that term in the Indenture.

(c) No reference to "**proceeds**" in this Agreement authorizes any sale, transfer or other disposition of Collateral by the Pledgor that is not permitted by the Indenture.

(d) In this Agreement, unless the contrary intention appears, a reference to:

(i) an "**amendment**" includes a supplement, novation, restatement or re-enactment and "**amended**" will be construed accordingly;

(ii) a Clause, a Subclause or a Schedule is a reference to a Clause or Subclause of, or a Schedule to, this Agreement;

(iii) a law is a reference to that law as amended or re-enacted and to any successor law;

(iv) an agreement is a reference to that agreement as amended;

(v) "**fraudulent transfer law**" means any applicable U.S. Bankruptcy Law or state fraudulent transfer or conveyance statute, and the related case law; and

(vi) "**law**" includes any law, statute, regulation, regulatory requirement, rule, ordinance, ruling, decision, treaty, directive, order, guideline, regulation, policy, writ, judgment, injunction or request of any court or other governmental, inter-governmental or supranational body, officer or official, fiscal or monetary authority, or other ministry or public entity (and their interpretation, administration and application), whether or not having the force of law.

(e) In this Agreement:

(i) "**includes**" and "**including**" are not limiting;

(ii) "**or**" is not exclusive; and

(iii) the headings are for convenience only, do not constitute part of this Agreement and are not to be used in construing it.

2. SECURED LIABILITIES

2.1 Secured Liabilities

Each obligation and liability whether:

(a) present or future, actual, contingent or unliquidated; or

(b) owed jointly or severally (or in any other capacity whatsoever),

of the Pledgor to any Noteholder, the Trustee, the Paying Agent, the Registrar or the Collateral Agent under or in connection with each Finance Document is a Secured Liability.

2.2 Specification of Secured Liabilities

The Secured Liabilities include any liability or obligation for:

(a) repayment of the principal of any Note;

(b) payment of interest and any other amount payable under the Finance Documents;

(c) payment and performance of all other obligations and liabilities of any Obligor under the Finance Documents;

(d) payment of any amount owed under any amendment, modification, renewal, extension or novation of any of the above obligations; and

(e) payment of any amount that arises after a petition is filed by, or against, any Obligor under the U.S. Bankruptcy Code of 1978 even if the obligations do not accrue because of the automatic stay under Section 362 of the U.S. Bankruptcy Code of 1978 or otherwise.

3. CREATION OF PLEDGE AND SECURITY

3.1 Security interest

As security for the prompt and complete payment and performance of the Secured Liabilities when due (whether due because of stated maturity, acceleration, mandatory prepayment, or otherwise) and to induce the Noteholders to purchase the Notes, the Pledgor pledges to the Collateral Agent for the benefit of the Secured Parties, and grants to the Collateral Agent for the benefit of the Secured Parties a continuing security interest in, the Pledgor's right, title and interest in and to the Pledged Collateral.

3.2 General

(a) All the Security created under this Agreement:

(i) is continuing security for the irrevocable and indefeasible payment in full of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part;

(ii) is in addition to, and not in any way prejudiced by, any other security now or subsequently held by the Collateral Agent.

(b) If, at any time for any reason (including the bankruptcy, insolvency, receivership, reorganization, dissolution or liquidation of any Obligor or the appointment of any receiver, intervenor or conservator of, or agent or similar official for, any

Obligor or any of their respective properties), any payment received by the Collateral Agent or any Noteholder in respect of the Secured Liabilities is rescinded or avoided or must otherwise be restored or returned by the Collateral Agent or any Noteholder, that payment will not be considered to have been made for purposes of this Agreement, and this Agreement will continue to be effective or will be reinstated, if necessary, as if that payment had not been made.

(c) This Agreement is enforceable against the Pledgor to the maximum extent permitted by the fraudulent transfer laws.

4. PERFECTION AND FURTHER ASSURANCES

4.1 General perfection

The Pledgor shall take, at its own expense, promptly, and in any event within any applicable time limit:

(a) whatever action is necessary; and

(b) any action that the Collateral Agent may reasonably require,

to ensure that the Security is, as of the date the Notes are first issued under the Indenture, and will continue to be until the end of the Security Period, a validly created, attached, enforceable and perfected first priority continuing security interest in the Pledged Collateral, subject to no Liens other than Permitted Liens, in all relevant jurisdictions, securing payment and performance of the Secured Liabilities.

Such actions include the giving of any notice, order or direction, the making of any filing or registration, the passing of any resolution and the execution and delivery of any documents or agreements that the Collateral Agent may reasonably require.

4.2 Delivery of certificates

(a) The Pledgor represents and warrants that it has delivered to the Collateral Agent (or as directed by the Collateral Agent) in the State of New York all original certificates and instruments evidencing or representing the Pledged Equity Interests existing on the date of this Agreement.

(b) The Pledgor shall deliver to the Collateral Agent (or as directed by the Collateral Agent) in the State of New York, promptly upon receipt, all original certificates and instruments evidencing or representing any Pledged Collateral arising or acquired by the Pledgor after the date of this Agreement.

(c) The Pledgor shall cause all Pledged Collateral delivered under this Agreement to be either:

(i) duly endorsed and in suitable form for transfer by delivery; or

(ii) accompanied by undated instruments of transfer endorsed in blank, as directed by the Collateral Agent, and in form and substance reasonably satisfactory to the Collateral Agent.

(d) Until the end of the Security Period, the Collateral Agent shall hold (directly or through an agent) all certificates, instruments, and stock powers delivered to it.

4.3 Filing of financing statements

(a) The Pledgor authorizes the Collateral Agent to prepare and file, at the Pledgor's expense:

(i) financing statements describing the Pledged Collateral;

(ii) continuation statements; and

(iii) any amendment in respect of those statements.

(b) Promptly after filing an initial financing statement in respect of the Pledged Collateral, the Pledgor must provide the Collateral Agent with an official report from the Secretary of State of the State of Delaware indicating that the Collateral Agent's security interest in the Pledged Collateral is prior to all other security interests or other interests reflected in the report, other than Permitted Prior Liens.

4.4 Communication with Issuers

The Pledgor authorizes the Collateral Agent at any time and from time to time to communicate with the Issuers with regard to any matter relating to any Pledged Collateral.

4.5 Further assurances

(a) The Pledgor shall take, at its own expense, promptly, and in any event within any applicable time limit, whatever action may reasonably be required under the Indenture or this Agreement for:

(i) creating, attaching, perfecting and protecting, and maintaining the priority of, any security interest intended to be created by this Agreement;

(ii) facilitating the enforcement of the Security or the exercise of any right, power or discretion exercisable by the Collateral Agent or any of its delegates or sub-delegates in respect of any of the Pledged Collateral;

(iii) obtaining possession and control of any Pledged Collateral; and

(iv) facilitating the assignment or transfer of any rights and/or obligations of the Collateral Agent under this Agreement.

Such actions include the execution and delivery of any transfer, assignment or other agreement or document, whether to the Collateral Agent or its nominee, that the Collateral Agent may reasonably require.

(b) The Pledgor irrevocably constitutes and appoints the Collateral Agent, with full power of substitution, as the Pledgor's true and lawful attorney-in-fact, in the Pledgor's name or in the Collateral Agent's name or otherwise, and at the Pledgor's expense, to take any of the actions referred to in paragraph (a) above without notice to or the consent of the Pledgor. This power of attorney is a power coupled with an interest and cannot be revoked. The Pledgor ratifies and confirms all actions taken by the Collateral Agent or its agents under this power of attorney.

5. REPRESENTATIONS AND WARRANTIES

5.1 Representations and warranties

The representations and warranties set out in this Clause are made by the Pledgor to the Collateral Agent and each Noteholder.

5.2 The Pledgor

(a) It is organized under the laws of the State of Delaware.

(b) Its exact legal name, as it appears in the public records of its jurisdiction of incorporation or organization, is VGR Holding LLC. It has not changed its name, whether by amendment of its organizational documents, reorganization, merger or otherwise, in the past five years.

(c) Its organizational identification number, as issued by its jurisdiction of organization is 3097262.

(d) It keeps at its address indicated in Clause 16 (Notices), or at the addresses of the Issuers indicated in Clause 5.3(a), its corporate records and all records, documents and instruments constituting, relating to or evidencing Pledged Collateral, except for the Pledged Collateral delivered to the Collateral Agent in compliance with Clause 4.2 (Delivery of certificates).

5.3 The Pledged Collateral

(a) Liggett Group keeps at its address at 100 Maple Lane, Mebane, North Carolina 27302 and Vector Tobacco keeps at its address at 3800 Paramount Parkway, Suite 250, PO Box 2010, Morrisville, NC 27560 their respective corporate records, stock ledger and all of their respective records, documents and instruments relating to or evidencing the applicable Pledged Collateral.

(b) The Pledged Equity Interests have been duly authorized and are validly issued, fully-paid and non-assessable.

(c) The Pledged Equity Interests constitute all of the issued and outstanding equity or ownership interests in the Issuers, and there are no other equity or ownership interests in the Issuers, options or rights to acquire or subscribe for any such interests, or securities or instruments convertible into or exchangeable or exercisable for any such interests.

(d) The Pledged Equity Interests are "securities" under Article 8 of the UCC and are represented by certificates, all of which have been delivered to the Collateral Agent.

(e) Except as permitted under the Indenture:

(i) it is the sole legal and beneficial owner of, and has the power to transfer and grant a security interest in, the Pledged Equity Interests and all other Pledged Collateral now in existence;

(ii) none of the Pledged Collateral is subject to any Lien other than the Collateral Agent's security interest and other Permitted Liens;

(iii) it has not agreed or committed to sell, assign, pledge, transfer, license, lease or encumber any of the Pledged Collateral, or granted any option, warrant, or right with respect to any of the Pledged Collateral; and

(iv) no effective mortgage, deed of trust, financing statement, security agreement or other instrument similar in effect is on file or of record with respect to any Pledged Collateral, except for those that create, perfect or evidence the Collateral Agent's security interest and other Permitted Liens.

(f) No litigation, arbitration or administrative proceedings are current or pending or, to its knowledge, threatened, involving or affecting the Pledged Collateral, and none of the Pledged Collateral is subject to any order, writ, injunction, execution or attachment, in each case, that would reasonably be expected to have a material adverse effect on the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement.

(g) None of the Pledged Collateral constitutes "margin stock" within the meaning of Regulation U or X issued by the Board of Governors of the United States Federal Reserve System.

5.4 No liability

Except, in each case, as would not reasonably be expected to adversely affect the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement in any material respect:

(a) its rights, interests, liabilities and obligations under contractual obligations that constitute part of the Pledged Collateral are not affected by this Agreement or the exercise by the Collateral Agent of its rights under this Agreement;

(b) neither the Collateral Agent nor any Noteholder, unless it expressly agrees in writing, will have any liabilities or obligations under any contractual obligation that constitutes part of the Pledged Collateral as a result of this Agreement, the exercise by the Collateral Agent of its rights under this Agreement or otherwise; and

(c) neither the Collateral Agent nor any Noteholder has or will have any obligation to collect upon or enforce any contractual obligation or claim that constitutes part of the Pledged Collateral, or to take any other action with respect to the Pledged Collateral.

5.5 Consideration and solvency

(a) Terms used in this Subclause have the meanings given to them in, and must be construed in accordance with, the fraudulent transfer laws.

(b) It will receive valuable direct and indirect benefits as a result of the transactions financed by the issuance of the Notes and these benefits constitute "reasonably equivalent value" and "fair consideration" as those terms are used in the fraudulent transfer laws.

(c) To the best of its knowledge, the Secured Parties have acted in good faith in connection with the transactions contemplated by this Agreement.

(d) The sum of its debts (including its obligations under this Agreement) is less than the value of its property (calculated at the lesser of fair valuation and present fair saleable value).

(e) Its capital is not unreasonably small to conduct its business as currently conducted or as proposed to be conducted.

(f) It has not incurred, does not intend to incur and does not believe it will incur debts beyond its ability to pay as they mature.

(g) It has not made a transfer or incurred an obligation under this Agreement with the intent to hinder, delay or defraud any of its present or future creditors.

5.6 Times for making representations and warranties

(a) The representations and warranties set out in this Agreement (including in this Clause 5) are made on the date of this Agreement.

(b) The representations and warranties under Clause 5.5 are deemed to be repeated by the Pledgor on the date of each issuance of Notes under the Indenture with reference to the facts and circumstances then existing.

(c) When representations and warranties are repeated, they are applied to the circumstances existing at the time of repetition.

(d) The representations and warranties of the Pledgor contained in this Agreement or made by the Pledgor in any certificate, notice or report delivered under this Agreement will survive each issuance of Notes and any transfer or assignment of the Notes.

6. UNDERTAKINGS

6.1 Undertakings

The Pledgor agrees to be bound by the covenants set out in this Clause.

6.2 The Pledgor

(a) Except as permitted under the Indenture, the Pledgor shall preserve its limited liability company existence and will not, except as permitted by the Indenture, in one transaction or a series of related transactions, merge into or consolidate with any other entity, or sell all or substantially all of its assets.

(b) The Pledgor shall not change the jurisdiction of its organization without providing the Collateral Agent with at least 10 days' prior written notice.

(c) The Pledgor shall not change its name without providing the Collateral Agent with at least 10 days' prior written notice.

(d) The Pledgor shall keep at its address indicated in, or otherwise notified to the Collateral Agent pursuant to, Clause 16 (Notices), or at the addresses of the Issuers indicated in Clause 5.3(a), its corporate records and all records, documents and instruments constituting, relating to or evidencing Pledged Collateral, except for the Pledged Collateral delivered to the Collateral Agent in compliance with Clause 4.2 (Delivery of certificates).

(e) The Pledgor shall permit the Collateral Agent and its agents and representatives, at mutually agreed times during normal business hours and upon reasonable notice, to inspect the Pledged Collateral, to examine and make copies of and abstracts from the records referred to in paragraph (d) above, and to discuss matters relating to the Pledged Collateral directly with the Pledgor's officers and employees.

(f) At the Collateral Agent's request, the Pledgor shall provide the Collateral Agent with any information concerning the Collateral that the Collateral Agent may reasonably request.

6.3 The Pledged Collateral

(a) The Pledgor shall cause the Issuers to keep and maintain, at their respective addresses indicated in Clause 5.3(a) (The Pledged Collateral) their respective corporate records and all of their respective records, documents and instruments constituting, relating to, or evidencing the applicable Pledged Collateral. The Pledgor agrees to cause the Issuers to permit the Collateral Agent and its agents and representatives, at mutually agreed times during normal business hours and upon reasonable notice, to examine and make copies of and abstracts from the records and stock ledgers and to discuss matters relating to the Issuers and its records directly with the Issuers' officers and employees.

(b) Except as permitted by the Indenture or this Agreement, the Pledgor:

(i) shall maintain sole legal and beneficial ownership of the Pledged Collateral;

(ii) shall not permit any Pledged Collateral to be subject to any Lien other than the Collateral Agent's security interest and other Permitted Liens and shall at all times warrant and defend the Collateral Agent's security interest in the Pledged Collateral against all other Liens (other than Permitted Liens) and claimants;

(iii) shall not sell, assign, transfer, pledge, license, lease or further encumber, or grant any option, warrant, or right with respect to, any of the Pledged Collateral, or agree or contract to do any of the foregoing; and

(iv) shall not waive, amend or terminate, in whole or in part, any material accessory or ancillary right or other right in respect of any Pledged Collateral.

(c) The Pledgor shall pay, prior to delinquency, all material taxes, assessments and governmental levies imposed on or in respect of Pledged Collateral and all claims against the Pledged Collateral, including claims for labor, materials and supplies, in each case, except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Collateral Agent.

(d) In any suit, legal action, arbitration or other proceeding involving the Pledged Collateral or the Collateral Agent's security interest, the Pledgor shall take all lawful action to avoid impairment of the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement or the imposition of a Lien (other than Permitted Liens) on any of the Pledged Collateral.

(e) Except as permitted by the Indenture or this Agreement, the Pledgor shall not permit either Issuer to cancel or change the terms of the Pledged Equity Interests, or authorize, create or issue any additional shares of capital stock or ownership interests in either Issuer; *provided that* the Pledgor may convert Vector Tobacco

from a corporation to a limited liability company so long as (1) the Issuer gives the Collateral Agent at least 10 days prior written notice of such conversion, (2) the resulting limited liability company is formed under the laws of a State in the United States, (3) the limited liability company or operating agreement of the resulting limited liability company expressly provides that all equity interests in such resulting limited liability company are "securities" under Article 8 of the UCC and are represented by certificates, (4) promptly following such conversion the Pledgor delivers to the Collateral Agent in New York certificates representing all membership or other equity or ownership interests in the converted entity, together with stock powers or the equivalent executed by the Pledgor in blank and in form and substance reasonably satisfactory to the Collateral Agent, (5) the Issuer agrees, in documentation reasonably satisfactory to the Collateral Agent, that such equity interests are subject to the Collateral Agent's security interest and to the terms of this Agreement, and (6) an appropriate financing statement or amendment to the existing financing statement is promptly filed in the appropriate office or offices, so as to perfect and/or continue to perfect the Collateral Agent's security interest. The Pledgor shall ensure that at all times the operating agreement of Liggett Group provides that all equity interests in Liggett Group are "securities" under Article 8 of the UCC and are represented by certificates. The Pledgor shall not effect or permit any change of control of either Issuer, except as permitted by the Indenture.

(f) The Pledgor shall take no action, and shall not permit either Issuer to take any action, that could cause any of the Pledged Collateral to constitute "margin stock" within the meaning of Regulation U or X issued by the Board of Governors of the United States Federal Reserve System.

6.4 Notices

(a) The Pledgor shall give the Collateral Agent prompt notice of the occurrence of any of the following events:

(i) any pending or threatened claim, suit, legal action, arbitration or other proceeding involving or affecting the Pledgor, either Issuer or any Pledged Collateral that would reasonably be expected to materially impair the Collateral Agent's security interest or, the Collateral Agent's rights under this Agreement or result in the imposition of a Lien (other than Permitted Liens) on any Pledged Collateral; or

(ii) any representation or warranty contained in this Agreement is or becomes untrue, incorrect or incomplete in any material respect.

(b) Each notice delivered under this Clause, must include:

(i) reasonable details about the event; and

(ii) the Pledgor's proposed course of action.

Delivery of a notice under this Clause does not affect the Pledgor's obligations to comply with any other term of this Agreement.

7. WHEN SECURITY BECOMES ENFORCEABLE

Subject to the terms of the Indenture, this Security may be enforced by the Collateral Agent at any time after an Event of Default has occurred and is continuing.

8. ENFORCEMENT OF SECURITY

8.1 [Reserved]

8.2 General

(a) After this Security has become enforceable, the Collateral Agent may immediately, in its absolute discretion, exercise any right under:

(i) applicable law; or

(ii) this Agreement,

to enforce all or any part of the Security in respect of any Pledged Collateral in any manner or order it sees fit.

(b) The foregoing includes:

(i) any rights and remedies available to the Collateral Agent under applicable law and under the UCC (whether or not the UCC applies to the affected Pledged Collateral and regardless of whether or not the UCC is the law of the jurisdiction where the rights or remedies are asserted) as if those rights and remedies were set forth in this Agreement in full;

(ii) transferring or assigning to, or registering in the name of, the Collateral Agent or its nominees any of the Pledged Collateral;

(iii) exercising any voting, consent, management and other rights relating to any Pledged Collateral;

(iv) performing or complying with any contractual obligation that constitutes part of the Pledged Collateral;

(v) receiving, endorsing, negotiating, executing and delivering or collecting upon any check, draft, note, account, acceptance, instrument, document, letter of credit, contract, agreement, receipt, release, bill of lading, invoice, endorsement, assignment, bill of sale, deed, security, share certificate, stock power, proxy, or instrument of conveyance or transfer constituting or relating to any Pledged Collateral;

(vi) asserting, instituting, filing, defending, settling, compromising, adjusting, discounting or releasing any suit, action, claim, counterclaim, right of set- off or other right or interest relating to any Pledged Collateral;

(vii) executing and delivering acquittances, receipts and releases in respect of Pledged Collateral; and

(viii) exercising any other right or remedy available to the Collateral Agent under the other Finance Documents or any other agreement between the parties.

8.3 Dividend and voting rights

(a) So long as payment of the Secured Liabilities has not been accelerated (whether automatically or otherwise), the Pledgor will be entitled to exercise all voting and other consensual rights with respect to the Pledged Collateral for any purpose not inconsistent with the terms of the Finance Documents and to receive and retain all dividends and other payments in respect of the Pledged Collateral to the extent permitted by the Finance Documents.

(b) Upon the acceleration of the payment of the Secured Liabilities (whether automatically or otherwise), all rights of the Pledgor to exercise voting and other consensual rights with respect to the Pledged Collateral and to receive dividends and other payments in respect of the Pledged Collateral will cease, and all these rights will immediately become vested solely in the Collateral Agent or its nominees, and the Pledgor grants the Collateral Agent or its nominees the Pledgor's irrevocable and unconditional proxy for this purpose. After the acceleration of the payment of the Secured Liabilities (whether automatically or otherwise), any dividends and other payments in respect of the Pledged Collateral received by the Pledgor will be held in trust for the Collateral Agent, and the Pledgor shall keep all such amounts separate and apart from all other funds and property so as to be capable of identification as the property of the Collateral Agent and will deliver these amounts at such time as the Collateral Agent may request to the Collateral Agent in the identical form received, properly endorsed or assigned if required to enable the Collateral Agent to complete collection.

8.4 Collateral Agent's rights upon default

(a) The Pledgor irrevocably constitutes and appoints the Collateral Agent, with full power of substitution, as the Pledgor's true and lawful attorney-in-fact, in the Pledgor's name or in the Collateral Agent's name or otherwise, and at the Pledgor's expense, to take any of the actions authorized by this Agreement or permitted under applicable law upon the occurrence and during the continuation of an Event of Default, without notice to or the consent of the Pledgor. This power of attorney is a power coupled with an interest and cannot be revoked. The Pledgor ratifies and confirms all actions taken by the Collateral Agent or its agents under this power of attorney.

(b) The Pledgor agrees that 10 days' notice shall constitute reasonable notice in connection with any sale, transfer or other disposition of Pledged Collateral.

(c) The Collateral Agent may comply with any applicable state or federal law requirements in connection with a disposition of Pledged Collateral and compliance will not be considered adversely to affect the commercial reasonableness of any sale of Pledged Collateral.

(d) The grant to the Collateral Agent under this Agreement of any right, power or remedy does not impose upon the Collateral Agent any duty to exercise that right, power or remedy. The Collateral Agent will have no obligation to take any steps to preserve any claim or other right against any Person or with respect to any Pledged Collateral.

(e) The Pledgor bears the risk of loss, damage, diminution in value, or destruction of the Pledged Collateral.

(f) The Collateral Agent will have no responsibility for any act or omission of any courier, bailee, broker, bank, investment bank or any other Person chosen by it with reasonable care.

(g) The Collateral Agent makes no express or implied representations or warranties with respect to any Pledged Collateral or other property released to the Pledgor or its successors and assigns.

(h) The Pledgor agrees that the Collateral Agent will have met its duty of care under applicable law if it holds, maintains and disposes of Pledged Collateral in the same manner that it holds, maintains and disposes of property for its own account.

(i) Except as set forth in this Clause or as required under applicable law, the Collateral Agent will have no duties or obligations under this Agreement or otherwise with respect to the Pledged Collateral.

(j) The sale, transfer or other disposition under this Agreement of any right, title, or interest of the Pledgor in any item of Pledged Collateral will:

(i) operate to divest the Pledgor permanently and all Persons claiming under or through the Pledgor of that right, title, or interest, and

(ii) be a perpetual bar, both at law and in equity, to any claims by the Pledgor or any Person claiming under or through the Pledgor

with respect to that item of Pledged Collateral.

8.5 No Marshaling

(a) The Collateral Agent need not, and the Pledgor irrevocably waives and agrees that it shall not invoke or assert any law requiring the Collateral Agent to:

(i) attempt to satisfy the Secured Liabilities by collecting them from any other Person liable for them; or

(ii) marshal any security or guarantee securing payment or performance of the Secured Liabilities or any particular asset of the Pledgor.

(b) The Collateral Agent may release, modify or waive any collateral or guarantee provided by any other Person to secure any of the Secured Liabilities, without affecting the Collateral Agent's rights against the Pledgor.

9. APPLICATION OF PROCEEDS

Any moneys received in connection with the Pledged Collateral by the Collateral Agent after this Security has become enforceable shall be applied in the following order of priority:

(a) **first**, in or towards payment of or provision for all costs and expenses incurred by the Collateral Agent in connection with the enforcement of this Security;

(b) **second**, in or towards payment of, or provision for, the Secured Liabilities; and

(c) **third**, in payment of the surplus (if any) to the Pledgor or any other Person entitled to it under applicable law.

This Clause is subject to the payment of any claims having priority over this Security under mandatory provisions of applicable law. This Clause does not prejudice the right of any Noteholder to recover any shortfall from the Pledgor.

10. EXPENSES AND INDEMNITY

(a) The Pledgor shall pay promptly on demand to the Collateral Agent all reasonable and documented costs and expenses incurred by the Collateral Agent, any Noteholder, attorney, manager, delegate, sub-delegate, agent or other Person appointed by the Collateral Agent under this Agreement for the purpose of enforcing its rights under this Agreement. Such costs and expenses may include:

(i) costs of foreclosure and of any transfer, disposition or sale of Pledged Collateral;

(ii) costs of maintaining or preserving the Pledged Collateral or assembling it or preparing it for transfer, disposition or sale;

(iii) costs of obtaining money damages; and

(iv) fees and expenses of attorneys employed by the Collateral Agent for any purpose related to this Agreement or the Secured Liabilities, including consultation, preparation and negotiation of any amendment or

restructuring, drafting documents, sending notices or instituting, prosecuting or defending litigation or arbitration.

(b) The Pledgor shall indemnify and keep indemnified the Secured Parties and their respective affiliates, directors, officers, representatives and agents from and against all claims, liabilities, obligations, losses, damages, penalties, judgments, costs and expenses of any kind (including attorney's fees and expenses) that may be imposed on, incurred by or asserted against any of them by any Person (including any Noteholder) in any way relating to or arising out of:

(i) this Agreement;

(ii) the Pledged Collateral;

(iii) the Collateral Agent's security interest in the Pledged Collateral;

(iv) any Event of Default;

(v) any action taken or omitted by the Collateral Agent under this Agreement or any exercise or enforcement of rights or remedies under this Agreement; or

(vi) any transfer sale or other disposition of or any realization on Pledged Collateral.

(c) The Pledgor shall not be liable to an indemnified party to the extent any liability results from that indemnified party's gross negligence or willful misconduct. Payment by an indemnified party will not be a condition precedent to the obligations of the Pledgor under this indemnity.

(d) This Clause survives the issuance of the Notes, the repayment of the Notes, any transfer or assignment of the Notes and the termination of this Agreement.

11. EVIDENCE AND CALCULATIONS

In the absence of manifest error, the records of the Collateral Agent shall be conclusive evidence of the existence and the amount of the Secured Liabilities.

12. CHANGES TO THE PARTIES

12.1 Pledgor

The Pledgor may not assign, delegate or transfer any of its rights or obligations under this Agreement without the consent of the Collateral Agent, and any purported assignment, delegation or transfer in violation of this provision shall be void and of no effect.

12.2 Collateral Agent

The Collateral Agent may assign or transfer its rights and obligations under this Agreement in the manner permitted under the Indenture.

12.3 Successors and assigns

This Agreement shall be binding on and inure to the benefit of the respective successors and permitted assigns of the Pledgor and the Collateral Agent.

13. MISCELLANEOUS

13.1 Amendments and waivers

Any term of this Agreement may be amended or waived only by the written agreement of the Pledgor and the Collateral Agent.

13.2 Waivers and remedies cumulative

(a) The rights and remedies of the Collateral Agent under this Agreement:

(i) may be exercised as often as necessary;

(ii) are cumulative and not exclusive of its rights under applicable law; and

(iii) may be waived only in writing and specifically.

(b) Delay in exercising, or non-exercise, of any right or remedy under this Agreement is not a waiver of that right or remedy.

13.3 Counterparts

This Agreement may be executed in counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement. The words “execution,” “executed,” “signed,” “signature,” “delivery” and words of like import in or relating to this Agreement or any document to be signed in connection with this Agreement shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

14. SEVERABILITY

If any term of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that will not affect:

(a) the legality, validity or enforceability in that jurisdiction of any other term of this Agreement; or

(b) the legality, validity or enforceability in any other jurisdiction of that or any other term of this Agreement.

15. RELEASE

At the end of the Security Period and at the other times provided in the Indenture, the Security hereunder will be released in accordance with the Indenture and the Collateral Agent must, at the request and cost of the Pledgor, promptly take whatever action is necessary to release all or any applicable part of the Pledged Collateral from this Security in accordance with the terms of the Indenture.

16. NOTICES

16.1 Notices

Any communication in connection with this Agreement must be given in writing and, unless otherwise stated, must be given in person, by first class mail (registered or certified, return receipt requested), overnight courier guaranteeing next day delivery, or by fax.

16.2 Contact Details

(a) The contact details of the Pledgor for this purpose are: Address: 4400 Biscayne Boulevard, 10th Floor
Miami, FL 33137
Fax: (305) 579-8016
Attention: Marc N. Bell

(b) The contact details of the Collateral Agent for this purpose are: Address: U.S. Bank National Association
Global Corporate Trust Services 60 Livingston Avenue
EP-MN-WS3C
St. Paul, MN 55107-2292
Fax: (651) 466-7430
Attention: Joshua A. Hahn

(c) Either party may change its contact details by giving five Business Days' notice to the other party.

(d) Where a party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

16.3 Effectiveness

(a) Except as provided below, any communication in connection with this Agreement will be deemed to be given as follows:

(i) if delivered in person, at the time of delivery;

(ii) if by e-mail or fax, when sent with confirmation of transmission.

(b) A communication given under this Clause but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

17. GOVERNING LAW

This Agreement, the relationship between the Pledgor, the Secured Parties and any claim or dispute (whether sounding in contract, tort, statute or otherwise) relating to this Agreement or that relationship shall be governed by and construed in accordance with law of the State of New York, including section 5-1401 of the New York General Obligations Law but excluding any other conflict of law rules that would lead to the application of the law of another jurisdiction. If the law of a jurisdiction other than New York is, under section 1-105(2) of the UCC, mandatorily applicable to the perfection, priority or enforcement of any security interest granted under this Agreement in respect of any part of the Pledged Collateral, that other law shall apply solely to the matters of perfection, priority or enforcement to which it is mandatorily applicable.

18. ENFORCEMENT

18.1 Jurisdiction

(a) Each of the Parties agrees that any New York State court or Federal court sitting in the City and County of New York has jurisdiction to settle any disputes in connection with this Agreement and accordingly submits to the jurisdiction of those courts.

(b) Each of the Parties:

(i) waives objection to the New York State and Federal courts on grounds of personal jurisdiction, inconvenient forum or otherwise as regards proceedings in connection with this Agreement; and

(ii) agrees that a judgment or order of a New York State or Federal court in connection with this Agreement is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

(c) Nothing in this Clause limits the right of the Collateral Agent or any Noteholder to bring proceedings against the Pledgor in connection with this Agreement:

(i) in any other court of competent jurisdiction; or

(ii) concurrently in more than one jurisdiction.

18.2 Service of Process

The Pledgor consents to the service of process relating to any proceedings by a notice given in accordance with Clause 16 (Notices) above.

18.3 Complete Agreement

This Agreement and the other Finance Documents contain the complete agreement between the parties on the matters to which they relate and supersede all prior commitments, agreements and understandings, whether written or oral, on those matters.

18.4 Waiver of Jury Trial

THE PLEDGOR AND THE COLLATERAL AGENT (FOR ITSELF AND ON BEHALF OF THE NOTEHOLDERS) WAIVE ANY RIGHTS THEY MAY HAVE TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED ON OR ARISING FROM THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

The undersigned, intending to be legally bound, have executed and delivered this Agreement on the date stated at the beginning of this Agreement.

SIGNATORIES

IN WITNESS WHEREOF, the Pledgor has caused this Pledge Agreement to be duly executed by its duly authorized officer as of the day and year first above written.

Pledgor

VGR HOLDING LLC

By: /s/ James B. Kirkland III Name: James B. Kirkland III

Title: Vice President, Treasurer and Chief Finaal Officer

Collateral Agent

U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

By: /s/ Joshua A. Hahn Name: Joshua A. Hahn Title: Vice

President

SCHEDULE 1 PLEDGED EQUITY INTERESTS

Name	Certificate No.	No. of Shares/ % of Membership Interests
LIGGETT GROUP LLC	1	100% of membership interests
VECTOR TOBACCO INC.	1	100 shares

Exhibit 4.3

SECURITY AGREEMENT

DATED JANUARY 28, 2021

between VECTOR TOBACCO INC.
and

U.S. BANK NATIONAL ASSOCIATION as Collateral Agent

CONTENTS

Clause Page

THIS AGREEMENT is dated January 28, 2021

BETWEEN:

(1) **VECTOR TOBACCO INC.**, a Virginia corporation, as grantor (the "**Grantor**"); and

(2) **U.S. BANK NATIONAL ASSOCIATION**, as collateral agent for the Noteholders under the Indenture described below (in this capacity, the "**Collateral Agent**").

BACKGROUND:

The Grantor enters into this Agreement in connection with the Indenture, dated January 28, 2021 (as amended, supplemented, or otherwise modified from time to time, the "**Indenture**"), by and among Vector Group Ltd. ("**Vector Group**"), the Guarantors party thereto and U.S. Bank National Association, as trustee (together with any successor in such capacity, the "**Trustee**"). Pursuant to the Indenture, Vector Group is issuing Notes and the Grantor is guaranteeing the Notes as provided in the Indenture. The Grantor now wishes to secure its obligations under the Indenture by entering into this Agreement.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions
In this Agreement:

The term "**Collateral**" means all personal property, wherever located, in which the Grantor now has or later acquires any right, title or interest, including all:

(a) accounts and chattel paper;

(b) goods (including equipment, inventory and fixtures);

(c) health-care-insurance receivables;

(d) instruments (including promissory notes);

(e) documents;

(f) letter-of-credit rights;

(g) general intangibles (including payment intangibles and software);

(h) the commercial tort claims described in Schedule 1 (Commercial Tort Claims);

(i) supporting obligations;

(j) Intellectual Property (together with the right to sue or otherwise recover for past, present and future infringement, misappropriation, dilution or other violation or

impairment thereof, and all proceeds of the foregoing, including license fees, royalties, income, payments, claims, damages and proceeds of suit) and Intellectual Property Licenses; and

(k) to the extent not listed above as Collateral, proceeds and products of, and accessions to, each of the above assets.

The term "**Collateral**" excludes (i) any property, right or interest in which a security interest may not be granted under applicable law, (ii) any equity interest of the Grantor in any Affiliate of the Grantor, (iii) any equipment to the extent a grant of a security interest in such equipment would be precluded by or require a consent under the terms and conditions of any existing or future purchase money or other financing of such equipment permitted under the terms of the Indenture, (iv) any intent-to-use trademark application prior to the filing of a "Statement of Use" or "Amendment to Allege Use" with respect thereto, to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of such intent-to- use trademark application or any registration that issues therefrom under applicable federal law, (v) any aircraft, aircraft engines or motor vehicles, (vi) any deposit accounts, (vii) any cash (other than any identifiable proceeds of Collateral), (viii) any investment property and (ix) any Excluded Assets.

"**Copyright Licenses**" means any and all agreements providing for the granting of any right in or to Copyrights or otherwise providing for a covenant not to sue (whether the Grantor is licensee or licensor thereunder) including each Exclusive Copyright License referred to in Schedule 2 under the heading "Copyright Licenses" (as such schedule may be amended or supplemented from time to time).

"**Copyrights**" means all United States copyrights (including Community designs), including copyrights in software and databases, and all Mask Works (as defined under 17
U.S.C. 901 of the U.S. Copyright Act), whether registered or unregistered, including: (a) all registrations and applications therefor including, the registrations and applications required to be listed in Schedule 2 under the heading "Copyrights" (as such schedule may be amended or supplemented from time to time) and (b) all extensions and renewals thereof.

"**Finance Documents**" means the Indenture, all Notes issued from time to time under the Indenture, this Agreement and all other pledges, security agreements, control agreements and other agreements and documents entered into in connection with the transactions contemplated by the Indenture.

"**First Priority Debt**" has the meaning given to that term in the Intercreditor Agreement. "**Guarantors**" means the Grantor

and the other guarantors under the Indenture.

"**Intellectual Property**" means, collectively, all intellectual property and proprietary rights, including Copyrights, Patents, Trademarks and Trade Secrets.

"**Intellectual Property Licenses**" means, collectively, all agreements providing for the granting of any right in or to any Intellectual Property (whether the Grantor is licensee or licensor thereunder), including the Copyright Licenses, the Patent Licenses, the Trademark Licenses and the Trade Secret Licenses.

"**Intercreditor Agreement**" means the Second Amended and Restated Intercreditor and Lien Subordination Agreement, dated January 28, 2021, between Wells Fargo Bank, National Association, as agent, the Collateral Agent, Liggett Group LLC, 100 Maple LLC and each other party from time to time party thereto, as amended, supplemented, or otherwise modified from time to time.

"**Note**" means any note issued from time to time under the Indenture. "**Noteholder**" means any Person that

from time to time is the holder of a Note. "**Obligors**" means Vector Group and the Guarantors.

"**Patent Licenses**" means any and all agreements providing for the granting of any right in or to Patents or otherwise providing for a covenant not to sue under Patents (whether the Grantor is licensee or licensor thereunder).

"**Patents**" means all United States patents and certificates of invention, or similar industrial property rights, and applications for any of the foregoing, including: (a) each patent and patent application required to be listed in Schedule 2 hereto under the heading "Patents" (as such schedule may be amended or supplemented from time to time) and (b) all reissues, divisions, continuations, continuations-in-part, extensions, renewals, and reexaminations thereof and (c) all inventions and improvements described therein.

"**Priority Liens**" means the Liens securing the First Priority Debt.

"**Secured Liabilities**" means each liability and obligation specified in Clause 2 (Secured Liabilities).

"**Secured Parties**" means the Trustee, the Collateral Agent, the Paying Agent, the Registrar and the Noteholders.

"**Security**" means any security interest created by this Agreement.

"**Security Period**" means the period beginning on the date of this Agreement and ending on the date on which all the Secured Liabilities have been indefeasibly, unconditionally and irrevocably paid and discharged in full (other than in respect of contingent obligations for which no claim has been asserted). The Security Period will be extended to take into account any extension or reinstatement of this Agreement under Clause 3.2(b) (General).

"**Trademark Licenses**" means any and all agreements providing for the granting of any right in or to Trademarks or permitting co-existence with respect to Trademarks (whether the Grantor is licensee or licensor thereunder).

"**Trademarks**" means all United States trademarks, trade names, corporate names, company names, business names, fictitious business names, Internet domain names, service marks, certification marks, collective marks, logos, or other source or business identifiers, and all registrations and applications for any of the foregoing including: (a) the registrations and applications required to be listed in Schedule 2 under the heading "Trademarks" (as such schedule may be amended or supplemented from time to time), (b) all extensions and renewals of any of the foregoing and (c) all of the goodwill of the business connected with the use of and symbolized by the foregoing.

"**Trade Secret Licenses**" means any and all agreements providing for the granting of any right in or to Trade Secrets or otherwise providing for a covenant not to sue under Trade Secrets (whether the Grantor is licensee or licensor thereunder).

"**Trade Secrets**" means all trade secrets and all other confidential proprietary information and know-how, whether or not reduced to a writing or other tangible form.

"**UCC**" means the Uniform Commercial Code as in effect from time to time in the State of New York.

1.2 Construction

(a) Any term defined in the UCC and not defined in this Agreement has the meaning given to that term in the UCC.

(b) Any term defined in the Indenture and not defined in this Agreement or the UCC has the meaning given to that term in the Indenture.

(c) No reference to "**proceeds**" in this Agreement authorizes any sale, transfer or other disposition of Collateral by the Grantor that is not permitted by the Indenture.

(d) In this Agreement, unless the contrary intention appears, a reference to:

(i) an "**amendment**" includes a supplement, novation, restatement or re- enactment and "**amended**" will be construed accordingly;

(ii) a Clause, a Subclause, an Exhibit or a Schedule is a reference to a Clause or Subclause of, or an Exhibit or Schedule to, this Agreement;

(iii) a law is a reference to that law as amended or re-enacted and to any successor law;

(iv) an agreement is a reference to that agreement as amended;

(v) "**fraudulent transfer law**" means any applicable U.S. Bankruptcy Law or state fraudulent transfer or conveyance statute, and the related case law; and

(vi) "**law**" includes any law, statute, regulation, regulatory requirement, rule, ordinance, ruling, decision, treaty, directive, order, guideline, regulation, policy, writ, judgment, injunction or request of any court or other

governmental, inter-governmental or supranational body, officer or official, fiscal or monetary authority, or other ministry or public entity (and their interpretation, administration and application), whether or not having the force of law.

(e) In this Agreement:

(i) "**includes**" and "**including**" are not limiting;

(ii) "**or**" is not exclusive; and

(iii) the headings are for convenience only, do not constitute part of this Agreement and are not to be used in construing it.

2. SECURED LIABILITIES

2.1 Secured Liabilities
Each obligation and liability whether:

(a) present or future, actual, contingent or unliquidated; or

(b) owed jointly or severally (or in any other capacity whatsoever),

of the Grantor to any Noteholder, the Trustee, the Paying Agent, the Registrar or the Collateral Agent under or in connection with each Finance Document is a Secured Liability.

2.2 Specification of Secured Liabilities
The Secured Liabilities include any liability or obligation for:

(a) repayment of the principal of any Note;

(b) payment of interest and any other amount payable under the Finance Documents;

(c) payment and performance of all other obligations and liabilities of any Obligor under the Finance Documents;

(d) payment of any amount owed under any amendment, modification, renewal, extension or novation of any of the above obligations; and

(e) payment of any amount that arises after a petition is filed by, or against, any Obligor under the U.S. Bankruptcy Code of 1978 even if the obligations do not accrue because of the automatic stay under Section 362 of the U.S. Bankruptcy Code of 1978 or otherwise.

3. CREATION OF SECURITY

3.1 Security Interest

As security for the prompt and complete payment and performance of the Secured Liabilities when due (whether due because of stated maturity, acceleration, mandatory prepayment, or otherwise) and to induce the Noteholders to purchase the Notes, the Grantor grants to the Collateral Agent for the benefit of the Secured Parties a continuing security interest in the Grantor's right, title and interest in and to the Collateral.

3.2 General

(a) All the Security created under this Agreement:

(i) is continuing security for the irrevocable and indefeasible payment in full of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part;

(ii) is in addition to, and not in any way prejudiced by, any other security now or subsequently held by the Collateral Agent.

(b) If, at any time for any reason (including the bankruptcy, insolvency, receivership, reorganization, dissolution or liquidation of any Obligor or the appointment of any receiver, intervenor or conservator of, or agent or similar official for, any Obligor or any of their respective properties), any payment received by the Collateral Agent or any Noteholder in respect of the Secured Liabilities is rescinded or avoided or must otherwise be restored or returned by the Collateral Agent or any Noteholder, that payment will not be considered to have been made for purposes of this Agreement, and this Agreement will continue to be effective or will be reinstated, if necessary, as if that payment had not been made.

(c) This Agreement is enforceable against the Grantor to the maximum extent permitted by the fraudulent transfer laws.

4. PERFECTION AND FURTHER ASSURANCES

4.1 General perfection

The Grantor shall take, at its own expense, promptly, and in any event within any applicable time limit:

(a) whatever action is necessary; and

(b) any action that the Collateral Agent may reasonably require,

to ensure that the Security is, as of the date the Notes are first issued under the Indenture, and will continue to be until the end of the Security Period, a validly created, attached, enforceable and perfected continuing security interest in the U.S. Collateral, to the extent such security interest can be perfected by the filing of financing statements and short-form security interests as described in Sections 4.2 and 4.3, subject to no Liens other than Permitted Liens and subject in priority to no Liens other than Permitted Prior Liens, in all relevant jurisdictions, securing payment and performance of the Secured Liabilities.

This includes the giving of any notice, order or direction, the making of any filing or registration, the passing of any resolution and the execution and delivery of any documents or agreements which the Collateral Agent may reasonably require.

4.2 Filing of financing statements

(a) The Grantor authorizes the Collateral Agent to prepare and file, at the Grantor's expense:

(i) financing statements describing the Collateral as "all assets" or "all personal property" or words of similar effect, of the Grantor, whether now owned or hereafter existing or acquired by the Grantor;

(ii) continuation statements; and

(iii) any amendment in respect of those statements.

(b) Promptly after filing an initial financing statement in respect of the Collateral, the Grantor must provide the Collateral Agent with an official report from the Secretary of State of the Commonwealth of Virginia indicating that the Collateral Agent's security interest in the Collateral provided by the Grantor is prior to all other security interests or other interests reflected in the report, other than Permitted Prior Liens.

4.3 Intellectual Property Recording Requirements.

(a) In the case of any Collateral consisting of U.S. Patents that are issued by or subject to a pending application before the U.S. Patent and Trademark Office and owned by the Grantor, the Grantor shall execute and deliver to the Collateral Agent a Patent Security Agreement in substantially the form of Exhibit 1 hereto (or a supplement thereto) covering all such Patents, in appropriate form for recordation with the U.S. Patent and Trademark Office with respect to the security interest of the Collateral Agent.

(b) In the case of any Collateral consisting of U.S. Trademarks that are registered with or subject to a pending application before the U.S. Patent and Trademark Office and owned by the Grantor, the Grantor shall execute and deliver to the Collateral Agent a Trademark Security Agreement in substantially the form of Exhibit 2 hereto (or a supplement thereto) covering all such Trademarks in appropriate form for recordation with the U.S. Patent and Trademark Office with respect to the security interest of the Collateral Agent.

(c) In the case of any Collateral consisting of registered U.S. Copyrights registered with the U.S. Copyright Office and owned by the Grantor, and Copyright Licenses in respect of U.S. Copyrights registered with the U.S. Copyright Office for which the Grantor is the exclusive licensee ("Exclusive Copyright Licenses"), the Grantor shall execute and deliver to the Collateral Agent a Copyright Security Agreement in substantially the form of Exhibit 3 hereto (or a supplement thereto) covering all such Copyrights and Exclusive Copyright Licenses in appropriate form for

recordation with the U.S. Copyright Office with respect to the security interest of the Collateral Agent.

4.4 Further assurances

(a) The Grantor shall take, at its own expense, promptly, and in any event within any applicable time limit, whatever action may reasonably be required under the Indenture or this Agreement for:

(i) creating, attaching, perfecting and protecting, and maintaining the priority of, any security interest intended to be created by this Agreement;

(ii) facilitating the enforcement of the Security or the exercise of any right, power or discretion exercisable by the Collateral Agent or any of its delegates or sub-delegates in respect of any Collateral; and

(iii) facilitating the assignment or transfer of any rights and/or obligations of the Collateral Agent under this Agreement.

Such actions include the execution and delivery of any transfer, assignment or other agreement or document, whether to the Collateral Agent or its nominee, that the Collateral Agent may reasonably require.

(b) The Grantor irrevocably constitutes and appoints the Collateral Agent, with full power of substitution, as the Grantor's true and lawful attorney-in-fact, in the Grantor's name or in the Collateral Agent's name or otherwise, and at the Grantor's expense, to take any of the actions referred to in paragraph (a) above without notice to or the consent of the Grantor. This power of attorney is a power coupled with an interest and cannot be revoked. The Grantor ratifies and confirms all actions taken by the Collateral Agent or its agents under this power of attorney.

5. REPRESENTATIONS AND WARRANTIES

Representations and warranties

The representations and warranties set out in this Clause are made by the Grantor to the Collateral Agent and each Noteholder.

5.1 The Grantor

(a) It is incorporated or organized under the laws of the state indicated in the preamble to this Agreement.

(b) Its exact legal name, as it appears in the public records of its jurisdiction of incorporation or organization, is as stated in the preamble to this Agreement. It has not changed its name, whether by amendment of its organizational documents, reorganization, merger or otherwise, in the past five years.

(c) Its organizational identification number, as issued by its jurisdiction of incorporation is 0469701-7.

(d) It keeps at its address indicated in Clause 16 (Notices) its corporate records and all records, documents and instruments constituting, relating to or evidencing Collateral.

5.2 The Collateral

(a) Except as permitted under the Indenture:

(i) it is the sole legal and beneficial owner of, and has the power to transfer and grant a security interest in, the Collateral;

(ii) none of the Collateral is subject to any Lien other than the Collateral Agent's security interest and other Permitted Liens;

(iii) it has not agreed or committed to sell, assign, pledge, transfer, lease or grant any Lien (other than Permitted Liens) on any of the Collateral, or granted any option, warrant or right with respect to any of the Collateral; and

(iv) no effective mortgage, deed of trust, financing statement, security agreement or other instrument similar in effect is on file or of record with respect to any Collateral, except for those that create, perfect or evidence the Collateral Agent's security interest and other Permitted Liens.

(b) No litigation, arbitration or administrative proceedings are current or pending or, to its knowledge, threatened, involving or affecting the Collateral, and none of the Collateral is subject to any order, writ, injunction, execution or attachment, in each case, that would reasonably be expected to have a material adverse effect on the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement.

5.3 No liability

Except, in each case, as would not reasonably be expected to adversely affect the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement in any material respect:

(a) its rights, interests, liabilities and obligations under contractual obligations that constitute part of the Collateral are not affected by this Agreement or the exercise by the Collateral Agent of its rights under this Agreement;

(b) neither the Collateral Agent nor any Noteholder, unless it expressly agrees in writing, will have any liabilities or obligations under any contractual obligation that constitutes part of the Collateral as a result of this Agreement, the exercise by the Collateral Agent of its rights under this Agreement or otherwise; and

(c) neither the Collateral Agent nor any Noteholder has or will have any obligation to collect upon or enforce any contractual obligation or claim that constitutes part of the Collateral, or to take any other action with respect to the Collateral.

5.4 Consideration and solvency

(a) Terms used in this Subclause have the meanings given to them in, and must be construed in accordance with, the fraudulent transfer laws.

(b) It will receive valuable direct and indirect benefits as a result of the transactions financed by the issuance of the Notes and these benefits constitute "reasonably equivalent value" and "fair consideration" as those terms are used in the fraudulent transfer laws.

(c) To the best of its knowledge, the Secured Parties have acted in good faith in connection with the transactions contemplated by this Agreement.

(d) The sum of its debts (including its obligations under this Agreement) is less than the value of its property (calculated at the lesser of fair valuation and present fair saleable value).

(e) Its capital is not unreasonably small to conduct its business as currently conducted or as proposed to be conducted.

(f) It has not incurred, does not intend to incur and does not believe it will incur debts beyond its ability to pay as they mature.

(g) It has not made a transfer or incurred an obligation under this Agreement with the intent to hinder, delay or defraud any of its present or future creditors.

5.5 Intellectual Property

(a) Schedule 2 (as such schedule may be amended or supplemented from time to time) lists all registered Copyrights and applications therefor, issued Patents and Patent applications and all registered Trademarks and applications therefor, in each case owned or purported to be owned by the Grantor, and to its knowledge (i) the Grantor is the sole and exclusive owner of the entire right, title, and interest in and to all Intellectual Property listed on Schedule 2 (as such schedule may be amended or supplemented from time to time), and (ii) owns or has the valid right to use and, where the Grantor does so, sublicense others to use, all other Intellectual Property used in and necessary to conduct its business, in each case, free and clear of all Liens except for Permitted Liens.

(b) All Intellectual Property material to its business and owned by the Grantor is subsisting and has not been adjudged invalid or unenforceable, in whole or in part, nor are any Patents owned by the Grantor and material to its business the subject of a reexamination proceeding, and the Grantor has performed all acts and has paid all renewal, maintenance, and other fees and taxes required to maintain each and every registration and application of Copyrights, Patents and Trademarks owned by the Grantor and material to its business in full force and effect.

(c) (i) To the knowledge of the Grantor, all Intellectual Property material to its business and owned by the Grantor is valid and enforceable; and (ii) no action or proceeding is pending or, to the best of the Grantor's knowledge, threatened before any court or administrative authority challenging the validity or scope of, the Grantor's right

to register, or the Grantor's rights to own or use, any Intellectual Property material to its business.

(d) All registrations and applications for Copyright registrations, Patents and Trademark registrations material to the Grantor's business and owned or purported to be owned by the Grantor are standing in the name of the Grantor.

(e) The Grantor uses commercially reasonable standards of quality in the manufacture, distribution, and sale of all products sold and in the provision of all services rendered under or in connection with all Trademarks owned by the Grantor and material to its business, and has taken commercially reasonable actions to ensure that all licensees of the Trademarks owned by the Grantor and material to its business use adequate standards of quality.

(f) To the best of the Grantor's knowledge, the conduct of the Grantor's business does not infringe upon or misappropriate or otherwise violate any trademark, patent, copyright, trade secret or other intellectual property right of any other Person in any manner that is or would reasonably be expected to be material to its business; except as would not reasonably be expected to be material, no unresolved claim has been asserted in writing against Grantor asserting that the Grantor infringes upon, misappropriates or otherwise violates the intellectual property rights of any other Person, or otherwise demanding that the Grantor enter into a license or co-existence agreement.

(g) To the best of the Grantor's knowledge, no other Person is infringing upon, misappropriating or otherwise violating any rights in any Intellectual Property owned by the Grantor in a manner that would reasonably be expected to be material to the Grantor's business.

(h) No settlement or consents, covenants not to sue, co-existence agreements, non- assertion assurances, or releases have been entered into by the Grantor or bind the Grantor in a manner that could adversely affect in any material respect the Grantor's rights to own, license or use any Intellectual Property material to its business.

5.6 Times for making representations and warranties

(a) The representations and warranties set out in this Agreement (including in this Clause 5) are made on the date of this Agreement.

(b) The representations and warranties under Clause 5.5 are deemed to be repeated by the Grantor on the date of each issuance of Notes under the Indenture with reference to the facts and circumstances then existing.

(c) When representations and warranties are repeated, they are applied to the circumstances existing at the time of repetition.

(d) The representations and warranties of the Grantor contained in this Agreement or made by the Grantor in any certificate, notice or report delivered under this

Agreement will survive each issuance of Notes and any transfer or assignment of the Notes.

6. UNDERTAKINGS

Undertakings
The Grantor agrees to be bound by the covenants set out in this Clause.

6.1 The Grantor

(a) Except as permitted under the Indenture, the Grantor shall preserve its corporate or limited liability company existence and will not, except as permitted by the Indenture, in one transaction or a series of related transactions, merge into or consolidate with any other entity, or sell all or substantially all of its assets.

(b) The Grantor shall not change the jurisdiction of its incorporation or organization without providing the Collateral Agent with at least 10 days' prior written notice.

(c) The Grantor shall not change its name without providing the Collateral Agent with at least 10 days' prior written notice.

(d) The Grantor shall keep at its address indicated in, or otherwise notified to the Collateral Agent pursuant to, Clause 16 (Notices) its corporate records and all records, documents and instruments constituting, relating to or evidencing Collateral.

(e) The Grantor shall permit the Collateral Agent and its agents and representatives, at mutually agreed times during normal business hours and upon reasonable notice, to inspect the Collateral, to examine and make copies of and abstracts from the records referred to in paragraph (d) above, and to discuss matters relating to the Collateral directly with the Grantor's officers and employees.

(f) At the Collateral Agent's request, the Grantor shall provide the Collateral Agent with any information concerning the Collateral that the Collateral Agent may reasonably request.

6.2 The Collateral

(a) Except as permitted by the Indenture or this Agreement, the Grantor:

(i) shall maintain sole legal and beneficial ownership of the Collateral;

(ii) shall not permit any Collateral to be subject to any Lien other than the Collateral Agent's security interest and other Permitted Liens and shall at all times warrant and defend the Collateral Agent's security interest in the Collateral against all other Liens (other than Permitted Liens) and claimants;

(iii) shall not sell, assign, transfer, pledge, license, lease or further encumber, or grant any option, warrant, or right with respect to, any of the Collateral, or agree or contract to do any of the foregoing; and

(iv) shall not waive, amend or terminate, in whole or in part, any material accessory or ancillary right or other right in respect of any Collateral.

(b) The Grantor shall pay, prior to delinquency, all material taxes, assessments and governmental levies imposed on or in respect of Collateral and all claims against the Collateral, including claims for labor, materials and supplies, in each case, except such as are contested in good faith and by appropriate proceedings or where the failure to effect such payment is not adverse in any material respect to the Collateral Agent.

(c) In any suit, legal action, arbitration or other proceeding involving the Collateral or the Collateral Agent's security interest, the Grantor shall take all lawful action to avoid impairment of the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement or the imposition of a Lien (other than Permitted Liens) on any Collateral.

6.3 Intellectual Property

(a) It shall not do any act or omit to do any act whereby any of the Intellectual Property which is owned by and material to the business of the Grantor may lapse, or become abandoned, dedicated to the public, or unenforceable, or which would adversely affect the validity, grant, or enforceability of the security interest granted therein (except, in each case, to the extent such action or inaction is deemed advisable in the Grantor's reasonable business judgment).

(b) It shall not, with respect to any Trademarks owned by the Grantor and material to its business, cease the use of any of such Trademarks or fail to maintain the level of the quality of products sold and services rendered under any of such Trademark at a level at least substantially consistent with the quality of such products and services as of the date hereof, and the Grantor shall take commercially reasonable steps to ensure that licensees of such Trademarks use such consistent standards of quality (except, in each case, to the extent such action or inaction is deemed advisable in the Grantor's reasonable business judgment).

(c) It shall take all reasonable steps in the United States Patent and Trademark Office and the United States Copyright Office to continue prosecution of any current application and maintain any registration of each Trademark, Patent, and Copyright, in each case, that is owned by and material to the Grantor.

(d) It shall hereafter use commercially reasonable efforts so as not to permit the inclusion in any contract to which it hereafter becomes a party of any provision that would materially impair or prevent the creation of a security interest in, or the assignment of, the Grantor's rights and interests in any Intellectual Property material to its business acquired under such contracts.

(e) In the event that the Grantor becomes aware that any Intellectual Property owned by the Grantor and material to its business is infringed, misappropriated, or diluted by a third party, the Grantor shall promptly take such actions the Grantor deems appropriate under the circumstances, in its reasonable business judgment, to protect its rights in such Intellectual Property.

(f) It shall take commercially reasonable steps to protect the secrecy of its material Trade Secrets, including, to the extent such action is deemed advisable in the Grantor's reasonable business judgment, by entering into confidentiality agreements with employees and consultants and labeling and restricting access to secret information and documents.

6.4 Notices

(a) The Grantor shall give the Collateral Agent prompt notice of the occurrence of any of the following events:

(i) any pending or threatened claim, suit, legal action, arbitration or other proceeding involving or affecting the Grantor or any Collateral that would reasonably be expected to materially impair the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement or result in the imposition of a Lien (other than Permitted Liens) on any Collateral;

(ii) any loss or damage to any material portion of the Collateral; or

(iii) any representation or warranty contained in this Agreement is or becomes untrue, incorrect or incomplete in any material respect.

(b) Each notice delivered under this Clause, shall include:

(i) reasonable details about the event; and

(ii) the Grantor's proposed course of action.

Delivery of a notice under this Clause does not affect the Grantor's obligations to comply with any other term of this Agreement.

7. WHEN SECURITY BECOMES ENFORCEABLE

Subject to the terms of the Indenture, this Security may be enforced by the Collateral Agent at any time after an Event of Default has occurred and is continuing.

8. ENFORCEMENT OF SECURITY

8.1 [Reserved]

8.2 General

(a) After this Security has become enforceable, the Collateral Agent may immediately, in its absolute discretion (but, if Grantor is party to the Intercreditor Agreement, subject to the Intercreditor Agreement), exercise any right under:

(i) applicable law; or

(ii) this Agreement,

to enforce all or any part of the Security in respect of any Collateral in any manner or order it sees fit.

(b) The foregoing includes:

(i) any rights and remedies available to the Collateral Agent under applicable law and under the UCC (whether or not the UCC applies to the affected Collateral and regardless of whether or not the UCC is the law of the jurisdiction where the rights or remedies are asserted) as if those rights and remedies were set forth in this Agreement in full;

(ii) transferring or assigning to, or registering in the name of, the Collateral Agent or its nominees any of the Collateral;

(iii) exercising any consent and other rights relating to any Collateral;

(iv) performing or complying with any contractual obligation that constitutes part of the Collateral;

(v) receiving, endorsing, negotiating, executing and delivering or collecting upon any check, draft, note, acceptance, account, instrument, document, letter of credit, contract, agreement, receipt, release, bill of lading, invoice, endorsement, assignment, bill of sale, deed, security, share certificate, stock power, proxy, or instrument of conveyance or transfer constituting or relating to any Collateral;

(vi) asserting, instituting, filing, defending, settling, compromising, adjusting, discounting or releasing any suit, action, claim, counterclaim, right of set- off or other right or interest relating to any Collateral;

(vii) executing and delivering acquittances, receipts and releases in respect of Collateral; and

(viii) exercising any other right or remedy available to the Collateral Agent under the other Finance Documents or any other agreement between the parties.

8.3 Collections after an Event of Default

Subject to the rights of the holders of First Priority Debt under the Intercreditor Agreement (if the Grantor is party to the Intercreditor Agreement):

(a) if an Event of Default occurs and is continuing, the Grantor shall hold all funds and other property received or collected in respect of the Collateral in trust for the Collateral Agent, and shall keep these funds and this other property segregated from all other funds and property so as to be capable of identification;

(b) the Grantor shall deliver those funds and that other property to the Collateral Agent in the identical form received, properly endorsed or assigned when required to enable the Collateral Agent to complete collection; and

(c) after the occurrence and during the continuation of an Event of Default, the Grantor may not settle, compromise, adjust, discount or release any claim in respect of Collateral, and the Grantor may not accept any returns of merchandise other than in the ordinary course of business.

8.4 Collateral Agent's rights upon default

(a) The Grantor irrevocably constitutes and appoints the Collateral Agent, with full power of substitution, as the Grantor's true and lawful attorney-in-fact, in the Grantor's name or in the Collateral Agent's name or otherwise, and at the Grantor's expense, to take any of the actions authorized by this Agreement or permitted under applicable law upon the occurrence and during the continuation of an Event of Default, without notice to or the consent of the Grantor. This power of attorney is a power coupled with an interest and cannot be revoked. The Grantor ratifies and confirms all actions taken by the Collateral Agent or its agents under this power of attorney.

(b) The Grantor agrees that 10 days' notice shall constitute reasonable notice in connection with any sale, transfer or other disposition of Collateral.

(c) The Collateral Agent may comply with any applicable state or federal law requirements in connection with a disposition of Collateral and compliance will not be considered adversely to affect the commercial reasonableness of any sale of Collateral.

(d) The grant to the Collateral Agent under this Agreement of any right, power or remedy does not impose upon the Collateral Agent any duty to exercise that right, power or remedy. The Collateral Agent will have no obligation to take any steps to preserve any claim or other right against any Person or with respect to any Collateral.

(e) The Grantor bears the risk of loss, damage, diminution in value, or destruction of the Collateral.

(f) The Collateral Agent will have no responsibility for any act or omission of any courier, bailee, broker, bank, investment bank or any other Person chosen by it with reasonable care.

(g) The Collateral Agent makes no express or implied representations or warranties with respect to any Collateral or other property released to the Grantor or its successors and assigns.

(h) The Grantor agrees that the Collateral Agent will have met its duty of care under applicable law if it holds, maintains and disposes of Collateral in the same manner that it holds, maintains and disposes of property for its own account.

(i) Except as set forth in this Clause or as required under applicable law, the Collateral Agent will have no duties or obligations under this Agreement or otherwise with respect to the Collateral.

(j) The sale, transfer or other disposition under this Agreement of any right, title, or interest of the Grantor in any item of Collateral will:

(i) operate to divest the Grantor permanently and all Persons claiming under or through the Grantor of that right, title, or interest, and

(ii) be a perpetual bar, both at law and in equity, to any claims by the Grantor or any Person claiming under or through the Grantor

with respect to that item of Collateral.

8.5 No marshaling

(a) The Collateral Agent need not, and the Grantor irrevocably waives and agrees that it shall not invoke or assert any law requiring the Collateral Agent to:

(i) attempt to satisfy the Secured Liabilities by collecting them from any other Person liable for them; or

(ii) marshal any security or guarantee securing payment or performance of the Secured Liabilities or any particular asset of the Grantor.

(b) The Collateral Agent may release, modify or waive any collateral or guarantee provided by any other Person to secure any of the Secured Liabilities, without affecting the Collateral Agent's rights against the Grantor.

8.6 Grant of Intellectual Property License

For the purpose of enabling the Collateral Agent, during the continuance of an Event of Default, to exercise rights and remedies under this Clause 8 at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies, and for no other purpose, the Grantor hereby grants to the Collateral Agent an irrevocable, non-exclusive license to use, license or sublicense any of the Intellectual Property now owned or hereafter acquired by the Grantor, wherever the same may be located. Such license shall be subject, in the case of Trademarks, to sufficient rights to quality control and inspection in favor of the Grantor to avoid the risk of invalidation of said Trademarks. Such license shall include reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout hereof.

9. APPLICATION OF PROCEEDS

Any moneys received in connection with the Collateral by the Collateral Agent after this Security has become enforceable shall be applied in the following order of priority:

(a) **first**, in or towards payment of or provision for all costs and expenses incurred by the Collateral Agent in connection with the enforcement of this Security;

(b) **second**, in or towards payment of, or provision for, the Secured Liabilities; and

(c) **third**, in payment of the surplus (if any) to the Grantor or any other Person entitled to it under applicable law.

This Clause is subject to the prior payment of any claims having priority over this Security under mandatory provisions of applicable law and, if the Grantor is party to the Intercreditor Agreement, First Priority Debt in accordance with the terms of the Intercreditor Agreement. This Clause does not prejudice the right of any Noteholder to recover any shortfall from the Grantor.

10. EXPENSES AND INDEMNITY

(a) The Grantor shall pay promptly on demand to the Collateral Agent all reasonable and documented costs and expenses incurred by the Collateral Agent, any Noteholder, attorney, manager, delegate, sub-delegate, agent or other Person appointed by the Collateral Agent under this Agreement for the purpose of enforcing its rights under this Agreement. Such costs and expenses include:

(i) costs of foreclosure and of any transfer, disposition or sale of Collateral;

(ii) costs of maintaining or preserving the Collateral or assembling it or preparing it for transfer, disposition or sale;

(iii) costs of obtaining money damages; and

(iv) fees and expenses of attorneys employed by the Collateral Agent for any purpose related to this Agreement or the Secured Liabilities, including consultation, preparation and negotiation of any amendment or restructuring, drafting documents, sending notices or instituting, prosecuting or defending litigation or arbitration.

(b) The Grantor shall indemnify and keep indemnified the Secured Parties and their respective affiliates, directors, officers, representatives and agents from and against all claims, liabilities, obligations, losses, damages, penalties, judgments, costs and expenses of any kind (including attorney's fees and expenses) that may be imposed on, incurred by or asserted against any of them by any Person (including any Noteholder) in any way relating to or arising out of:

(i) this Agreement;

(ii) the Collateral;

(iii) the Collateral Agent's security interest in the Collateral;

(iv) any Event of Default;

(v) any action taken or omitted by the Collateral Agent under this Agreement or any exercise or enforcement of rights or remedies under this Agreement; or

(vi) any transfer sale or other disposition of or any realization on Collateral.

(c) The Grantor shall not be liable to an indemnified party to the extent any liability results from that indemnified party's gross negligence or willful misconduct. Payment by an indemnified party will not be a condition precedent to the obligations of the Grantor under this indemnity.

(d) This Clause survives the issuance of the Notes, the repayment of the Notes, any transfer or assignment of the Notes and the termination of this Agreement.

11. EVIDENCE AND CALCULATIONS

In the absence of manifest error, the records of the Collateral Agent shall be conclusive evidence of the existence and the amount of the Secured Liabilities.

12. CHANGES TO THE PARTIES

12.1 Grantor
The Grantor may not assign, delegate or transfer any of its rights or obligations under this Agreement without the consent of the Collateral Agent, and any purported assignment, delegation or transfer in violation of this provision shall be void and of no effect.

12.2 Collateral Agent
The Collateral Agent may assign or transfer its rights and obligations under this Agreement in the manner permitted under the Indenture.

12.3 Successors and assigns
This Agreement shall be binding on and inure to the benefit of the respective successors and permitted assigns of the Grantor and the Collateral Agent.

13. MISCELLANEOUS

13.1 Amendments and waivers
Any term of this Agreement may be amended or waived only by the written agreement of the Grantor and the Collateral Agent. Notwithstanding the foregoing, the Grantor may, but shall have no obligation to, update the schedules hereto from time to time by delivering such updated schedules to the Collateral Agent.

13.2 Waivers and remedies cumulative
(a) The rights and remedies of the Collateral Agent under this Agreement:

(i) may be exercised as often as necessary;

(ii) are cumulative and not exclusive of its rights under applicable law; and

(iii) may be waived only in writing and specifically.

(b) Delay in exercising, or non-exercise, of any right or remedy under this Agreement is not a waiver of that right or remedy.

13.3 Counterparts

This Agreement may be executed in counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement. The words "execution," "executed," "signed," "signature," "delivery" and words of like import in or relating to this Agreement or any document to be signed in connection with this Agreement shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

14. SEVERABILITY

If any term of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that will not affect:

(a) the legality, validity or enforceability in that jurisdiction of any other term of this Agreement; or

(b) the legality, validity or enforceability in any other jurisdiction of that or any other term of this Agreement.

15. RELEASE

At the end of the Security Period and at the other times provided in the Indenture, the Collateral will be released in accordance with the Indenture and the Collateral Agent must, at the request and cost of the Grantor, promptly take whatever action is necessary to release all or any applicable part of the Collateral from this Security in accordance with the terms of the Indenture.

16. NOTICES

16.1 Notices

Any communication in connection with this Agreement must be in writing and, unless otherwise stated, must be given in person, by first class mail (registered or certified, return receipt requested), overnight courier guaranteeing next day delivery, or by fax.

16.2 Contact details

(a) The contact details of the Grantors for this purpose are: Vector Tobacco Inc.

Address: 3800 Paramount Parkway Suite 250
PO Box 2010
Morrisville, NC 27560
Fax: (305) 579-8016
Attention: Marc N. Bell

(b) The contact details of the Collateral Agent for this purpose are:

U.S. Bank National Association Address: Global Corporate Trust Services
60 Livingston Avenue
EP-MN-WS3C
St. Paul, MN 55107-2292
Fax: (651) 466-7430
Attention: Joshua A. Hahn

(c) Either party may change its contact details by giving five Business Days' notice to the other party.

(d) Where a party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

16.3 Effectiveness

(a) Except as provided below, any communication in connection with this Agreement will be deemed to be given as follows:

(i) if delivered in person, at the time of delivery;

(ii) if by e-mail or fax, when sent with confirmation of transmission.

(b) A communication given under this Clause but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

17. GOVERNING LAW

This Agreement, the relationship between the Grantor, the Secured Parties and any claim or dispute (whether sounding in contract, tort, statute or otherwise) relating to this Agreement or that relationship shall be governed by and construed in accordance with law of the State of New York including section 5-1401 of the New York General Obligations Law but excluding any other conflict of law rules that would lead to the application of the law of another jurisdiction. If the law of a jurisdiction other than New York is, under section 1-105(2) of the UCC, mandatorily applicable to the perfection, priority or enforcement of any security interest granted under this Agreement in respect of any

particular Collateral, that other law shall apply solely to the matters of perfection, priority or enforcement to which it is mandatorily applicable.

18. ENFORCEMENT

18.1 Jurisdiction

(a) Each of the Parties agrees that any New York State court or Federal court sitting in the City and County of New York has jurisdiction to settle any disputes in connection with this Agreement and accordingly submits to the jurisdiction of those courts.

(b) Each of the Parties:

(i) waives objection to the New York State and Federal courts on grounds of personal jurisdiction, inconvenient forum or otherwise as regards proceedings in connection with this Agreement; and

(ii) agrees that a judgment or order of a New York State or Federal court in connection with this Agreement is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

(c) Nothing in this Clause limits the right of the Collateral Agent or any Noteholder to bring proceedings against the Grantor in connection with this Agreement:

(i) in any other court of competent jurisdiction; or

(ii) concurrently in more than one jurisdiction.

18.2 Service of Process

The Grantor consents to the service of process relating to any proceedings by a notice given in accordance with Clause 16 (Notices) above.

18.3 Complete Agreement

This Agreement and the other Finance Documents contain the complete agreement between the parties on the matters to which they relate and supersede all prior commitments, agreements and understandings, whether written or oral, on those matters.

18.4 Waiver of Jury Trial

THE GRANTOR AND THE COLLATERAL AGENT (FOR ITSELF AND ON BEHALF OF THE NOTEHOLDERS) WAIVE ANY RIGHTS THEY MAY HAVE TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED ON OR ARISING FROM THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

19. INTERCREDITOR AGREEMENT

On and after the date from which the Grantor becomes a borrower under the Liggett Credit Agreement and executes joinder agreement to become a party to the Intercreditor Agreement, the Lien granted to the Collateral Agent pursuant to this Agreement shall be subject in priority to the Priority Liens, and the exercise of any right or remedy by the Collateral Agent hereunder shall be subject to the provisions of the Intercreditor Agreement. From and after such date, in the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control.

The undersigned, intending to be legally bound, have executed and delivered this Agreement on the date stated at the beginning of this Agreement.

SIGNATORIES

IN WITNESS WHEREOF, the Grantor has caused this Security Agreement to be duly executed by its duly authorized officer as of the day and year first above written.

Grantor

VECTOR TOBACCO INC.

By: /s/ Marc N. Bell Name: Marc N. Bell

Title: Senior Vice President, General Counsel and Secretary

Collateral Agent

U.S. BANK NATIONAL ASSOCIATION as Collateral Agent

By: /s/ Joshua A. Hahn Name: Joshua A. Hahn Title: Vice

President

(Signature Page to Security Agreement - Vector Tobacco Inc.)

SCHEDULE 1 COMMERCIAL TORT CLAIMS

None.

SCHEDULE 2

INTELLECTUAL PROPERTY

Copyrights: Registrations

Title	Reg. No. Reg. Date	Status	Owner
Quest 1 cigarette packaging in blue	VA0001390735 12/22/2005	Registered	Vector Tobacco, Inc.

Applications:

None.

Exclusive Copyright Licenses:

None.

Patents:

Registrations:

Title	App. No. App. Date	Patent No. Issue Date	Status	Owner
Reduced risk tobacco products and methods of making same	14102340 12/10/2013	9439452 9/13/2016	Issued	Vector Tobacco Inc.
Reduced risk tobacco products and methods of making same	1599002 5/25/2018	10,709,164 7/14/2020	Issued	Vector Tobacco Inc.
Approaches to identify less harmful tobacco and tobacco products	11596088 4/4/2008	7662565 2/16/2010	Issued	Vector Tobacco Inc. Frank Traganos Zbigniew Darzynkiewicz
Method of making a smoking composition	10871863 6/18/2004	6959712 11/1/2005	Issued	Vector Tobacco Inc.
Method of making a smoking composition	10007724 11/9/2001	6789548 9/14/2004	Issued	Vector Tobacco Inc.

Applications:

None.

Trademarks:

Registrations:

Trademark	App. No. App. Date	Reg. No. Reg. Date	Status	Owner
EAGLE 20'S	73065753 14-OCT-1975	1041041 08-JUN-1976	Renewed in 2016	Vector Tobacco Inc.
SILVER EAGLE	78632586 18-MAY-2005	3140520 05-SEP-2006	Renewed in 2016	Vector Tobacco Inc.
WHY PAY MORE?	87265921 12-DEC-2016	5241313 11-JUL-2017	Registered	Vector Tobacco Inc.
EAGLE	86574929 24-MAR-2015	5271626 22-AUG-2017	Registered	Vector Tobacco Inc.

Applications:

None.

EXHIBIT 1

FORM OF

PATENT SECURITY AND PLEDGE AGREEMENT

This **PATENT SECURITY AND PLEDGE AGREEMENT**, dated as of [, 2021] (as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Agreement"), is made by Vector Tobacco Inc., a Virginia corporation (the "Grantor") in favor of U.S. Bank National Association, as collateral agent (in such capacity, the "Collateral Agent") for the Noteholders (as defined in the Security Agreement referred to below).

WHEREAS, the Grantor has guaranteed the Notes issued under the Indenture, dated as of January 28, 2021 (as amended, supplemented, or otherwise modified from time to time, the "Indenture") among Vector Group Ltd. (the "Issuer"), the Grantor and certain of the Issuer's other direct and indirect subsidiaries and the Collateral Agent, in its capacity as trustee thereunder.

WHEREAS, it is a condition precedent to the obligations of the Collateral Agent under the Indenture that the Grantor shall have executed and delivered that certain Security Agreement, dated as of January 28, 2021, in favor of the Collateral Agent (as amended, supplemented, replaced or otherwise modified from time to time, the "Security Agreement").

WHEREAS, under the terms of the Security Agreement, the Grantor has granted a security interest in certain property, including certain Intellectual Property of the Grantor to the Collateral Agent for the benefit of the Secured Parties, and has agreed as a condition thereof to execute this Agreement for recording with the United States Patent and Trademark Office and other applicable Governmental Authorities.

WHEREAS, this Agreement is supplemental to the provisions contained in the Security Agreement and, in the event of an inconsistency among them, the Security Agreement shall control over this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor agrees as follows:

1. DEFINITIONS.

1.1 Terms Defined in the Security Agreement. All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings assigned to them in the Security Agreement.

1.2 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Assignment of Patents" has the meaning set forth in Section 2.2 herein. "Patent Collateral" has the

meaning set forth in Section 2.1 herein. "PTO" means the United States Patent and Trademark Office.

1.3 Rules of Construction. Unless otherwise provided herein, the rules of construction set forth in Section 1.2 of the Security Agreement shall be applicable to this Agreement.

2. GRANT OF SECURITY INTEREST.

2.1 Security Interest. As collateral security for the payment and performance in full of all of the Secured Liabilities, the Grantor hereby grants to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on all of the Grantor's right, title and interest in all Patents owned by the Grantor, including the Patents referred to on Schedule A hereto (as such schedule may be amended or supplemented from time to time), in each case whether now or hereafter existing or arising or in which the Grantor now has or hereafter owns or acquires, all inventions and improvements described therein, all rights to sue for past, present and future infringements thereof, and all proceeds of the foregoing, including license fees, royalties, income, payments, claims, damages, and proceeds of suit (collectively, the "Patent Collateral").

2.2 Assignment of Patents upon Default. The Grantor acknowledges that the Collateral Agent has the right, pursuant to the power of attorney granted the Collateral Agent hereunder and under the Security Agreement, upon the occurrence and during the continuance of an Event of Default, to execute on behalf of the Grantor an assignment of Patents that constitute Patent Collateral (each an "Assignment of Patents") for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement. In furtherance of the foregoing, the Grantor hereby authorizes the Collateral Agent to complete, execute and record with the PTO an Assignment of Patents on behalf of the Grantor upon the occurrence and during the continuance of an Event of Default for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement.

2.3 Conditional Assignment. In addition to, and not by way of limitation of, the grant and pledge of the Patent Collateral provided in Section 2.1, the Grantor hereby grants, assigns, transfers, conveys and sets over to the Collateral Agent, for the benefit of the Secured Parties, the Grantor's entire right, title and interest in and to the Patent Collateral; *provided*, that such grant, assignment, transfer and conveyance shall be and become of force and effect only (a) in connection with the Collateral Agent's exercise of its rights and remedies in strict accordance with the terms of the Security Agreement, and (b) upon or after the occurrence and during the continuance of an Event of Default and (c) either (i) upon the written demand of the Collateral Agent at any time during such continuance or (ii) immediately and automatically (without notice or action of any kind by the Collateral Agent) upon an Event of Default for which acceleration of the payment of the Notes is automatic under the Indenture or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Security Agreement and applicable law (including the

transfer or other disposition of the Collateral by the Grantor to the Collateral Agent or its nominee in lieu of foreclosure).

2.4 Security Agreement. Pursuant to the Security Agreement the Grantor has granted to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on the Collateral (including the Patent Collateral). The Security Agreement, and all rights and interests of the Collateral Agent in and to the Collateral (including the Patent Collateral) thereunder, are hereby ratified and confirmed in all respects, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Patent Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In no event shall this Agreement, the grant, assignment, transfer and conveyance of the Patent Collateral hereunder, or the recordation of this Agreement (or any other document hereunder) with the PTO, adversely affect or impair, in any way or to any extent, the Security Agreement, the security interest of the Collateral Agent in the Collateral (including the Patent Collateral) pursuant to the Security Agreement, the attachment and perfection of such security interest under the UCC (including the security interest in the Patent Collateral), or any present or future rights and interests of the Collateral Agent in and to the Collateral under or in connection with the Security Agreement or the UCC. In the event that any provision of this Agreement is deemed to conflict with the Security Agreement, the provisions of the Security Agreement shall control.

3. AFTER-ACQUIRED PATENTS

3.1 After-acquired Patents. If, after the execution of this Agreement and before the end of the Security Period, the Grantor shall develop or acquire any new Patents, the provisions of this Agreement shall automatically apply thereto.

3.2 Amendment to Schedule. The Grantor authorizes the Collateral Agent to modify this Agreement and the Assignments of Patents, without the necessity of the Grantor's further approval or signature, by amending Schedule A hereto and the Annex to each Assignment of Patents to include any future or other Patents that become part of the Patent Collateral under Section 2 or Section 3.1.

4. GOVERNING LAW; CONSENT TO JURISDICTION.

This Agreement, the relationship between the parties hereunder and any claim or dispute (whether sounding in contract, tort, statute or otherwise) relating to this Agreement or that relationship shall be governed by and construed in accordance with law of the State of New York including section 5-1401 of the New York General Obligations Law but excluding any other conflict of law rules that would lead to the application of the law of another jurisdiction. If the law of a jurisdiction other than New York is, under section 1- 105(2) of the UCC, mandatorily applicable to the perfection, priority or enforcement of any security interest granted under this Agreement in respect of any Patent Collateral, that other law shall apply solely to the matters of perfection, priority or enforcement to which it is mandatorily applicable.

5. MISCELLANEOUS.

5.1 Headings. The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. This Agreement and all rights and obligations hereunder shall be binding upon the Grantor and its respective successors and assigns, and shall inure to the benefit of the Secured Parties and their respective successors and assigns. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Grantor acknowledges receipt of a copy of this Agreement.

5.2 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[*Signatures begin on next page*]

IN WITNESS WHEREOF, the Grantor has caused this Patent Security and Pledge Agreement to be executed and delivered by its duly authorized officer as of the day and year first above written.

[ ], as Grantor

By: ___ Name:
Title:

U.S. Bank National Association, as Collateral Agent

By: ___ Name:
Title:

Schedule A
to the Patent Security and Pledge Agreement

[To be completed by the Grantor]

Grantor: [__]

Issued U.S. Patents of Grantor

Patent No.	Issue Date	Title

Pending U.S. Patent Applications of Grantor

Application No.	Filing Date	Title

EXHIBIT 2

FORM OF
TRADEMARK SECURITY AND PLEDGE AGREEMENT

This **TRADEMARK SECURITY AND PLEDGE AGREEMENT**, dated as of [, 2021] (as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Agreement"), is made by Vector Tobacco Inc., a Virginia corporation (the "Grantor") in favor of U.S. Bank National Association, as collateral agent (in such capacity, the "Collateral Agent") for the Noteholders (as defined in the Security Agreement referred to below).

WHEREAS, the Grantor has guaranteed the Notes issued under the Indenture, dated as of January 28, 2021 (as amended, supplemented, or otherwise modified from time to time, the "Indenture") among Vector Group Ltd. (the "Issuer"), the Grantor and certain of the Issuer's other direct and indirect subsidiaries and the Collateral Agent, in its capacity as trustee thereunder.

WHEREAS, it is a condition precedent to the obligations of the Collateral Agent under the Indenture that the Grantor shall have executed and delivered that certain Security Agreement, dated as of January 28, 2021, in favor of the Collateral Agent (as amended, supplemented, replaced or otherwise modified from time to time, the "Security Agreement").

WHEREAS, under the terms of the Security Agreement, the Grantor has granted a security interest in certain property, including certain Intellectual Property of the Grantor to the Collateral Agent for the benefit of the Secured Parties, and has agreed as a condition thereof to execute this Agreement for recording with the United States Patent and Trademark Office and other applicable Governmental Authorities.

WHEREAS, this Agreement is supplemental to the provisions contained in the Security Agreement and, in the event of an inconsistency among them, the Security Agreement shall control over this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor agrees as follows:

6. DEFINITIONS.

6.1 Terms Defined in the Security Agreement. All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings assigned to them in the Security Agreement.

6.2 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Assignment of Marks" has the meaning set forth in Section 2.2 herein.

"PTO" means the United States Patent and Trademark Office. "Trademark Collateral" has the meaning

set forth in Section 2.1 herein.

6.2 Rules of Construction. Unless otherwise provided herein, the rules of construction set forth in Section 1.2 of the Security Agreement shall be applicable to this Agreement.

7. GRANT OF SECURITY INTEREST.

7.1 Security Interest. As collateral security for the payment and performance in full of all of the Secured Liabilities, the Grantor hereby pledges and grants to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on all of the Grantor's right, title and interest in all Trademarks owned by the Grantor, including the Trademarks referred to on Schedule A hereto (as such schedule may be amended or supplemented from time to time), in each case whether now or hereafter existing or arising or in which the Grantor now has or hereafter owns or acquires, and all rights to sue for past, present and future infringements or dilutions thereof, and all proceeds of the foregoing, including license fees, royalties, income, payments, claims, damages, and proceeds of suit (collectively, the "Trademark Collateral").

7.2 Assignment of Trademarks upon Default. The Grantor acknowledges that the Collateral Agent has the right, pursuant to the power of attorney granted the Collateral Agent hereunder and under the Security Agreement, upon the occurrence and during the continuance of an Event of Default, to execute on behalf of the Grantor an assignment of Trademarks that constitute Trademark Collateral (each an "Assignment of Trademarks") for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement. In furtherance of the foregoing, the Grantor hereby authorizes the Collateral Agent to complete, execute and record with the PTO an Assignment of Trademarks on behalf of the Grantor upon the occurrence and during the continuance of an Event of Default for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement.

7.3 Conditional Assignment. In addition to, and not by way of limitation of, the grant and pledge of the Trademark Collateral provided in Section 2.1, the Grantor hereby grants, assigns, transfers, conveys and sets over to the Collateral Agent, for the benefit of the Secured Parties, the Grantor's entire right, title and interest in and to the Trademark Collateral; *provided*, that such grant, assignment, transfer and conveyance shall be and become of force and effect only (a) in connection with the Collateral Agent's exercise of its rights and remedies in strict accordance with the terms of the Security Agreement, and
(b) upon or after the occurrence and during the continuance of an Event of Default and (c) either (i) upon the written demand of the Collateral Agent at any time during such continuance or (ii) immediately and automatically (without notice or action of any kind by the Collateral Agent) upon an Event of Default for which acceleration of the payment of the Notes is automatic under the Indenture or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Security Agreement and applicable law (including the transfer or other disposition of the Collateral by the Grantor to the Collateral Agent or its nominee in lieu of foreclosure).

7.4 Security Agreement. Pursuant to the Security Agreement the Grantor has granted to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on the Collateral (including the Trademark Collateral). The Security Agreement, and all rights and interests of the Collateral Agent in and to the Collateral (including the Trademark Collateral) thereunder, are hereby ratified and confirmed in all respects, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Trademark Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In no event shall this Agreement, the grant, assignment, transfer and conveyance of the Trademark Collateral hereunder, or the recordation of this Agreement (or any other document hereunder) with the PTO, adversely affect or impair, in any way or to any extent, the Security Agreement, the security interest of the Collateral Agent in the Collateral (including the Trademark Collateral) pursuant to the Security Agreement, the attachment and perfection of such security interest under the UCC (including the security interest in the Trademark Collateral), or any present or future rights and interests of the Collateral Agent in and to the Collateral under or in connection with the Security Agreement or the UCC. In the event that any provision of this Agreement is deemed to conflict with the Security Agreement, the provisions of the Security Agreement shall control.

8. AFTER-ACQUIRED TRADEMARKS

8.1 After-acquired Trademarks. If, after the execution of the Agreement and before the end of the Security Period, the Grantor shall develop or acquire any new Trademarks, the provisions of this Agreement shall automatically apply thereto.

8.2 Amendment to Schedule. The Grantor authorizes the Collateral Agent to modify this Agreement and the Assignments of Trademarks, without the necessity of the Grantor's further approval or signature, by amending Schedule A hereto and the Annex to each Assignment of Trademarks to include any future or other Trademarks that become part of the Trademark Collateral under Section 2 or Section 3.1.

9. GOVERNING LAW; CONSENT TO JURISDICTION.

This Agreement, the relationship between the parties hereunder and any claim or dispute (whether sounding in contract, tort, statute or otherwise) relating to this Agreement or that relationship shall be governed by and construed in accordance with law of the State of New York including section 5-1401 of the New York General Obligations Law but excluding any other conflict of law rules that would lead to the application of the law of another jurisdiction. If the law of a jurisdiction other than New York is, under section 1- 105(2) of the UCC, mandatorily applicable to the perfection, priority or enforcement of any security interest granted under this Agreement in respect of any Trademark Collateral, that other law shall apply solely to the matters of perfection, priority or enforcement to which it is mandatorily applicable.

10. MISCELLANEOUS.

(a) Headings. The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. This Agreement and all rights and obligations hereunder shall be binding upon the Grantor and its respective successors and assigns, and shall inure to the benefit of the Secured Parties and their respective successors and assigns. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Grantor acknowledges receipt of a copy of this Agreement.

(b) Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[*Signatures begin on next page*]

IN WITNESS WHEREOF, the Grantor has caused this Trademark Security and Pledge Agreement to be executed and delivered by its duly authorized officer as of the day and year first above written.

[ ], as Grantor

By: ___ Name:
Title:

U.S. Bank National Association, as Collateral Agent

By: _____ Name:
Title:

Schedule A
to the Trademark Security and Pledge Agreement (*to be completed by the Grantor)*

Grantor: [ ]

United States Trademark Registrations of Grantor

Trademark	**Registration No./ Application No.**	**Registration Date/ Application Date**

EXHIBIT 3

FORM OF
COPYRIGHT SECURITY AGREEMENT

This **COPYRIGHT SECURITY AGREEMENT**, dated as of [, 2021] (as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Agreement"), is made by Vector Tobacco Inc., a Virginia corporation (the "Grantor") in favor of U.S. Bank National Association, as collateral agent (in such capacity, the "Collateral Agent") for the Noteholders (as defined in the Security Agreement referred to below).

WHEREAS, the Grantor has guaranteed the Notes issued under the Indenture, dated as of January 28, 2021 (as amended, supplemented, or otherwise modified from time to time, the "Indenture") among Vector Group Ltd. (the "Issuer"), the Grantor and certain of the Issuer's other direct and indirect subsidiaries and the Collateral Agent, in its capacity as trustee thereunder.

WHEREAS, it is a condition precedent to the obligations of the Collateral Agent under the Indenture that the Grantor shall have executed and delivered that certain Security Agreement, dated as of January 28, 2021, in favor of the Collateral Agent (as amended, supplemented, replaced or otherwise modified from time to time, the "Security Agreement").

WHEREAS, under the terms of the Security Agreement, the Grantor has granted a security interest in certain property, including certain Intellectual Property of the Grantor to the Collateral Agent for the benefit of the Secured Parties, and has agreed as a condition thereof to execute this Agreement for recording with the United States Copyright Office and other applicable Governmental Authorities.

WHEREAS, this Agreement is supplemental to the provisions contained in the Security Agreement and, in the event of an inconsistency among them, the Security Agreement shall control over this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor agrees as follows:

11. DEFINITIONS

11.1 Terms Defined in the Security Agreement. All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings assigned to them in the Security Agreement.

11.2 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Assignment of Copyrights" has the meaning set forth in Section 2.2 herein. "Copyright Collateral" has the meaning set forth in Section 2.1 herein.

11.3 Rules of Construction. Unless otherwise provided herein, the rules of construction set forth in Section 1.2 of the Security Agreement shall be applicable to this Agreement.

12. GRANT OF SECURITY INTEREST

12.1 Security Interest. As collateral security for the payment and performance in full of all of the Secured Liabilities, the Grantor hereby pledges and grants to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on all of the Grantor's right, title and interest in, to and under the Copyrights and Copyright Licenses, including the Copyrights and exclusive Copyright Licenses referred to on Schedule I hereto (as such schedule may be amended or supplemented from time to time), in each case whether presently existing or hereafter created or acquired, and all rights to sue for past, present and future infringements thereof, and all proceeds of the foregoing, including license fees, royalties, income, payments, claims, damages, and proceeds of suit (collectively, the "Copyright Collateral").

12.2 Assignment of Copyrights upon Default. The Grantor acknowledges that the Collateral Agent has the right, pursuant to the power of attorney granted the Collateral Agent hereunder and under the Security Agreement, upon the occurrence and during the continuance of an Event of Default, to execute on behalf of the Grantor an assignment of Copyrights and Copyright Licenses that constitute Copyright Collateral (each an "Assignment of Copyrights") for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement. In furtherance of the foregoing, the Grantor hereby authorizes the Collateral Agent to complete, execute and record with the United States Copyright Office an Assignment of Copyrights on behalf of the Grantor upon the occurrence and during the continuance of an Event of Default for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement.

12.3 Conditional Assignment. In addition to, and not by way of limitation of, the grant and pledge of the Copyright Collateral provided in Section 2.1, the Grantor hereby grants, assigns, transfers, conveys and sets over to the Collateral Agent, for the benefit of the Secured Parties, the Grantor's entire right, title and interest in and to the Copyright Collateral; *provided*, that such grant, assignment, transfer and conveyance shall be and become of force and effect only (a) in connection with the Collateral Agent's exercise of its rights and remedies in strict accordance with the terms of the Security Agreement, and
(b) upon or after the occurrence and during the continuance of an Event of Default and (c) either (i) upon the written demand of the Collateral Agent at any time during such continuance or (ii) immediately and automatically (without notice or action of any kind by the Collateral Agent) upon an Event of Default for which acceleration of the payment of the Notes is automatic under the Indenture or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Security Agreement and applicable law (including the transfer or other disposition of the Collateral by the Grantor to the Collateral Agent or its nominee in lieu of foreclosure).

12.4 Security Agreement. Pursuant to the Security Agreement the Grantor has granted to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on the Collateral (including the Copyright Collateral). The Security Agreement, and all rights and interests of the Collateral Agent in and to the Collateral (including the

Copyright Collateral) thereunder, are hereby ratified and confirmed in all respects**,** and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Copyright Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In no event shall this Agreement, the grant, assignment, transfer and conveyance of the Copyright Collateral hereunder, or the recordation of this Agreement (or any other document hereunder) with the United States Copyright Office, adversely affect or impair, in any way or to any extent, the Security Agreement, the security interest of the Collateral Agent in the Collateral (including the Copyright Collateral) pursuant to the Security Agreement, the attachment and perfection of such security interest under the UCC (including the security interest in the Copyright Collateral), or any present or future rights and interests of the Collateral Agent in and to the Collateral under or in connection with the Security Agreement or the UCC. In the event that any provision of this Agreement is deemed to conflict with the Security Agreement, the provisions of the Security Agreement shall control.

13. AFTER-ACQUIRED COPYRIGHTS

13.1 After-Acquired Copyrights. If, after the execution of the Agreement and before the end of the Security Period, the Grantor shall develop or acquire any new Copyrights or Copyright Licenses, the provisions of this Agreement shall automatically apply thereto.

13.2 Amendment to Schedule. The Grantor authorizes the Collateral Agent to modify this Agreement and the Assignment of Copyrights, without the necessity of the Grantor's further approval or signature, by amending Schedule I hereto and the Annex to each Assignment of Copyrights and to include any future or other Copyrights or Copyright Licenses that become part of the Copyright Collateral under Section 2 or Section 3.1.

14. GOVERNING LAW; CONSENT TO JURISDICTION

This Agreement, the relationship between the parties hereunder and any claim or dispute (whether sounding in contract, tort, statute or otherwise) relating to this Agreement or that relationship shall be governed by and construed in accordance with law of the State of New York including section 5-1401 of the New York General Obligations Law but excluding any other conflict of law rules that would lead to the application of the law of another jurisdiction. If the law of a jurisdiction other than New York is, under section 1- 105(2) of the UCC, mandatorily applicable to the perfection, priority or enforcement of any security interest granted under this Agreement in respect of any Copyright Collateral, that other law shall apply solely to the matters of perfection, priority or enforcement to which it is mandatorily applicable.

15. MISCELLANEOUS.

15.1 Headings. The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. This Agreement and all rights and obligations hereunder shall be binding upon the Grantor and its respective successors and assigns, and shall inure to the benefit of the Secured Parties and their respective successors and assigns. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby,

and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Grantor acknowledges receipt of a copy of this Agreement.

15.2 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[*Signatures begin on next page*]

IN WITNESS WHEREOF, the Grantor has caused this Copyright Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

[ ],
as Grantor

By:____ Name:
Title:

U.S. Bank National Association, as Collateral Agent

By:____ Name:
Title:

SCHEDULE I
to

COPYRIGHT SECURITY AGREEMENT COPYRIGHT REGISTRATIONS AND APPLICATIONS

Registrations

Registration No.	*Registration Date*	*Title*

Applications

Application No.	*Application Date*	*Title*

Exhibit 4.4

SECURITY AGREEMENT

DATED JANUARY 28, 2021

between

EACH OF THE GRANTORS PARTY HERETO

and

U.S. BANK NATIONAL ASSOCIATION as Collateral Agent

CONTENTS

Clause Page

THIS AGREEMENT is dated January 28, 2021

BETWEEN:

(1) **LIGGETT GROUP LLC**, a Delaware limited liability company, and **100 MAPLE LLC**, a Delaware limited liability company, as grantors (each a "**Grantor**" and, collectively, the "**Grantors**"); and

(2) **U.S. BANK NATIONAL ASSOCIATION**, as collateral agent for the Noteholders under the Indenture described below (in this capacity, the "**Collateral Agent**").

BACKGROUND:

The Grantors enter into this Agreement in connection with the Indenture, dated January 28, 2021 (as amended, supplemented, or otherwise modified from time to time, the "**Indenture**"), by and among Vector Group Ltd. ("**Vector Group**"), the Guarantors party thereto and U.S. Bank National Association, as trustee (together with any successor in such capacity, the "**Trustee**"). Pursuant to the Indenture, Vector Group is issuing Notes and the Grantors are guaranteeing the Notes as provided in the Indenture. The Grantors now wish to secure their obligations under the Indenture by entering into this Agreement.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 Definitions

In this Agreement:

"**ABL Debt**" has the meaning given to that term in the Intercreditor Agreement.

The term "**Collateral**" means all personal property, wherever located, in which any Grantor now has or later acquires any right, title or interest, including all:

(a) accounts and chattel paper;

(b) goods (including equipment, inventory and fixtures);

(c) health-care-insurance receivables;

(d) instruments (including promissory notes);

(e) documents;

(f) letter-of-credit rights;

(g) general intangibles (including payment intangibles and software);

(h) the commercial tort claims described in Schedule 1 (Commercial Tort Claims);

(i) supporting obligations;

(j) Intellectual Property (together with the right to sue or otherwise recover for past, present and future infringement, misappropriation, dilution or other violation or impairment thereof, and all proceeds of the foregoing, including license fees, royalties, income, payments, claims, damages and proceeds of suit) and Intellectual Property Licenses; and

(k) to the extent not listed above as Collateral, proceeds and products of, and accessions to, each of the above assets.

The term "**Collateral**" excludes (i) any property, right or interest in which a security interest may not be granted under applicable law, (ii) any equity interest of a Grantor in any Affiliate of such Grantor, (iii) any equipment to the extent a grant of a security interest in such equipment would be precluded by or require a consent under the terms and conditions of any existing or future purchase money or other financing of such equipment permitted under the terms of the Indenture, (iv) any intent-to-use trademark application prior to the filing of a "Statement of Use" or "Amendment to Allege Use" with respect thereto, to the extent, if any, that, and solely during the period, if any, in which, the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application or any registration that issues therefrom under applicable federal law, (v) any aircraft, aircraft engines or motor vehicles, (vi) any deposit accounts, (vii) any cash (other than any identifiable proceeds of Collateral), (viii) any investment property and (ix) any Excluded Assets.

"**Copyright Licenses**" means any and all agreements providing for the granting of any right in or to Copyrights or otherwise providing for a covenant not to sue (whether the Grantor is licensee or licensor thereunder) including each Exclusive Copyright License referred to in Schedule 2 under the heading "Copyright Licenses" (as such schedule may be amended or supplemented from time to time).

"**Copyrights**" means all United States copyrights (including Community designs), including copyrights in software and databases, and all Mask Works (as defined under 17
U.S.C. 901 of the U.S. Copyright Act), whether registered or unregistered, including: (a) all registrations and applications therefor including, the registrations and applications required to be listed in Schedule 2 under the heading "Copyrights" (as such schedule may be amended or supplemented from time to time) and (b) all extensions and renewals thereof.

"**Finance Documents**" means the Indenture, all Notes issued from time to time under the Indenture, this Agreement and all other pledges, security agreements, control agreements and other agreements and documents entered into in connection with the transactions contemplated by the Indenture.

"**First Priority Debt**" has the meaning given to that term in the Intercreditor Agreement.

"**Guarantors**" means the Grantors and the other guarantors under the Indenture.

"**Intellectual Property**" means, collectively, all intellectual property and proprietary rights, including Copyrights, Patents, Trademarks and Trade Secrets.

"**Intellectual Property Licenses**" means, collectively, all agreements providing for the granting of any right in or to any Intellectual Property (whether the Grantor is licensee or licensor thereunder), including the Copyright Licenses, the Patent Licenses, the Trademark Licenses and the Trade Secret Licenses.

"**Intercreditor Agreement**" means the Second Amended and Restated Intercreditor and Lien Subordination Agreement, dated January 28, 2021, between Wells Fargo Bank, National Association, as agent, the Collateral Agent, Liggett Group LLC, 100 Maple LLC and each other party from time to time party thereto, as amended, supplemented, or otherwise modified from time to time.

"**Note**" means any note issued from time to time under the Indenture.

"Noteholder" means any Person that from time to time is the holder of a Note.

"**Obligors**" means Vector Group and the Guarantors.

"**Patent Licenses**" means any and all agreements providing for the granting of any right in or to Patents or otherwise providing for a covenant not to sue under Patents (whether the Grantor is licensee or licensor thereunder).

"**Patents**" means all United States patents and certificates of invention, or similar industrial property rights, and applications for any of the foregoing, including: (a) each patent and patent application required to be listed in Schedule 2 hereto under the heading "Patents" (as such schedule may be amended or supplemented from time to time) and (b) all reissues, divisions, continuations, continuations-in-part, extensions, renewals, and reexaminations thereof and (c) all inventions and improvements described therein.

"**Priority Liens**" means the Liens securing the First Priority Debt.

"**Relevant State**" means the state under whose laws a Grantor is incorporated or organized.

"**Secured Liabilities**" means each liability and obligation specified in Clause 2 (Secured Liabilities).

"**Secured Parties**" means the Trustee, the Collateral Agent, the Paying Agent, the Registrar and the Noteholders.

"**Security**" means any security interest created by this Agreement.

"**Security Period**" means the period beginning on the date of this Agreement and ending on the date on which all the Secured Liabilities have been indefeasibly, unconditionally and irrevocably paid and discharged in full (other than in respect of contingent obligations for which no claim has been asserted). The Security Period will be extended

to take into account any extension or reinstatement of this Agreement under Clause 3.2(b) (General).

"**Trademark Licenses**" means any and all agreements providing for the granting of any right in or to Trademarks or permitting co-existence with respect to Trademarks (whether the Grantor is licensee or licensor thereunder).

"**Trademarks**" means all United States trademarks, trade names, corporate names, company names, business names, fictitious business names, Internet domain names, service marks, certification marks, collective marks, logos, or other source or business identifiers, and all registrations and applications for any of the foregoing including: (a) the registrations and applications required to be listed in Schedule 2 under the heading "Trademarks" (as such schedule may be amended or supplemented from time to time),
(b) all extensions and renewals of any of the foregoing and (c) all of the goodwill of the business connected with the use of and symbolized by the foregoing.

"**Trade Secret Licenses**" means any and all agreements providing for the granting of any right in or to Trade Secrets or otherwise providing for a covenant not to sue under Trade Secrets (whether a Grantor is licensee or licensor thereunder).

"**Trade Secrets**" means all trade secrets and all other confidential proprietary information and know-how, whether or not reduced to a writing or other tangible form.

"**UCC**" means the Uniform Commercial Code as in effect from time to time in the State of New York.

1.2 Construction

(a) Any term defined in the UCC and not defined in this Agreement has the meaning given to that term in the UCC.

(b) Any term defined in the Indenture and not defined in this Agreement or the UCC has the meaning given to that term in the Indenture.

(c) No reference to "**proceeds**" in this Agreement authorizes any sale, transfer or other disposition of Collateral by a Grantor that is not permitted by the Indenture.

(d) In this Agreement, unless the contrary intention appears, a reference to:

(i) an "**amendment**" includes a supplement, novation, restatement or re- enactment and "**amended**" will be construed accordingly;

(ii) a Clause, a Subclause, an Exhibit or a Schedule is a reference to a Clause or Subclause of, or an Exhibit or Schedule to, this Agreement;

(iii) a law is a reference to that law as amended or re-enacted and to any successor law;

(iv) an agreement is a reference to that agreement as amended;

(v) "**fraudulent transfer law**" means any applicable U.S. Bankruptcy Law or state fraudulent transfer or conveyance statute, and the related case law; and

(vi) "**law**" includes any law, statute, regulation, regulatory requirement, rule, ordinance, ruling, decision, treaty, directive, order, guideline, regulation, policy, writ, judgment, injunction or request of any court or other governmental, inter-governmental or supranational body, officer or official, fiscal or monetary authority, or other ministry or public entity (and their interpretation, administration and application), whether or not having the force of law.

(e) In this Agreement:

(i) "**includes**" and "**including**" are not limiting;

(ii) "**or**" is not exclusive; and

(iii) the headings are for convenience only, do not constitute part of this Agreement and are not to be used in construing it.

2. SECURED LIABILITIES

2.1 Secured Liabilities

Each obligation and liability whether:

(a) present or future, actual, contingent or unliquidated; or

(b) owed jointly or severally (or in any other capacity whatsoever),

of any Grantor to any Noteholder, the Trustee, the Paying Agent, the Registrar or the Collateral Agent under or in connection with each Finance Document is a Secured Liability.

2.2 Specification of Secured Liabilities

The Secured Liabilities include any liability or obligation for:

(a) repayment of the principal of any Note;

(b) payment of interest and any other amount payable under the Finance Documents;

(c) payment and performance of all other obligations and liabilities of any Obligor under the Finance Documents;

(d) payment of any amount owed under any amendment, modification, renewal, extension or novation of any of the above obligations; and

(e) payment of any amount that arises after a petition is filed by, or against, any Obligor under the U.S. Bankruptcy Code of 1978 even if the obligations do not accrue because of the automatic stay under Section 362 of the U.S. Bankruptcy Code of 1978 or otherwise.

3. CREATION OF SECURITY

3.1 Security Interest

As security for the prompt and complete payment and performance of the Secured Liabilities when due (whether due because of stated maturity, acceleration, mandatory prepayment, or otherwise) and to induce the Noteholders to purchase the Notes, each Grantor grants to the Collateral Agent for the benefit of the Secured Parties a continuing security interest in such Grantor's right, title and interest in and to the Collateral.

3.2 General

(a) All the Security created under this Agreement:

(i) is continuing security for the irrevocable and indefeasible payment in full of the Secured Liabilities, regardless of any intermediate payment or discharge in whole or in part;

(ii) is in addition to, and not in any way prejudiced by, any other security now or subsequently held by the Collateral Agent.

(b) If, at any time for any reason (including the bankruptcy, insolvency, receivership, reorganization, dissolution or liquidation of any Obligor or the appointment of any receiver, intervenor or conservator of, or agent or similar official for, any Obligor or any of their respective properties), any payment received by the Collateral Agent or any Noteholder in respect of the Secured Liabilities is rescinded or avoided or must otherwise be restored or returned by the Collateral Agent or any Noteholder, that payment will not be considered to have been made for purposes of this Agreement, and this Agreement will continue to be effective or will be reinstated, if necessary, as if that payment had not been made.

(c) This Agreement is enforceable against the Grantors to the maximum extent permitted by the fraudulent transfer laws.

4. PERFECTION AND FURTHER ASSURANCES

4.1 General perfection

Each Grantor shall take, at its own expense, promptly, and in any event within any applicable time limit:

(a) whatever action is necessary; and

(b) any action that the Collateral Agent may reasonably require,

to ensure that the Security is, as of the date the Notes are first issued under the Indenture, and will continue to be until the end of the Security Period, a validly created, attached, enforceable and perfected continuing security interest in the U.S. Collateral, to the extent such security interest can be perfected by the filing of financing statements and short- form security interests as described in Sections 4.2 and 4.3, subject to no Liens other than Permitted Liens and subject in priority to no Liens other than Priority Liens and Permitted Prior Liens, in all relevant jurisdictions, securing payment and performance of the Secured Liabilities.

This includes the giving of any notice, order or direction, the making of any filing or registration, the passing of any resolution and the execution and delivery of any documents or agreements which the Collateral Agent may reasonably require.

4.2 Filing of financing statements

(a) Each Grantor authorizes the Collateral Agent to prepare and file, at such Grantor's expense:

(i) financing statements describing the Collateral as "all assets" or "all personal property" or words of similar effect, of such Grantor, whether now owned or hereafter existing or acquired by such Grantor;

(ii) continuation statements; and

(iii) any amendment in respect of those statements.

(b) Promptly after filing an initial financing statement in respect of the Collateral, each Grantor must provide the Collateral Agent with an official report from the Secretary of State of such Grantor's Relevant State indicating that the Collateral Agent's security interest in the Collateral provided by such Grantor incorporated or organized under the laws of such Relevant State is prior to all other security interests or other interests reflected in the report other than Liens securing the ABL Debt or other Permitted Prior Liens.

4.3 Intellectual Property Recording Requirements In the case of any Collateral consisting of U.S. Patents that are issued by or subject to a pending application before the U.S. Patent and Trademark Office and owned by such Grantor, such Grantor shall execute and deliver to the Collateral Agent a Patent Security Agreement in substantially the form of Exhibit 1 hereto (or a supplement thereto) covering all such Patents, in appropriate form for recordation with the U.S. Patent and Trademark Office with respect to the security interest of the Collateral Agent.

(b) In the case of any Collateral consisting of U.S. Trademarks that are registered with or subject to a pending application before the U.S. Patent and Trademark

Office and owned by such Grantor, such Grantor shall execute and deliver to the Collateral Agent a Trademark Security Agreement in substantially the form of Exhibit 2 hereto (or a supplement thereto) covering all such Trademarks in appropriate form for recordation with the U.S. Patent and Trademark Office with respect to the security interest of the Collateral Agent.

(c) In the case of any Collateral consisting of registered U.S. Copyrights registered with the U.S. Copyright Office and owned by such Grantor, and Copyright Licenses in respect of U.S. Copyrights registered with the U.S. Copyright Office for which any Grantor is the exclusive licensee ("**Exclusive Copyright Licenses**"), such Grantor shall execute and deliver to the Collateral Agent a Copyright Security Agreement in substantially the form of Exhibit 3 hereto (or a supplement thereto) covering all such Copyrights and Exclusive Copyright Licenses is in appropriate form for recordation with the U.S. Copyright Office with respect to the security interest of the Collateral Agent.

4.4 Further assurances

(a) The Grantors shall take, at their own expense, promptly, and in any event within any applicable time limit, whatever action may reasonably be required under the Indenture or this Agreement for:

(i) creating, attaching, perfecting and protecting, and maintaining the priority of, any security interest intended to be created by this Agreement;

(ii) facilitating the enforcement of the Security or the exercise of any right, power or discretion exercisable by the Collateral Agent or any of its delegates or sub-delegates in respect of any Collateral; and

(iii) facilitating the assignment or transfer of any rights and/or obligations of the Collateral Agent under this Agreement.

Such actions include the execution and delivery of any transfer, assignment or other agreement or document, whether to the Collateral Agent or its nominee, that the Collateral Agent may reasonably require.

(b) Each Grantor irrevocably constitutes and appoints the Collateral Agent, with full power of substitution, as such Grantor's true and lawful attorney-in-fact, in such Grantor's name or in the Collateral Agent's name or otherwise, and at such Grantor's expense, to take any of the actions referred to in paragraph (a) above without notice to or the consent of such Grantor. This power of attorney is a power coupled with an interest and cannot be revoked. Each Grantor ratifies and confirms all actions taken by the Collateral Agent or its agents under this power of attorney.

5. REPRESENTATIONS AND WARRANTIES Representations and

warranties

The representations and warranties set out in this Clause are made by each Grantor to the Collateral Agent and each Noteholder.

5.1 The Grantors

(a) It is organized under the laws of the state indicated in the preamble to this Agreement.

(b) In the case of Liggett Group LLC:

(i) Its exact legal name, as it appears in the public records of its jurisdiction of organization, is as stated in the preamble to this Agreement. It has not changed its name, whether by amendment of its organizational documents, reorganization, merger or otherwise, in the past five years.

(ii) Its organizational identification number, as issued by its jurisdiction of organization is 2232980.

(c) In the case of 100 Maple LLC:

(i) Its exact legal name, as it appears in the public records of its jurisdiction of organization, is as stated in the preamble to this Agreement. It has not changed its name, whether by amendment of its organizational documents, reorganization, merger or otherwise, in the past five years.

(ii) Its organizational identification number, as issued by its jurisdiction of organization is 3037646.

(d) It keeps at its address indicated in Clause 16 (Notices) its corporate records and all records, documents and instruments constituting, relating to or evidencing Collateral.

5.2 The Collateral

(a) Except as permitted under the Indenture:

(i) it is the sole legal and beneficial owner of, and has the power to transfer and grant a security interest in, the Collateral;

(ii) none of the Collateral is subject to any Lien other than the Collateral Agent's security interest and Liens securing the ABL Debt and other Permitted Liens;

(iii) it has not agreed or committed to sell, assign, pledge, transfer, lease, or grant any Lien (other than Permitted Liens) on any of the Collateral, or granted any option, warrant or right with respect to any of the Collateral; and

(iv) no effective mortgage, deed of trust, financing statement, security agreement or other instrument similar in effect is on file or of record with respect to any Collateral, except for those that create, perfect or evidence the Collateral Agent's security interest or Liens securing the ABL Debt or other Permitted Liens.

(b) No litigation, arbitration or administrative proceedings are current or pending or, to its knowledge, threatened, involving or affecting the Collateral, and none of the Collateral is subject to any order, writ, injunction, execution or attachment, in each case, that would reasonably be expected to have a material adverse effect on the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement.

5.3 No liability

Except, in each case, as would not reasonably be expected to adversely affect the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement in any material respect:

(a) its rights, interests, liabilities and obligations under contractual obligations that constitute part of the Collateral are not affected by this Agreement or the exercise by the Collateral Agent of its rights under this Agreement;

(b) neither the Collateral Agent nor any Noteholder, unless it expressly agrees in writing, will have any liabilities or obligations under any contractual obligation that constitutes part of the Collateral as a result of this Agreement, the exercise by the Collateral Agent of its rights under this Agreement or otherwise; and

(c) neither the Collateral Agent nor any Noteholder has or will have any obligation to collect upon or enforce any contractual obligation or claim that constitutes part of the Collateral, or to take any other action with respect to the Collateral.

5.4 Consideration and solvency

(a) Terms used in this Subclause have the meanings given to them in, and must be construed in accordance with, the fraudulent transfer laws.

(b) It will receive valuable direct and indirect benefits as a result of the transactions financed by the issuance of the Notes and these benefits constitute "reasonably equivalent value" and "fair consideration" as those terms are used in the fraudulent transfer laws.

(c) To the best of its knowledge, the Secured Parties have acted in good faith in connection with the transactions contemplated by this Agreement.

(d) The sum of its debts (including its obligations under this Agreement) is less than the value of its property (calculated at the lesser of fair valuation and present fair saleable value).

(e) Its capital is not unreasonably small to conduct its business as currently conducted or as proposed to be conducted.

(f) It has not incurred, does not intend to incur and does not believe it will incur debts beyond its ability to pay as they mature.

(g) It has not made a transfer or incurred an obligation under this Agreement with the intent to hinder, delay or defraud any of its present or future creditors.

5.5 Intellectual Property

(a) Schedule 2 (as such schedule may be amended or supplemented from time to time) lists all registered Copyrights and applications therefor, issued Patents and Patent applications and all registered Trademarks and applications therefor, in each case owned or purported to be owned by such Grantor, and to its knowledge,
(i) such Grantor is the sole and exclusive owner of the entire right, title, and interest in and to all Intellectual Property listed on Schedule 2 (as such schedule may be amended or supplemented from time to time), and (ii) owns or has the valid right to use and, where such Grantor does so, sublicense others to use, all other Intellectual Property used in and necessary to conduct its business, in each case, free and clear of all Liens except for Permitted Liens.

(b) All Intellectual Property material to its business and owned by such Grantor is subsisting and has not been adjudged invalid or unenforceable, in whole or in part, nor are any Patents owned by such Grantor and material to its business the subject of a reexamination proceeding, and such Grantor has performed all acts and has paid all renewal, maintenance, and other fees and taxes required to maintain each and every registration and application of Copyrights, Patents and Trademarks owned by such Grantor and material to its business in full force and effect.

(c) (i) To the knowledge of the applicable Grantor, all Intellectual Property material to its business and owned by such Grantor is valid and enforceable; and (ii) no action or proceeding is pending or, to the best of the applicable Grantor's knowledge, threatened before any court or administrative authority challenging the validity or scope of, such Grantor's right to register, or such Grantor's rights to own or use, any Intellectual Property material to its business.

(d) All registrations and applications for Copyright registrations, Patents and Trademark registrations material to such Grantor's business and owned or purported to be owned by such Grantor are standing in the name of such Grantor.

(e) Such Grantor uses commercially reasonable standards of quality in the manufacture, distribution, and sale of all products sold and in the provision of all services rendered under or in connection with all Trademarks owned by such Grantor and material to its business, and has taken commercially reasonable actions to ensure that all licensees of the Trademarks owned by such Grantor and material to its business use adequate standards of quality.

(f) To the best of such Grantor's knowledge, the conduct of such Grantor's business does not infringe upon or misappropriate or otherwise violate any trademark, patent, copyright, trade secret or other intellectual property right of any other Person in any manner that is or would reasonably be expected to be material to its business; except as would not reasonably be expected to be material, no unresolved claim has been asserted in writing against Grantor asserting that such Grantor infringes upon, misappropriates or otherwise violates the intellectual property rights of any other Person, or otherwise demanding that the Grantor enter into a license or co-existence agreement.

(g) To the best of such Grantor's knowledge, no other Person is infringing upon, misappropriating or otherwise violating any rights in any Intellectual Property owned by such Grantor in a manner that would reasonably be expected to be material to such Grantor's business.

(h) No settlement or consents, covenants not to sue, co-existence agreements, non- assertion assurances, or releases have been entered into by such Grantor or bind such Grantor in a manner that could adversely affect in any material respect such Grantor's rights to own, license or use any Intellectual Property material to its business.

5.6 Times for making representations and warranties

(a) The representations and warranties set out in this Agreement (including in this Clause 5) are made on the date of this Agreement.

(b) The representations and warranties under Clause 5.5 are deemed to be repeated by the Grantors on the date of each issuance of Notes under the Indenture with reference to the facts and circumstances then existing.

(c) When representations and warranties are repeated, they are applied to the circumstances existing at the time of repetition.

(d) The representations and warranties of the Grantors contained in this Agreement or made by any Grantor in any certificate, notice or report delivered under this Agreement will survive each issuance of Notes and any transfer or assignment of the Notes.

6. UNDERTAKINGS Undertakings

The Grantors agree to be bound by the covenants set out in this Clause.

6.1 The Grantors

(a) Except as permitted under the Indenture, each Grantor shall preserve its limited liability company existence and will not, except as permitted by the Indenture, in

one transaction or a series of related transactions, merge into or consolidate with any other entity, or sell all or substantially all of its assets.

(b) No Grantor shall change the jurisdiction of its organization without providing the Collateral Agent with at least 10 days' prior written notice.

(c) No Grantor shall change its name without providing the Collateral Agent with at least 10 days' prior written notice.

(d) Each Grantor shall keep at its address indicated in, or otherwise notified to the Collateral Agent pursuant to, Clause 16 (Notices) its corporate records and all records, documents and instruments constituting, relating to or evidencing Collateral.

(e) Each Grantor shall permit the Collateral Agent and its agents and representatives, at mutually agreed times during normal business hours and upon reasonable notice, to inspect the Collateral, to examine and make copies of and abstracts from the records referred to in paragraph (d) above, and to discuss matters relating to the Collateral directly with such Grantor's officers and employees.

(f) At the Collateral Agent's request, the Grantors shall provide the Collateral Agent with any information concerning the Collateral that the Collateral Agent may reasonably request.

6.2 The Collateral

(a) Except as permitted by the Indenture or this Agreement, the Grantors:

(i) shall maintain sole legal and beneficial ownership of the Collateral;

(ii) shall not permit any Collateral to be subject to any Lien other than the Collateral Agent's security interest and Liens securing the ABL Debt and other Permitted Liens and shall at all times warrant and defend the Collateral Agent's security interest in the Collateral against all other Liens (other than Permitted Prior Liens and other Permitted Liens) and claimants;

(iii) shall not sell, assign, transfer, pledge, license, lease or further encumber, or grant any option, warrant, or right with respect to, any of the Collateral, or agree or contract to do any of the foregoing; and

(iv) shall not waive, amend or terminate, in whole or in part, any material accessory or ancillary right or other right in respect of any Collateral.

(b) The Grantors shall pay, prior to delinquency, all material taxes, assessments and governmental levies imposed on or in respect of Collateral and all claims against the Collateral, including claims for labor, materials and supplies, in each case, except such as are contested in good faith and by appropriate proceedings or

where the failure to effect such payment is not adverse in any material respect to the Collateral Agent.

(c) In any suit, legal action, arbitration or other proceeding involving the Collateral or the Collateral Agent's security interest, the Grantors shall take all lawful action to avoid impairment of the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement or the imposition of a Lien (other than Permitted Liens) on any Collateral.

6.3 Intellectual Property

(a) It shall not do any act or omit to do any act whereby any of the Intellectual Property which is owned by and material to the business of such Grantor may lapse, or become abandoned, dedicated to the public, or unenforceable, or which would adversely affect the validity, grant, or enforceability of the security interest granted therein (except, in each case, to the extent such action or inaction is deemed advisable in such Grantor's reasonable business judgment).

(b) It shall not, with respect to any Trademarks owned by such Grantor and material to its business, cease the use of any of such Trademarks or fail to maintain the level of the quality of products sold and services rendered under any of such Trademark at a level at least substantially consistent with the quality of such products and services as of the date hereof, and such Grantor shall take commercially reasonable steps to ensure that licensees of such Trademarks use such consistent standards of quality (except, in each case, to the extent such action or inaction is deemed advisable in such Grantor's reasonable business judgment).

(c) It shall take all reasonable steps in the United States Patent and Trademark Office and the United States Copyright Office to continue prosecution of any current application and maintain any registration of each Trademark, Patent, and Copyright, in each case, that is owned by and material to such Grantor

(d) It shall hereafter use commercially reasonable efforts so as not to permit the inclusion in any contract to which it hereafter becomes a party of any provision that would materially impair or prevent the creation of a security interest in, or the assignment of, such Grantor's rights and interests in any Intellectual Property material to its business acquired under such contracts.

(e) In the event that the Grantor becomes aware that any Intellectual Property owned by the Grantor and material to its business is infringed, misappropriated, or diluted by a third party, the Grantor shall promptly take such actions the Grantor deems appropriate under the circumstances, in its reasonable business judgment, to protect its rights in such Intellectual Property.

(f) It shall take commercially reasonable steps to protect the secrecy of its material Trade Secrets, including, to the extent such action is deemed advisable in such Grantor's reasonable business judgment, by entering into confidentiality

agreements with employees and consultants and labeling and restricting access to secret information and documents.

6.4 Notices

(a) The Grantors shall give the Collateral Agent prompt notice of the occurrence of any of the following events:

(i) any pending or threatened claim, suit, legal action, arbitration or other proceeding involving or affecting any Grantor or any Collateral that would reasonably be expected to materially impair the Collateral Agent's security interest or the Collateral Agent's rights under this Agreement or result in the imposition of a Lien (other than Permitted Liens) on any Collateral;

(ii) any loss or damage to any material portion of the Collateral; or

(iii) any representation or warranty contained in this Agreement is or becomes untrue, incorrect or incomplete in any material respect.

(b) Each notice delivered under this Clause, shall include:

(i) reasonable details about the event; and

(ii) the Grantors' proposed course of action.

Delivery of a notice under this Clause does not affect any Grantor's obligations to comply with any other term of this Agreement.

7. WHEN SECURITY BECOMES ENFORCEABLE

Subject to the terms of the Indenture, this Security may be enforced by the Collateral Agent at any time after an Event of Default has occurred and is continuing.

8. ENFORCEMENT OF SECURITY

8.1 [Reserved]

8.2 General

(a) After this Security has become enforceable, the Collateral Agent may immediately, in its absolute discretion but subject to the Intercreditor Agreement, exercise any right under:

(i) applicable law; or

(ii) this Agreement,

to enforce all or any part of the Security in respect of any Collateral in any manner or order it sees fit.

(b) The foregoing includes:

(i) any rights and remedies available to the Collateral Agent under applicable law and under the UCC (whether or not the UCC applies to the affected Collateral and regardless of whether or not the UCC is the law of the jurisdiction where the rights or remedies are asserted) as if those rights and remedies were set forth in this Agreement in full;

(ii) transferring or assigning to, or registering in the name of, the Collateral Agent or its nominees any of the Collateral;

(iii) exercising any consent and other rights relating to any Collateral;

(iv) performing or complying with any contractual obligation that constitutes part of the Collateral;

(v) receiving, endorsing, negotiating, executing and delivering or collecting upon any check, draft, note, acceptance, account, instrument, document, letter of credit, contract, agreement, receipt, release, bill of lading, invoice, endorsement, assignment, bill of sale, deed, security, share certificate, stock power, proxy, or instrument of conveyance or transfer constituting or relating to any Collateral;

(vi) asserting, instituting, filing, defending, settling, compromising, adjusting, discounting or releasing any suit, action, claim, counterclaim, right of set- off or other right or interest relating to any Collateral;

(vii) executing and delivering acquittances, receipts and releases in respect of Collateral; and

(viii) exercising any other right or remedy available to the Collateral Agent under the other Finance Documents or any other agreement between the parties.

8.3 Collections after an Event of Default

Subject to the rights of the holders of First Priority Debt under the Intercreditor Agreement:

(a) if an Event of Default occurs and is continuing, the Grantors shall hold all funds and other property received or collected in respect of the Collateral in trust for the Collateral Agent, and shall keep these funds and this other property segregated from all other funds and property so as to be capable of identification;

(b) the Grantors shall deliver those funds and that other property to the Collateral Agent in the identical form received, properly endorsed or assigned when required to enable the Collateral Agent to complete collection; and

(c) after the occurrence and during the continuation of an Event of Default, no Grantor may settle, compromise, adjust, discount or release any claim in respect of Collateral, and no Grantor may accept any returns of merchandise other than in the ordinary course of business.

8.4 Collateral Agent's rights upon default

(a) Each Grantor irrevocably constitutes and appoints the Collateral Agent, with full power of substitution, as such Grantor's true and lawful attorney-in-fact, in such Grantor's name or in the Collateral Agent's name or otherwise, and at such Grantor's expense, to take any of the actions authorized by this Agreement or permitted under applicable law upon the occurrence and during the continuation of an Event of Default, without notice to or the consent of such Grantor. This power of attorney is a power coupled with an interest and cannot be revoked. Each Grantor ratifies and confirms all actions taken by the Collateral Agent or its agents under this power of attorney.

(b) The Grantors agree that 10 days' notice shall constitute reasonable notice in connection with any sale, transfer or other disposition of Collateral.

(c) The Collateral Agent may comply with any applicable state or federal law requirements in connection with a disposition of Collateral and compliance will not be considered adversely to affect the commercial reasonableness of any sale of Collateral.

(d) The grant to the Collateral Agent under this Agreement of any right, power or remedy does not impose upon the Collateral Agent any duty to exercise that right, power or remedy. The Collateral Agent will have no obligation to take any steps to preserve any claim or other right against any Person or with respect to any Collateral.

(e) The Grantors bear the risk of loss, damage, diminution in value, or destruction of the Collateral.

(f) The Collateral Agent will have no responsibility for any act or omission of any courier, bailee, broker, bank, investment bank or any other Person chosen by it with reasonable care.

(g) The Collateral Agent makes no express or implied representations or warranties with respect to any Collateral or other property released to the Grantors or their respective successors and assigns.

(h) The Grantors agree that the Collateral Agent will have met its duty of care under applicable law if it holds, maintains and disposes of Collateral in the same manner that it holds, maintains and disposes of property for its own account.

(i) Except as set forth in this Clause or as required under applicable law, the Collateral Agent will have no duties or obligations under this Agreement or otherwise with respect to the Collateral.

(j) The sale, transfer or other disposition under this Agreement of any right, title, or interest of any Grantor in any item of Collateral will:

(i) operate to divest such Grantor permanently and all Persons claiming under or through such Grantor of that right, title, or interest, and

(ii) be a perpetual bar, both at law and in equity, to any claims by such Grantor or any Person claiming under or through such Grantor

with respect to that item of Collateral.

8.5 No marshaling

(a) The Collateral Agent need not, and the Grantors irrevocably waive and agree that they shall not invoke or assert any law requiring the Collateral Agent to:

(i) attempt to satisfy the Secured Liabilities by collecting them from any other Person liable for them; or

(ii) marshal any security or guarantee securing payment or performance of the Secured Liabilities or any particular asset of any Grantor.

(b) The Collateral Agent may release, modify or waive any collateral or guarantee provided by any other Person to secure any of the Secured Liabilities, without affecting the Collateral Agent's rights against the Grantors.

8.6 Grant of Intellectual Property License

For the purpose of enabling the Collateral Agent, during the continuance of an Event of Default, to exercise rights and remedies under this Clause 8 at such time as the Collateral Agent shall be lawfully entitled to exercise such rights and remedies, and for no other purpose, the Grantor hereby grants to the Collateral Agent an irrevocable, non-exclusive license to use, license or sublicense any of the Intellectual Property now owned or hereafter acquired by such Grantor, wherever the same may be located. Such license shall be subject, in the case of Trademarks, to sufficient rights to quality control and inspection in favor of the Grantor to avoid the risk of invalidation of said Trademarks. Such license shall include reasonable access to all media in which any of the licensed items may be recorded or stored and to all computer programs used for the compilation or printout hereof.

9. APPLICATION OF PROCEEDS

Any moneys received in connection with the Collateral by the Collateral Agent after this Security has become enforceable shall be applied in the following order of priority:

(a) **first**, in or towards payment of or provision for all costs and expenses incurred by the Collateral Agent in connection with the enforcement of this Security;

(b) **second**, in or towards payment of, or provision for, the Secured Liabilities; and

(c) **third**, in payment of the surplus (if any) to the Grantors or any other Person entitled to it under applicable law.

This Clause is subject to the prior payment of First Priority Debt in accordance with the terms of the Intercreditor Agreement and claims having priority over this Security under mandatory provisions of applicable law. This Clause does not prejudice the right of any Noteholder to recover any shortfall from the Grantors, and the preceding sentence shall not be deemed or interpreted as a waiver or modification of Clause 6.3(a) (The Collateral).

10. EXPENSES AND INDEMNITY

(a) The Grantors shall pay promptly on demand to the Collateral Agent all reasonable and documented costs and expenses incurred by the Collateral Agent, any Noteholder, attorney, manager, delegate, sub-delegate, agent or other Person appointed by the Collateral Agent under this Agreement for the purpose of enforcing its rights under this Agreement. Such costs and expenses include:

(i) costs of foreclosure and of any transfer, disposition or sale of Collateral;

(ii) costs of maintaining or preserving the Collateral or assembling it or preparing it for transfer, disposition or sale;

(iii) costs of obtaining money damages; and

(iv) fees and expenses of attorneys employed by the Collateral Agent for any purpose related to this Agreement or the Secured Liabilities, including consultation, preparation and negotiation of any amendment or restructuring, drafting documents, sending notices or instituting, prosecuting or defending litigation or arbitration.

(b) The Grantors shall indemnify and keep indemnified the Secured Parties and their respective affiliates, directors, officers, representatives and agents from and against all claims, liabilities, obligations, losses, damages, penalties, judgments, costs and expenses of any kind (including attorney's fees and expenses) that may be imposed on, incurred by or asserted against any of them by any Person (including any Noteholder) in any way relating to or arising out of:

(i) this Agreement;

(ii) the Collateral;

(iii) the Collateral Agent's security interest in the Collateral;

(iv) any Event of Default;

(v) any action taken or omitted by the Collateral Agent under this Agreement or any exercise or enforcement of rights or remedies under this Agreement; or

(vi) any transfer sale or other disposition of or any realization on Collateral.

(c) The Grantors shall not be liable to an indemnified party to the extent any liability results from that indemnified party's gross negligence or willful misconduct. Payment by an indemnified party will not be a condition precedent to the obligations of any Grantor under this indemnity.

(d) The obligations of the Grantors under this Clause 10 (Expenses and Indemnity) are joint and several.

(e) This Clause survives the issuance of the Notes, the repayment of the Notes, any transfer or assignment of the Notes and the termination of this Agreement.

11. EVIDENCE AND CALCULATIONS

In the absence of manifest error, the records of the Collateral Agent shall be conclusive evidence of the existence and the amount of the Secured Liabilities.

12. CHANGES TO THE PARTIES

12.1 Grantors

The Grantors may not assign, delegate or transfer any of their respective rights or obligations under this Agreement without the consent of the Collateral Agent, and any purported assignment, delegation or transfer in violation of this provision shall be void and of no effect.

12.2 Collateral Agent

The Collateral Agent may assign or transfer its rights and obligations under this Agreement in the manner permitted under the Indenture.

12.3 Successors and assigns

This Agreement shall be binding on and inure to the benefit of the respective successors and permitted assigns of the Grantors and the Collateral Agent.

13. MISCELLANEOUS

13.1 Amendments and waivers

Any term of this Agreement may be amended or waived only by the written agreement of the Grantors and the Collateral Agent. Notwithstanding the foregoing, the Grantors may, but shall have no obligation to, update the schedules hereto from time to time by delivering such updated schedules to the Collateral Agent.

13.2 Waivers and remedies cumulative

(a) The rights and remedies of the Collateral Agent under this Agreement:

(i) may be exercised as often as necessary;

(ii) are cumulative and not exclusive of its rights under applicable law; and

(iii) may be waived only in writing and specifically.

(b) Delay in exercising, or non-exercise, of any right or remedy under this Agreement is not a waiver of that right or remedy.

13.3 Counterparts

This Agreement may be executed in counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement. The words “execution,” “executed,” “signed,” “signature,” “delivery” and words of like import in or relating to this Agreement or any document to be signed in connection with this Agreement shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

14. SEVERABILITY

If any term of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, that will not affect:

(a) the legality, validity or enforceability in that jurisdiction of any other term of this Agreement; or

(b) the legality, validity or enforceability in any other jurisdiction of that or any other term of this Agreement.

15. RELEASE

At the end of the Security Period and at the other times provided in the Indenture, the Security will be released in accordance with the Indenture and the Collateral Agent must,

at the request and cost of the Grantors, promptly take whatever action is necessary to release all or any applicable part of the Collateral from this Security in accordance with the terms of the Indenture.

16. NOTICES

16.1 Notices

Any communication in connection with this Agreement must be in writing and, unless otherwise stated, must be given in person, by first class mail (registered or certified, return receipt requested), overnight courier guaranteeing next day delivery, or by fax.

16.2 Contact details

(a) The contact details of the Grantors for this purpose are:

Liggett Group LLC
Address: 100 Maple Lane
Mebane, NC 27302
Fax: (919) 304-7700
Attention: Victoria Spier Evans

100 Maple LLC
Address: 3800 Paramount Parkway, Suite 250
P.O. Box 2010 Morrisville, NC 27560
Fax: (919) 990-3505
Attention: Victoria Spier Evans

(b) The contact details of the Collateral Agent for this purpose are:

U.S. Bank National Association
Address: Global Corporate Trust Services
60 Livingston Avenue EP-MN-WS3C
St. Paul, MN 55107-2292
Fax: (651) 466-7430
Attention: Joshua A. Hahn

(c) Any party may change its contact details by giving five Business Days' notice to the other parties

(d) Where a party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

16.3 Effectiveness

(a) Except as provided below, any communication in connection with this Agreement will be deemed to be given as follows:

(i) if delivered in person, at the time of delivery;

(ii) if by e-mail or fax, when sent with confirmation of transmission.

(b) A communication given under this Clause but received on a non-working day or after business hours in the place of receipt will only be deemed to be given on the next working day in that place.

17. GOVERNING LAW

This Agreement, the relationship between the Grantors, the Secured Parties and any claim or dispute (whether sounding in contract, tort, statute or otherwise) relating to this Agreement or that relationship shall be governed by and construed in accordance with law of the State of New York including section 5-1401 of the New York General Obligations Law but excluding any other conflict of law rules that would lead to the application of the law of another jurisdiction. If the law of a jurisdiction other than New York is, under section 1-105(2) of the UCC, mandatorily applicable to the perfection, priority or enforcement of any security interest granted under this Agreement in respect of any particular Collateral, that other law shall apply solely to the matters of perfection, priority or enforcement to which it is mandatorily applicable.

18. ENFORCEMENT

18.1 Jurisdiction

(a) Each of the Parties agree that any New York State court or Federal court sitting in the City and County of New York has jurisdiction to settle any disputes in connection with this Agreement and accordingly submits to the jurisdiction of those courts.

(b) Each of the Parties:

(i) waives objection to the New York State and Federal courts on grounds of personal jurisdiction, inconvenient forum or otherwise as regards proceedings in connection with this Agreement; and

(ii) agrees that a judgment or order of a New York State or Federal court in connection with this Agreement is conclusive and binding on it and may be enforced against it in the courts of any other jurisdiction.

(c) Nothing in this Clause limits the right of the Collateral Agent or any Noteholder to bring proceedings against any Grantor in connection with this Agreement:

(i) in any other court of competent jurisdiction; or

(ii) concurrently in more than one jurisdiction.

18.2 Service of Process

Each Grantor consents to the service of process relating to any proceedings by a notice given in accordance with Clause 16 (Notices) above.

18.3 Complete Agreement

This Agreement and the other Finance Documents contain the complete agreement between the parties on the matters to which they relate and supersede all prior commitments, agreements and understandings, whether written or oral, on those matters.

18.4 Waiver of Jury Trial

THE GRANTORS AND THE COLLATERAL AGENT (FOR ITSELF AND ON BEHALF OF THE NOTEHOLDERS) WAIVE ANY RIGHTS THEY MAY HAVE TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED ON OR ARISING FROM THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

19. INTERCREDITOR AGREEMENT

In the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control.

The undersigned, intending to be legally bound, have executed and delivered this Agreement on the date stated at the beginning of this Agreement.

SIGNATORIES

IN WITNESS WHEREOF, the Grantors have caused this Security Agreement to be duly executed by its duly authorized officer as of the day and year first above written.

Grantors

LIGGETT GROUP LLC

By: /s/ Nicholas P. Anson Name: Nicholas P. Anson
Title: President and Chief Operating Officer

100 MAPLE LLC

By: /s/ Victoria Spier Evans Name: Victoria Spier Evans
Title: Secretary

Collateral Agent

U.S. BANK NATIONAL ASSOCIATION as Collateral Agent

By: /s/ Joshua A. Hahn Name: Joshua A. Hahn Title:

Vice President

SCHEDULE 1 COMMERCIAL TORT CLAIMS

NONE.

SCHEDULE 2

INTELLECTUAL PROPERTY

COPYRIGHTS:

Registrations

Liggett Group LLC – None.

100 Maple LLC - None.

Applications

Liggett Group LLC - None. 100 Maple LLC - None.

PATENTS:

Registrations

Liggett Group LLC - None. 100 Maple LLC - None.

Applications

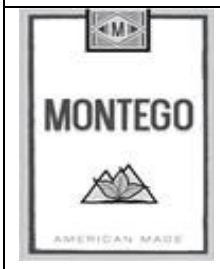
Liggett Group LLC - None. 100 Maple LLC - None.

TRADEMARKS:

Registrations

Liggett Group LLC -

Mark	Owner	Appl. No. Filing Date	Reg. No. Reg. Date
	Liggett Group LLC	78/526208 02-DEC-2004	3108068 20-JUN-2006
	Liggett Group LLC	76/386980 26-MAR-2002	2815517 17-FEB 2004

Mark	Owner	Appl. No. Filing Date	Reg. No. Reg. Date
	Liggett Group LLC	74/259122 26-MAR-1992	1804692 16-NOV-1993
	Liggett Group LLC	73/654465 10-APR-1987	1462175 20-OCT-1987
	Liggett Group LLC	73/465819 15-FEB-1984	1327319 26-MAR-1985
	Liggett Group LLC	73/465818 15-FEB-1984	1344930 25-JUN-1985
	Liggett Group LLC	86/823504 7-NOV-2015	5257011 8/1/2017
	Liggett Group LLC	87/524,162 07/11/2017	5,591,310 10/23/2018
BRONSON	Liggett Group LLC	74/349010 15-JAN-1993	1821601 15-FEB-1994
EVE	Liggett Group LLC	72/314239 11-DEC-1968	0872454 08-JUL-1969
GRAND PRIX	Liggett Group LLC	73/641310 23-JAN-1987	1453454 18-AUG-1987
LIGGETT GROUP	Liggett Group LLC	74/721242 28-AUG-1995	2023349 17-DEC-1996
LIGGETT SELECT	Liggett Group LLC	76/533449 30-JUL-2003	2961769 14-JUN-2005
MONTEGO	Liggett Group LLC	74/461169 22-NOV-1993	1900071 13-JUN-1995

Mark	Owner	Appl. No. Filing Date	Reg. No. Reg. Date
PYRAMID	Liggett Group LLC	73/366688 26-MAY-1982	1273822 10-APR-1984

100 Maple LLC - None.

Applications

Liggett Group LLC –

OWNER	APPLICATION NUMBER	TRADEMARK
Liggett Group LLC	88/887,251	GOOD TASTE COUNTS
Liggett Group LLC	88/606,245	RIGHT ON THE MONEY

100 Maple LLC - None.

EXHIBIT 1

FORM OF PATENT SECURITY AND PLEDGE AGREEMENT

This **PATENT SECURITY AND PLEDGE AGREEMENT**, dated as of [, 2021] (as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Agreement"), is made by [Liggett Group LLC][100 Maple LLC], a Delaware limited liability company and (the "Grantor") in favor of U.S. Bank National Association, as collateral agent (in such capacity, the "Collateral Agent") for the Noteholders (as defined in the Security Agreement referred to below).

WHEREAS, the Grantor has guaranteed the Notes issued under the Indenture, dated as of January 28, 2021 (as amended, supplemented, or otherwise modified from time to time, the "Indenture") among Vector Group Ltd. (the "Issuer"), the Grantor and certain of the Issuer's other direct and indirect subsidiaries and the Collateral Agent, in its capacity as trustee thereunder.

WHEREAS, it is a condition precedent to the obligations of the Collateral Agent under the Indenture that the Grantor shall have executed and delivered that certain Security Agreement, dated as of January 28, 2021, in favor of the Collateral Agent (as amended, supplemented, replaced or otherwise modified from time to time, the "Security Agreement").

WHEREAS, under the terms of the Security Agreement, the Grantor has granted a security interest in certain property, including certain Intellectual Property of such Grantor to the Collateral Agent for the benefit of the Secured Parties, and has agreed as a condition thereof to execute this Agreement for recording with the United States Patent and Trademark Office and other applicable Governmental Authorities.

WHEREAS, this Agreement is supplemental to the provisions contained in the Security Agreement and, in the event of an inconsistency among them, the Security Agreement shall control over this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor agrees as follows:

1. DEFINITIONS.

1.1 Terms Defined in the Security Agreement. All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings assigned to them in the Security Agreement.

1.2 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Assignment of Patents" has the meaning set forth in Section 2.2 herein.

"Patent Collateral" has the meaning set forth in Section 2.1 herein. "PTO" means the United States Patent and Trademark Office.

1.3 Rules of Construction. Unless otherwise provided herein, the rules of construction set forth in Section 1.2 of the Security Agreement shall be applicable to this Agreement.

2. GRANT OF SECURITY INTEREST.

2.1 Security Interest. As collateral security for the payment and performance in full of all of the Secured Liabilities, the Grantor hereby grants to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on all of the Grantor's right, title and interest in all Patents owned by such Grantor, including the Patents referred to on Schedule A hereto (as such schedule may be amended or supplemented from time to time), in each case whether now or hereafter existing or arising or in which such Grantor now has or hereafter owns or acquires, all inventions and improvements described therein, all rights to sue for past, present and future infringements thereof, and all proceeds of the foregoing, including license fees, royalties, income, payments, claims, damages, and proceeds of suit (collectively, the "Patent Collateral").

2.2 Assignment of Patents upon Default. The Grantor acknowledges that the Collateral Agent has the right, pursuant to the power of attorney granted the Collateral Agent hereunder and under the Security Agreement, upon the occurrence and during the continuance of an Event of Default, to execute on behalf of such Grantor an assignment of Patents that constitute Patent Collateral (each an "Assignment of Patents") for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement. In furtherance of the foregoing, the Grantor hereby authorizes the Collateral Agent to complete, execute and record with the PTO an Assignment of Patents on behalf of such Grantor upon the occurrence and during the continuance of an Event of Default for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement.

2.3 Conditional Assignment. In addition to, and not by way of limitation of, the grant and pledge of the Patent Collateral provided in Section 2.1, the Grantor hereby grants, assigns, transfers, conveys and sets over to the Collateral Agent, for the benefit of the Secured Parties, the Grantor's entire right, title and interest in and to the Patent Collateral; *provided*, that such grant, assignment, transfer and conveyance shall be and become of force and effect only (a) in connection with the Collateral Agent's exercise of its rights and remedies in strict accordance with the terms of the Security Agreement, and
(b) upon or after the occurrence and during the continuance of an Event of Default and
(c) either (i) upon the written demand of the Collateral Agent at any time during such continuance or (ii) immediately and automatically (without notice or action of any kind by the Collateral Agent) upon an Event of Default for which acceleration of the payment of the Notes is automatic under the Indenture or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Security Agreement and applicable law

(including the transfer or other disposition of the Collateral by the Grantor to the Collateral Agent or its nominee in lieu of foreclosure).

2.4 Security Agreement. Pursuant to the Security Agreement the Grantor has granted to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on the Collateral (including the Patent Collateral). The Security Agreement, and all rights and interests of the Collateral Agent in and to the Collateral (including the Patent Collateral) thereunder, are hereby ratified and confirmed in all respects, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Patent Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In no event shall this Agreement, the grant, assignment, transfer and conveyance of the Patent Collateral hereunder, or the recordation of this Agreement (or any other document hereunder) with the PTO, adversely affect or impair, in any way or to any extent, the Security Agreement, the security interest of the Collateral Agent in the Collateral (including the Patent Collateral) pursuant to the Security Agreement, the attachment and perfection of such security interest under the UCC (including the security interest in the Patent Collateral), or any present or future rights and interests of the Collateral Agent in and to the Collateral under or in connection with the Security Agreement or the UCC. In the event that any provision of this Agreement is deemed to conflict with the Security Agreement, the provisions of the Security Agreement shall control.

3. AFTER-ACQUIRED PATENTS

3.1 After-acquired Patents. If, after the execution of this Agreement and before the end of the Security Period, the Grantor shall develop or acquire any new Patents, the provisions of this Agreement shall automatically apply thereto.

3.2 Amendment to Schedule. The Grantor authorizes the Collateral Agent to modify this Agreement and the Assignments of Patents, without the necessity of the Grantor's further approval or signature, by amending Schedule A hereto and the Annex to each Assignment of Patents to include any future or other Patents that become part of the Patent Collateral under Section 2 or Section 3.1.

4. GOVERNING LAW; CONSENT TO JURISDICTION.

This Agreement, the relationship between the parties hereunder and any claim or dispute (whether sounding in contract, tort, statute or otherwise) relating to this Agreement or that relationship shall be governed by and construed in accordance with law of the State of New York including section 5-1401 of the New York General Obligations Law but excluding any other conflict of law rules that would lead to the application of the law of another jurisdiction. If the law of a jurisdiction other than New York is, under section 1-105(2) of the UCC, mandatorily applicable to the perfection, priority or enforcement of any security interest granted under this Agreement in respect of any Patent Collateral, that other law shall apply solely to the matters of perfection, priority or enforcement to which it is mandatorily applicable.

5. MISCELLANEOUS.

5.1 Headings. The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. This Agreement and all rights and obligations hereunder shall be binding upon the Grantor and its respective successors and assigns, and shall inure to the benefit of the Secured Parties and their respective successors and assigns. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Grantor acknowledges receipt of a copy of this Agreement.

5.2 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[*Signatures begin on next page*]

IN WITNESS WHEREOF, the Grantor has caused this Patent Security and Pledge Agreement to be executed and delivered by its duly authorized officer as of the day and year first above written.

[ ], as Grantor

By: ___ Name:
Title:

U.S. Bank National Association, as Collateral Agent

By: ___ Name:
Title:

Schedule A
to the Patent Security and Pledge Agreement

Grantor: [__]

Issued U.S. Patents of Grantor

Patent No.	Issue Date	Title

Pending U.S. Patent Applications of Grantor

Application No.	Filing Date	Title

EXHIBIT 2

FORM OF TRADEMARK SECURITY AND PLEDGE AGREEMENT

This **TRADEMARK SECURITY AND PLEDGE AGREEMENT**, dated as of [, 2021] (as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Agreement"), is made by [Liggett Group LLC][100 Maple LLC], a Delaware limited liability company and (the "Grantor") in favor of U.S. Bank National Association, as collateral agent (in such capacity, the "Collateral Agent") for the Noteholders (as defined in the Security Agreement referred to below).

WHEREAS, the Grantor has guaranteed the Notes issued under the Indenture, dated as of January 28, 2021 (as amended, supplemented, or otherwise modified from time to time, the "Indenture") among Vector Group Ltd. (the "Issuer"), the Grantor and certain of the Issuer's other direct and indirect subsidiaries and the Collateral Agent, in its capacity as trustee thereunder.

WHEREAS, it is a condition precedent to the obligations of the Collateral Agent under the Indenture that the Grantor shall have executed and delivered that certain Security Agreement, dated as of January 28, 2021, in favor of the Collateral Agent (as amended, supplemented, replaced or otherwise modified from time to time, the "Security Agreement").

WHEREAS, under the terms of the Security Agreement, the Grantor has granted a security interest in certain property, including certain Intellectual Property of the Grantor to the Collateral Agent for the benefit of the Secured Parties, and has agreed as a condition thereof to execute this Agreement for recording with the United States Patent and Trademark Office and other applicable Governmental Authorities.

WHEREAS, this Agreement is supplemental to the provisions contained in the Security Agreement and, in the event of an inconsistency among them, the Security Agreement shall control over this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor agrees as follows:

1. DEFINITIONS.

1.1 Terms Defined in the Security Agreement. All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings assigned to them in the Security Agreement.

1.2 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Assignment of Marks" has the meaning set forth in Section 2.2 herein.

"PTO" means the United States Patent and Trademark Office. "Trademark Collateral" has the meaning

set forth in Section 2.1 herein.

1.3 Rules of Construction. Unless otherwise provided herein, the rules of construction set forth in Section 1.2 of the Security Agreement shall be applicable to this Agreement.

2. GRANT OF SECURITY INTEREST.

2.1 Security Interest. As collateral security for the payment and performance in full of all of the Secured Liabilities, the Grantor hereby pledges and grants to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on all of the Grantor's right, title and interest in all Trademarks owned by such Grantor, including the Trademarks referred to on Schedule A hereto (as such schedule may be amended or supplemented from time to time), in each case whether now or hereafter existing or arising or in which such Grantor now has or hereafter owns or acquires, and all rights to sue for past, present and future infringements or dilutions thereof, and all proceeds of the foregoing, including license fees, royalties, income, payments, claims, damages, and proceeds of suit (collectively, the "Trademark Collateral").

2.2 Assignment of Trademarks upon Default. The Grantor acknowledges that the Collateral Agent has the right, pursuant to the power of attorney granted the Collateral Agent hereunder and under the Security Agreement, upon the occurrence and during the continuance of an Event of Default, to execute on behalf of such Grantor an assignment of Trademarks that constitute Trademark Collateral (each an "Assignment of Trademarks") for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement. In furtherance of the foregoing, the Grantor hereby authorizes the Collateral Agent to complete, execute and record with the PTO an Assignment of Trademarks on behalf of such Grantor upon the occurrence and during the continuance of an Event of Default for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement.

2.3 Conditional Assignment. In addition to, and not by way of limitation of, the grant and pledge of the Trademark Collateral provided in Section 2.1, the Grantor hereby grants, assigns, transfers, conveys and sets over to the Collateral Agent, for the benefit of the Secured Parties, the Grantor's entire right, title and interest in and to the Trademark Collateral; *provided*, that such grant, assignment, transfer and conveyance shall be and become of force and effect only (a) in connection with the Collateral Agent's exercise of its rights and remedies in strict accordance with the terms of the Security Agreement, and
(b) upon or after the occurrence and during the continuance of an Event of Default and
(c) either (i) upon the written demand of the Collateral Agent at any time during such continuance or (ii) immediately and automatically (without notice or action of any kind by the Collateral Agent) upon an Event of Default for which acceleration of the payment of the Notes is automatic under the Indenture or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Security Agreement and applicable law (including the transfer or other disposition of the Collateral by the Grantor to the Collateral Agent or its nominee in lieu of foreclosure).

2.4 Security Agreement. Pursuant to the Security Agreement the Grantor has granted to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on the Collateral (including the Trademark Collateral). The Security Agreement, and all rights and interests of the Collateral Agent in and to the Collateral (including the Trademark Collateral) thereunder, are hereby ratified and confirmed in all respects, and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Trademark Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In no event shall this Agreement, the grant, assignment, transfer and conveyance of the Trademark Collateral hereunder, or the recordation of this Agreement (or any other document hereunder) with the PTO, adversely affect or impair, in any way or to any extent, the Security Agreement, the security interest of the Collateral Agent in the Collateral (including the Trademark Collateral) pursuant to the Security Agreement, the attachment and perfection of such security interest under the UCC (including the security interest in the Trademark Collateral), or any present or future rights and interests of the Collateral Agent in and to the Collateral under or in connection with the Security Agreement or the UCC. In the event that any provision of this Agreement is deemed to conflict with the Security Agreement, the provisions of the Security Agreement shall control.

3. AFTER-ACQUIRED TRADEMARKS.

3.1 After-acquired Trademarks. If, after the execution of the Agreement and before the end of the Security Period, the Grantor shall develop or acquire any new Trademarks, the provisions of this Agreement shall automatically apply thereto.

3.2 Amendment to Schedule. The Grantor authorizes the Collateral Agent to modify this Agreement and the Assignments of Trademarks, without the necessity of the Grantor's further approval or signature, by amending Schedule A hereto and the Annex to each Assignment of Trademarks to include any future or other Trademarks that become part of the Trademark Collateral under Section 2 or Section 3.1.

4. GOVERNING LAW; CONSENT TO JURISDICTION.

This Agreement, the relationship between the parties hereunder and any claim or dispute (whether sounding in contract, tort, statute or otherwise) relating to this Agreement or that relationship shall be governed by and construed in accordance with law of the State of New York including section 5-1401 of the New York General Obligations Law but excluding any other conflict of law rules that would lead to the application of the law of another jurisdiction. If the law of a jurisdiction other than New York is, under section 1-105(2) of the UCC, mandatorily applicable to the perfection, priority or enforcement of any security interest granted under this Agreement in respect of any Trademark Collateral, that other law shall apply solely to the matters of perfection, priority or enforcement to which it is mandatorily applicable.

5. MISCELLANEOUS.

(a) Headings. The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. This Agreement and all rights and obligations hereunder shall be binding upon the Grantor and its respective successors and assigns, and shall inure to the benefit of the Secured Parties and their respective successors and assigns. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Grantor acknowledges receipt of a copy of this Agreement.

(b) Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[*Signatures begin on next page*]

IN WITNESS WHEREOF, the Grantor has caused this Trademark Security and Pledge Agreement to be executed and delivered by its duly authorized officer as of the day and year first above written.

[ ], as Grantor

By: ___ Name:
Title:

U.S. Bank National Association, as Collateral Agent

By: _____ Name:
Title:

Schedule A
to the Trademark Security and Pledge Agreement

Grantor: [ ]

United States Trademark Registrations of [ ]

Trademark	Registration No./ Application No.	Registration Date/ Application Date

EXHIBIT 3

FORM OF COPYRIGHT SECURITY AGREEMENT

This **COPYRIGHT SECURITY AGREEMENT**, dated as of [, 2021] (as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Agreement"), is made by [Liggett Group LLC][100 Maple LLC] a Delaware limited liability company (the "Grantor") in favor of **U.S. Bank National Association**, as collateral agent (in such capacity, the "Collateral Agent") for the Noteholders (as defined in the Security Agreement referred to below).

WHEREAS, the Grantor has guaranteed the Notes issued under the Indenture, dated as of January 28, 2021 (as amended, supplemented, or otherwise modified from time to time, the "Indenture") among Vector Group Ltd. (the "Issuer"), the Grantor and certain of the Issuer's other direct and indirect subsidiaries and the Collateral Agent, in its capacity as trustee thereunder.

WHEREAS, it is a condition precedent to the obligations of the Collateral Agent under the Indenture that the Grantor shall have executed and delivered that certain Security Agreement, dated as of January 28, 2021, in favor of the Collateral Agent (as amended, supplemented, replaced or otherwise modified from time to time, the "Security Agreement").

WHEREAS, under the terms of the Security Agreement, the Grantor has granted a security interest in certain property, including certain Intellectual Property of the Grantor to the Collateral Agent for the benefit of the Secured Parties, and has agreed as a condition thereof to execute this Agreement for recording with the United States Copyright Office and other applicable Governmental Authorities.

WHEREAS, this Agreement is supplemental to the provisions contained in the Security Agreement and, in the event of an inconsistency among them, the Security Agreement shall control over this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor agrees as follows:

1. DEFINITIONS

1.1 Terms Defined in the Security Agreement. All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings assigned to them in the Security Agreement.

1.2 Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Assignment of Copyrights" has the meaning set forth in Section 2.2 herein. "Copyright Collateral" has the meaning set forth in Section 2.1 herein.

1.3 Rules of Construction. Unless otherwise provided herein, the rules of construction set forth in Section 1.2 of the Security Agreement shall be applicable to this Agreement.

2. GRANT OF SECURITY INTEREST

2.1 Security Interest. As collateral security for the payment and performance in full of all of the Secured Liabilities, the Grantor hereby pledges and grants to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on all of the Grantor's right, title and interest in, to and under the Copyrights and Copyright Licenses, including the Copyrights and exclusive Copyright Licenses referred to on Schedule I hereto (as such schedule may be amended or supplemented from time to time), in each case whether presently existing or hereafter created or acquired, and all rights to sue for past, present and future infringements thereof, and all proceeds of the foregoing, including license fees, royalties, income, payments, claims, damages, and proceeds of suit (collectively, the "Copyright Collateral").

2.2 Assignment of Copyrights upon Default. The Grantor acknowledges that the Collateral Agent has the right, pursuant to the power of attorney granted the Collateral Agent hereunder and under the Security Agreement, upon the occurrence and during the continuance of an Event of Default, to execute on behalf of such Grantor an assignment of Copyrights and Copyright Licenses that constitute Copyright Collateral (each an "Assignment of Copyrights") for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement. In furtherance of the foregoing, the Grantor hereby authorizes the Collateral Agent to complete, execute and record with the United States Copyright Office an Assignment of Copyrights on behalf of such Grantor upon the occurrence and during the continuance of an Event of Default for the sole purpose of effecting the Collateral Agent's exercise of its remedies under Section 8 of the Security Agreement.

2.3 Conditional Assignment. In addition to, and not by way of limitation of, the grant and pledge of the Copyright Collateral provided in Section 2.1, the Grantor hereby grants, assigns, transfers, conveys and sets over to the Collateral Agent, for the benefit of the Secured Parties, the Grantor's entire right, title and interest in and to the Copyright Collateral; *provided*, that such grant, assignment, transfer and conveyance shall be and become of force and effect only (a) in connection with the Collateral Agent's exercise of its rights and remedies in strict accordance with the terms of the Security Agreement, and
(b) upon or after the occurrence and during the continuance of an Event of Default and
(c) either (i) upon the written demand of the Collateral Agent at any time during such continuance or (ii) immediately and automatically (without notice or action of any kind by the Collateral Agent) upon an Event of Default for which acceleration of the payment of the Notes is automatic under the Indenture or upon the sale or other disposition of or foreclosure upon the Collateral pursuant to the Security Agreement and applicable law (including the transfer or other disposition of the Collateral by the Grantor to the Collateral Agent or its nominee in lieu of foreclosure).

2.4 Security Agreement. Pursuant to the Security Agreement the Grantor has granted to the Collateral Agent, for the benefit of the Secured Parties, a continuing security interest in and lien on the Collateral (including the Copyright Collateral). The Security

Agreement, and all rights and interests of the Collateral Agent in and to the Collateral (including the Copyright Collateral) thereunder, are hereby ratified and confirmed in all respects**,** and the Grantor hereby acknowledges and affirms that the rights and remedies of the Collateral Agent with respect to the security interest in the Copyright Collateral granted hereby are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein. In no event shall this Agreement, the grant, assignment, transfer and conveyance of the Copyright Collateral hereunder, or the recordation of this Agreement (or any other document hereunder) with the United States Copyright Office, adversely affect or impair, in any way or to any extent, the Security Agreement, the security interest of the Collateral Agent in the Collateral (including the Copyright Collateral) pursuant to the Security Agreement, the attachment and perfection of such security interest under the UCC (including the security interest in the Copyright Collateral), or any present or future rights and interests of the Collateral Agent in and to the Collateral under or in connection with the Security Agreement or the UCC. In the event that any provision of this Agreement is deemed to conflict with the Security Agreement, the provisions of the Security Agreement shall control.

3. AFTER-ACQUIRED COPYRIGHTS

3.1 After-Acquired Copyrights. If, after the execution of the Agreement and before the end of the Security Period, the Grantor shall develop or acquire any new Copyrights or Copyright Licenses, the provisions of this Agreement shall automatically apply thereto.

3.2 Amendment to Schedule. The Grantor authorizes the Collateral Agent to modify this Agreement and the Assignment of Copyrights, without the necessity of the Grantor's further approval or signature, by amending Schedule I hereto and the Annex to each Assignment of Copyrights and to include any future or other Copyrights or Copyright Licenses that become part of the Copyright Collateral under Section 2 or Section 3.1.

4. GOVERNING LAW; CONSENT TO JURISDICTION

This Agreement, the relationship between the parties hereunder and any claim or dispute (whether sounding in contract, tort, statute or otherwise) relating to this Agreement or that relationship shall be governed by and construed in accordance with law of the State of New York including section 5-1401 of the New York General Obligations Law but excluding any other conflict of law rules that would lead to the application of the law of another jurisdiction. If the law of a jurisdiction other than New York is, under section 1-105(2) of the UCC, mandatorily applicable to the perfection, priority or enforcement of any security interest granted under this Agreement in respect of any Copyright Collateral, that other law shall apply solely to the matters of perfection, priority or enforcement to which it is mandatorily applicable.

5. MISCELLANEOUS.

5.1 Headings. The headings of each section of this Agreement are for convenience only and shall not define or limit the provisions thereof. This Agreement and all rights and obligations hereunder shall be binding upon the Grantor and its respective successors

and assigns, and shall inure to the benefit of the Secured Parties and their respective successors and assigns. If any term of this Agreement shall be held to be invalid, illegal or unenforceable, the validity of all other terms hereof shall in no way be affected thereby, and this Agreement shall be construed and be enforceable as if such invalid, illegal or unenforceable term had not been included herein. The Grantor acknowledges receipt of a copy of this Agreement.

5.2 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

[*Signatures begin on next page*]

IN WITNESS WHEREOF, the Grantor has caused this Copyright Security Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

[ ],
as Grantor

By:____ Name:
Title:

U.S. Bank National Association, as Collateral Agent

By:____ Name:
Title:

SCHEDULE I
to

COPYRIGHT SECURITY AGREEMENT COPYRIGHT REGISTRATIONS AND APPLICATIONS

Registrations

Registration No.	Registration Date	Title

Applications

Application No.	Application Date	Title

Exhibit 4.5

SECOND AMENDED AND RESTATED INTERCREDITOR AND LIEN SUBORDINATION AGREEMENT

among

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as ABL Agent and
U.S. BANK NATIONAL ASSOCIATION, as Collateral Agent

and

LIGGETT GROUP LLC,
as an Initial Borrower
and

100 MAPLE LLC,
as an Initial Borrower
and

The Other Borrowers from time to time party hereto

TABLE OF CONTENTS

SECOND AMENDED AND RESTATED INTERCREDITOR AND LIEN SUBORDINATION AGREEMENT

SECOND AMENDED AND RESTATED INTERCREDITOR AND LIEN SUBORDINATION AGREEMENT, dated as of January 28, 2021 (this "Intercreditor Agreement" as hereinafter further defined), among Wells Fargo Bank, National Association, in its capacity as administrative agent (in such capacity, the "ABL Agent" as hereinafter further defined), for itself and on behalf of the other ABL Secured Parties (as hereinafter defined), U.S. Bank National Association, in its capacity as collateral agent for the Noteholder Secured Parties (in such capacity, the "Collateral Agent" as hereinafter further defined), Liggett Group LLC, a Delaware limited liability company ("Liggett Group"), and 100 Maple LLC, a Delaware limited liability company ("100 Maple" and, together with Liggett Group, the "Initial Borrowers") and each other borrower under the ABL Loan Agreement from time to time that becomes party hereto pursuant to a Joinder Agreement (each, an "Other Borrower" and, together with the Initial Borrowers, the "Borrowers" and each individually, a "Borrower").

WITNESSETH:

WHEREAS, the Initial Borrowers have entered into a secured credit facility with the ABL Agent and the ABL Lenders (as hereinafter defined) as set forth in the ABL Loan Agreement (as hereinafter defined) pursuant to which the ABL Lenders have made and from time to time may make loans and provide other financial accommodations to the Initial Borrowers and secured by the ABL Collateral (as hereinafter defined);

WHEREAS, the parties hereto have previously entered into an Amended and Restated Intercreditor and Lien Subordination Agreement, dated as of January 27, 2017 (the "Existing Intercreditor Agreement"), by and among the ABL Agent, in its capacity as ABL Lender (as defined in the Existing Intercreditor Agreement) (in such capacity, the "Prior ABL Agent"), U.S. Bank National Association, in its capacity as collateral agent for the Noteholder Secured Parties (as defined in the Existing Intercreditor Agreement) (in such capacity, the "Prior Collateral Agent"), and the Initial Borrowers, in connection with the issuance by Vector Group Ltd. (the "Issuer") of a series of 6.125% Senior Secured Notes due 2025 (the "Existing Notes");

WHEREAS, pursuant to the Noteholder Agreement (as hereinafter defined), the Issuer intends to issue 5.75% Senior Secured Notes due 2029 (including any additional notes issued pursuant to the Noteholder Agreement), in an initial aggregate principal amount of $875 million, which will be guaranteed by the Initial Borrowers and certain other direct and indirect subsidiaries of the Issuer and secured by certain security interests in, and pledges of, certain assets and properties, including assets and properties of the Indenture Loan Parties (as hereinafter defined), the proceeds of which will be used, among other things, to repay the entire outstanding principal amount of the Existing Notes;

WHEREAS, the ABL Agent, on its own behalf and on behalf of the other ABL Secured Parties, and the Collateral Agent, on its own behalf and on behalf of the Noteholder Secured Parties, desire to amend and restate the Existing Intercreditor Agreement and enter into this Intercreditor Agreement to (i) confirm the relative priority of the security interests of the ABL Secured Parties and the Noteholder Secured Parties in the ABL Collateral, (ii) provide for the orderly sharing among them, in accordance with such priorities, of proceeds of such ABL Collateral upon any foreclosure thereon or other disposition thereof, (iii) replace the Prior ABL Agent with the ABL Agent and the Prior Collateral Agent with the Collateral Agent and (iv) address related matters;

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and obligations herein set forth and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

Section 1. DEFINITIONS; INTERPRETATION.

1.1 Definitions. As used in this Intercreditor Agreement, the following terms have the meanings specified below:

"100 Maple" shall have the meaning set forth in the preamble hereto.

"ABL Agent" shall mean Wells Fargo Bank, National Association in its capacity as administrative and collateral agent under the ABL Loan Agreement, and also includes any successor, replacement or agent acting on

its behalf as ABL Agent for the ABL Secured Parties under the ABL Documents.

"ABL Collateral" shall mean any and all of the assets and property of any Borrower in which both the ABL Secured Parties and the Noteholder Secured Parties (or their respective agents) hold a security interest (including assets and property that, but for the application of Section 552 of the Bankruptcy Code (or any similar provision of any Bankruptcy Laws) would be ABL Collateral).

"ABL Debt" shall mean all "Obligations" as such term is defined in the ABL Loan Agreement, including obligations, liabilities and indebtedness of every kind, nature and description owing by any Borrower to any ABL Secured Party, including principal, interest, charges, fees, premiums, indemnities and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, arising under any of the ABL Documents, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the ABL Documents or after the commencement of any case with respect to any Borrower under the Bankruptcy Code or any other Insolvency or Liquidation Proceeding (and including any principal, interest, fees, costs, expenses and other amounts, which would accrue and become due but for the commencement of such case, whether or not such amounts are allowed or allowable in whole or in part in such case or similar proceeding), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, secured or unsecured.

"ABL Documents" shall mean, collectively, the ABL Loan Agreement and all agreements, documents and instruments at any time executed and/or delivered by any Borrower to, with or in favor of any ABL Secured Party in connection therewith, as all of the foregoing now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated, refinanced, replaced or restructured (in whole or in part and including any agreements with, to or in favor of any other lender or group of lenders that at any time refinances, replaces or succeeds to all or any portion of the ABL Debt) in accordance with the terms of this Intercreditor Agreement.

"ABL Event of Default" shall mean any "Event of Default" as defined in the ABL Loan Agreement.

"ABL Lenders" shall mean, collectively, Wells Fargo Bank, National Association, and any other lender or group of lenders that at any time refinances, replaces or succeeds to all or any portion of the ABL Debt or is otherwise party to the ABL Documents as a lender in accordance with the terms of this Intercreditor Agreement.

"ABL Loan Agreement" shall mean the Third Amended and Restated Credit Agreement, dated as of January 14, 2015, by and among the Initial Borrowers, the ABL Agent and the other ABL Secured Parties from time to time party thereto, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated, refinanced, replaced or restructured in accordance with the terms of this Intercreditor Agreement (including by including an Other Borrower as a borrower thereunder).

"ABL Secured Parties" shall mean, collectively, (a) the ABL Agent, (b) the ABL Lenders, (c) the issuing bank or banks of letters of credit or similar instruments under the ABL Loan Agreement, (d) each other person to whom any of the ABL Debt (including ABL Debt constituting Bank Product Obligations) is owed and
(e) the successors, replacements and assigns of each of the foregoing; sometimes being referred to herein individually as an "ABL Secured Party".

"Agent" shall have the meaning set forth in Section 5.1(a).

"Bank Product Obligations" shall mean Cash Management Obligations and Hedging Obligations.

"Bankruptcy Code" shall mean the United States Bankruptcy Code, being Title 11 of the United States Code, as the same now exists or may from time to time hereafter be amended, modified, recodified or supplemented.

"Bankruptcy Law" shall mean the Bankruptcy Code and any similar Federal, state or foreign law for the relief of debtors.

"Borrowers" and "Borrower" shall have the meaning set forth in the preamble hereto.

"Business Day" shall mean any day other than a Saturday, a Sunday or a day that is a legal holiday under the laws of the State of New York or on which banking institutions in the State of New York are required

or authorized by law or other governmental action to close.

"Carve Out" shall mean, in connection with any Insolvency or Liquidation Proceeding, any carve out amount granted with respect to professional fees and expenses, court costs, filing fees, and fees and costs of the Office of the United States Trustee as granted by the court or as agreed to by the ABL Agent in its reasonable discretion.

"Cash Management Obligations" shall mean, with respect to any Borrower, the obligations of such Borrower in connection with (a) credit cards or (b) cash management or related services, including (i) the automated clearinghouse transfer of funds or overdrafts or (ii) controlled disbursement services.

"Collateral Agent" shall mean U.S. Bank National Association, in its capacity as Collateral Agent under the Noteholder Documents, and also includes any successor, replacement or agent acting on its behalf as Collateral Agent for the Noteholder Secured Parties under the Noteholder Documents.

"DIP Financing" shall have the meaning set forth in Section 6.2.

"Discharge of ABL Debt" shall mean (a) the termination or expiration of the commitments of the ABL Lenders and the financing arrangements provided by the ABL Lenders to the Borrowers under the ABL Documents, (b) except to the extent otherwise provided in Sections 4.1 and 4.2, the payment in full in cash of the ABL Debt (other than (i) the ABL Debt described in clause (c) of this definition, (ii) contingent indemnification obligations as to which no claim has been made and (iii) obligations under agreements with ABL Secured Parties which continue notwithstanding the termination of the commitments and repayment of the ABL Debt described herein), and (c) payment in full in cash of cash collateral, or at the applicable ABL Secured Party's option, the delivery to such ABL Secured Party of a letter of credit payable to such ABL Secured Party, in either case as required under the terms of the ABL Loan Agreement, in respect of letters of credit issued under the ABL Documents and Bank Product Obligations.

"Discharge of Priority Noteholder Debt" shall mean, except to the extent otherwise provided in Sections 4.1 and 4.2, the final payment in full in cash of the Noteholder Debt.

"Discharge of Priority Debt" shall mean except to the extent otherwise provided in Sections 4.1 and 4.2, the final payment in full in cash of the First Priority Debt (other than as described in the definition of Discharge of ABL Debt).

"Excess ABL Debt" shall mean ABL Debt which does not constitute First Priority Debt.

"Existing Intercreditor Agreement" shall have the meaning set forth in the recitals hereto.

"Existing Notes" shall have the meaning set forth in the recitals hereto.

"First Priority Debt" shall mean ABL Debt to the extent it does not exceed the Maximum Priority ABL Debt Amount.

"Hedging Obligations" shall mean, with respect to any Person, the obligations of such Person under (a) interest rate swap agreements, interest rate cap agreements and interest rate collar agreements and (b) other agreements or arrangements designed to protect such Person against fluctuations in interest rates or the value of foreign currencies.

"Indenture Loan Parties" shall mean the Issuer and those of its direct and indirect subsidiaries (including the Borrowers) party to the Noteholder Agreement.

"Initial Borrowers" shall have the meaning set forth in the preamble hereto.

"Insolvency or Liquidation Proceeding" shall mean (a) any voluntary or involuntary case or proceeding under any Bankruptcy Law with respect to any Borrower, (b) any other voluntary or involuntary insolvency, reorganization or bankruptcy case or proceeding, or any receivership, liquidation, reorganization or other similar case or proceeding with respect to any Borrower or with respect to any of their respective assets, (c) any proceeding seeking the appointment of any trustee, receiver, liquidator, custodian or other insolvency official with similar powers with respect to such Person or any or all of its assets or properties, (d) any liquidation,

dissolution, reorganization or winding up of any Borrower whether voluntary or involuntary and whether or not involving insolvency or bankruptcy or (e) any assignment for the benefit of creditors or any other marshalling of assets and liabilities of any Borrower.

"Intercreditor Agreement" shall mean this Intercreditor and Lien Subordination Agreement, as amended, modified, supplemented, extended, renewed, restated or replaced from time to time in accordance with the terms hereof.

"Issuer" shall have the meaning set forth in the recitals hereto.

"Joinder Agreement" means a joinder agreement substantially in the form attached hereto as Exhibit A.

"Lien" shall mean any mortgage, deed of trust, pledge, hypothecation, assignment, deposit arrangement, security interest, encumbrance (including, but not limited to, easements, rights of way and the like), lien (statutory or other), security agreement or transfer intended as security, including any conditional sale or other title retention agreement, the interest of a lessor under a capital lease or any financing lease having substantially the same economic effect as any of the foregoing.

"Lien Enforcement Action" shall mean (a) any action by any Secured Party to foreclose on the Lien of such Person in all or a material portion of the ABL Collateral or exercise any right of repossession, levy, attachment, setoff or liquidation against all or a material portion of the ABL Collateral, (b) any action by any Secured Party to take possession of, sell or otherwise realize (judicially or non-judicially) upon all or a material portion of the ABL Collateral (including by setoff), (c) any action by any Secured Party to facilitate the possession of, sale of or realization upon all or a material portion of the ABL Collateral including the solicitation of bids from third parties to conduct the liquidation of all or any material portion of the ABL Collateral, the engagement or retention of sales brokers, marketing agents, investment bankers, accountants, auctioneers or other third parties for the purpose of valuing, marketing, promoting or selling all or any material portion of the ABL Collateral, (d) the commencement by any Secured Party of any legal proceedings against or with respect to all or a material portion of the ABL Collateral to facilitate the actions described in (a) through (c) above, or (e) any action to seek or request relief from or modification of the automatic stay or any other stay in any Insolvency or Liquidation Proceeding in respect of all or a material portion of the ABL Collateral, or any proceeds thereof. For the purposes hereof, (i) the notification of account debtors to make payments to the ABL Agent or any ABL Lender shall constitute a Lien Enforcement Action if and only if such action is coupled with an action to take possession of all or a material portion of the ABL Collateral or the commencement of any legal proceedings or actions against or with respect to the Borrowers of all or a material portion of the ABL Collateral, and (ii) a material portion of the ABL Collateral shall mean ABL Collateral having a value in excess of $10,000,000.

"Liggett Group" shall have the meaning set forth in the preamble hereto.

"Maximum Priority ABL Debt Amount" shall mean the sum of (a) the principal amount of the ABL Debt (including undrawn amounts under any letters of credit issued under the ABL Documents) up to $100,000,000 at any time outstanding, plus (b) any interest on the amount set forth in clause (a) (and including any interest which would accrue and become due but for the commencement of Insolvency or Liquidation Proceeding, whether or not such amounts are allowed or allowable in whole or in part in such case or similar proceeding), plus (c) the Maximum Priority Cash Management Obligations, plus (d) the Maximum Priority Hedging Obligations, plus (e) any fees, costs, expenses and indemnities payable under any of the ABL Documents (and including any fees, costs, expenses and indemnities which would accrue and become due but for the commencement of Insolvency or Liquidation Proceeding, whether or not such amounts are allowed or allowable in whole or in part in such case or similar proceeding) minus (f) the amount of all permanent reductions in the commitments under the ABL Documents and minus (g) the amount of all permanent repayments of ABL Debt to the extent such repayments result in a reduction of the commitments under the ABL Documents; provided that the Maximum Priority ABL Debt Amount shall be calculated without regard to the amount of Carve Out.

"Maximum Priority Cash Management Obligations" shall mean, as of any date of determination, the amount of the ABL Debt constituting Cash Management Obligations outstanding on such date, up to $10,000,000 in the aggregate at any one time outstanding.

"Maximum Priority Hedging Obligations" shall mean, as of any date of determination, the amount of

the ABL Debt constituting Hedging Obligations outstanding on such date, up to $10,000,000 in the aggregate at any one time outstanding.

"Noteholder Agreement" shall mean the Indenture, dated as of January 28, 2021, by and among the Issuer, the Indenture Loan Parties and the Noteholder Trustee, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated, refinanced, replaced or restructured.

"Noteholder Debt" shall mean all "Obligations" as such term is defined in the Noteholder Agreement, including obligations, liabilities and indebtedness of every kind, nature and description owing by any Indenture Loan Party to any Noteholder Secured Party, including principal, interest, charges, fees, premiums, indemnities and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, arising under any of the Noteholder Documents, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of the Noteholder Documents or after the commencement of any case with respect to any Indenture Loan Party under the Bankruptcy Code or any other Insolvency or Liquidation Proceeding (and including any principal, interest, fees, costs, expenses and other amounts, which would accrue and become due but for the commencement of such case, whether or not such amounts are allowed or allowable in whole or in part in such case or similar proceeding), whether direct or indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, secured or unsecured.

"Noteholder Default" shall mean any "Event of Default" as defined in the Noteholder Agreement.

"Noteholder Documents" shall mean, collectively, the Noteholder Agreement and all agreements, documents and instruments at any time executed and/or delivered by any Indenture Loan Party to, with or in favor of any Noteholder Secured Party in connection therewith, as all of the foregoing now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated, refinanced, replaced or restructured (in whole or in part and including any agreements with, to or in favor of any other lender or group of lenders that at any time refinances, replaces or succeeds to all or any portion of the Noteholder Debt).

"Noteholder Exclusive Assets" shall have the meaning set forth in Section 2.3(b).

"Noteholder Secured Parties" shall mean, collectively, (a) the Noteholder Trustee, solely in its capacity as trustee under the Noteholder Agreement and the other Noteholder Documents, (b) each holder of any Note or Notes, solely in its capacity as such holder, and each other person to whom any of the Noteholder Debt is transferred or owed, solely in its capacity as such, (c) the Collateral Agent, and (d) the successors, replacements and assigns of each of the foregoing; sometimes being referred to herein individually as a "Noteholder Secured Party".

"Noteholder Trustee" shall mean U.S. Bank National Association, in its capacity as trustee under the Noteholder Agreement, and also includes any successor, replacement or agent acting on its behalf as Noteholder Trustee for the Noteholder Secured Parties under the Noteholder Documents.

"Notes" shall mean any notes issued pursuant to the Noteholder Agreement, whether issued pursuant to the initial offering or subsequently, including any exchange notes and additional notes.

"Other Borrower" shall have the meaning set forth in the preamble hereto.

"Permitted Actions" shall mean any of the following: (a) in any Insolvency or Liquidation Proceeding, filing a proof of claim or statement of interest with respect to the Noteholder Debt or Excess ABL Debt, as the case may be; (b) taking any action to preserve or protect the validity, enforceability, perfection or priority of the Liens securing the Noteholder Debt or the Excess ABL Debt, as the case may be, provided that no such action is, or could reasonably be expected to be, (i) as to any action by any Noteholder Secured Party, adverse to the Liens securing the First Priority Debt or the rights of the ABL Agent or any other ABL Secured Party to exercise remedies in respect thereof to the extent not expressly prohibited by this Agreement, (ii) as to any action by any ABL Secured Party, adverse to the Liens securing the Noteholder Debt or the rights of the Collateral Agent or any other Noteholder Secured Party to exercise remedies in respect thereof to the extent not expressly prohibited by this Intercreditor Agreement, or (iii) otherwise inconsistent with the terms of this Intercreditor Agreement, including the automatic release of Liens provided in Section 3.3; (c) filing any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of the Noteholder Secured Parties or the claims of the ABL Secured Parties with respect to Excess ABL Debt, including any claims secured

by the ABL Collateral or otherwise making any agreements or filing any motions pertaining to the Noteholder Debt or Excess ABL Debt, in each case, to the extent not inconsistent with the terms of this Intercreditor Agreement; (d) exercising rights and remedies as unsecured creditors, as provided in Section 3.2; and (e) the enforcement by the Collateral Agent and the Noteholder Secured Parties of any of their rights and exercise any of their remedies with respect to the ABL Collateral after the termination of the Standstill Period (as defined in Section 3.1) or the enforcement by the ABL Agent or the ABL Secured Parties of any of their rights and exercise of any of their remedies with respect to the ABL Collateral after Discharge of Priority Noteholder Debt.

"Person" or "person" shall mean any individual, sole proprietorship, partnership, corporation (including any corporation which elects subchapter S status under the Internal Revenue Code of 1986, as amended), limited liability company, limited liability partnership, business trust, unincorporated association, joint stock company, trust, joint venture, or other entity or any government or any agency or instrumentality or political subdivision thereof.

"Pledged ABL Collateral" shall have the meaning set forth in Section 5.1(a).

"Prior Collateral Agent" shall have the meaning set forth in the recitals hereto.

"Qualified Financier" shall mean (a) a commercial bank organized under the laws of the United States, or any state thereof, and having total assets in excess of $500,000,000, (b) a commercial bank organized under the laws of any other country which is a member of the Organization for Economic Cooperation and Development or a political subdivision of any such country and which has total assets in excess of $500,000,000; provided that such bank is acting through a branch or agency located in the United States, and (c) a commercial finance company, insurance company or other financial institution that is engaged in making, purchasing or otherwise investing in commercial loans in the ordinary course of its business and having total assets in excess of $500,000,000.

"Secured Parties" shall mean, collectively, the ABL Secured Parties and the Noteholder Secured Parties.

"Standstill Period" shall have the meaning set forth in Section 3.1(a)(i)1(a)(i).

"Uniform Commercial Code" or "UCC" means the Uniform Commercial Code as from time to time in effect in the State of New York.

1.2 Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, and as to any Borrower shall be deemed to include a receiver, trustee or debtor-in-possession on behalf of any of such person or on behalf of any such successor or assign, (c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Intercreditor Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Sections shall be construed to refer to Sections of this Intercreditor Agreement and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 2. LIEN PRIORITIES.

2.1 Subordination. Notwithstanding the date, manner or order of grant, attachment or perfection of any Liens granted to the ABL Agent or the ABL Secured Parties or the Collateral Agent or the Noteholder Secured Parties and notwithstanding any provision of the UCC, or any applicable law or any provisions of the ABL Documents or the Noteholder Documents or any other circumstance whatsoever:

(a) The Collateral Agent, for itself and on behalf of the other Noteholder Secured Parties, hereby agrees that: (i) any Lien on the ABL Collateral securing the First Priority Debt now or hereafter held by or for

the benefit or on behalf of any ABL Secured Party or any agent or trustee therefor shall be senior in right, priority, operation, effect and in all other respects to any Lien on the ABL Collateral securing the Noteholder Debt now or hereafter held by or for the benefit or on behalf of any Noteholder Secured Party or any agent or trustee therefor; and (ii) any Lien on the ABL Collateral securing any of the Noteholder Debt now or hereafter held by or for the benefit or on behalf of any Noteholder Secured Party or any agent or trustee therefor regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in all respects to all Liens on the ABL Collateral securing any First Priority Debt.

(b) The ABL Agent, for itself and on behalf of the other ABL Secured Parties, hereby agrees that:
(i) any Lien on the ABL Collateral securing the Noteholder Debt now or hereafter held by or for the benefit or on behalf of any Noteholder Secured Party or any agent or trustee therefor shall be senior in right, priority, operation, effect and in all other respects to any Lien on the ABL Collateral securing the principal amount of Excess ABL Debt now or hereafter held by or for the benefit or on behalf of any ABL Secured Party or any agent or trustee therefor; and (ii) any Lien on the ABL Collateral securing any Excess ABL Debt now or hereafter held by or for the benefit or on behalf of any ABL Secured Party or any agent or trustee therefor regardless of how acquired, whether by grant, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in all respects to all Liens on the ABL Collateral securing any Noteholder Debt.

2.2 Prohibition on Contesting Liens. Each of the ABL Agent, for itself and on behalf of the other ABL Secured Parties, and the Collateral Agent, for itself and on behalf of the other Noteholder Secured Parties, agrees that it shall not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding involving any Borrower), the perfection, priority, validity or enforceability of a Lien held by or for the benefit or on behalf of any ABL Secured Party in any ABL Collateral or by or on behalf of any Noteholder Secured Party in any ABL Collateral, as the case may be; provided that nothing in this Intercreditor Agreement shall be construed to prevent or impair the rights of any ABL Secured Party or Noteholder Secured Party to enforce this Intercreditor Agreement, including the priority of the Liens as provided in Section 2.1.

2.3 No New Liens.

(a) So long as the Discharge of Priority Debt has not occurred, except for Noteholder Exclusive Assets (as defined below), none of the Borrowers shall grant any additional Liens on any assets to secure the Noteholder Debt unless it has granted, or substantially concurrently therewith shall grant, a lien on such asset to secure the ABL Debt or grant any additional Liens on any assets to secure the ABL Debt unless it has granted, or substantially concurrently therewith shall grant, a Lien on such asset to secure the Noteholder Debt, all of which Liens shall be subject to the terms of this Intercreditor Agreement. Further, the parties hereto agree that, after the Discharge of Priority Debt and so long as the Discharge of Priority Noteholder Debt has not occurred, none of the Borrowers shall grant any additional Liens on any asset to secure any Excess ABL Debt unless it has granted, or substantially concurrently therewith shall grant, a Lien on such asset to secure the Noteholder Debt. Notwithstanding the foregoing, this provision will not be violated with respect to any assets which are specifically excluded from the grant of Liens securing the ABL Debt or the Noteholder Debt, as provided in the ABL Documents or Noteholder Documents, respectively. To the extent that the provisions of this Section 2.3 are not complied with for any reason, without limiting any other right or remedy available to the ABL Agent or any other ABL Secured Party or the Collateral Agent or any Noteholder Secured Party, the Collateral Agent agrees, for itself and on behalf of the other Noteholder Secured Parties, and the ABL Agent agrees, for itself and on behalf of the other ABL Secured Parties, that any amount received by or distributed to any Noteholder Secured Party or any ABL Secured Party pursuant to or as a result of any Lien granted in contravention of this Section shall be subject to Section 4 hereof.

(b) The Noteholder Secured Parties and the ABL Secured Parties hereby acknowledge and agree that (i) the ABL Debt is secured by a first priority Lien in favor of the ABL Secured Parties on all of the Collateral (as such term is defined in the ABL Loan Agreement), (ii) as of the date hereof, the Noteholder Secured Parties do not have and will not hereafter obtain a Lien on the cash or deposit accounts of any Borrower, except a Lien junior in priority to the Lien in favor of the ABL Secured Parties securing the First Priority Debt, which Lien will be subject to the terms and conditions of this Agreement, (iii) the Noteholder Debt is secured by a Lien in favor of the Noteholder Secured Parties on all of the Collateral (as such term is defined in the Noteholder Agreement), including a Lien on the assets of Vector Tobacco Inc., a Virginia corporation ("Vector Tobacco") and on capital stock owned by VGR Holding LLC, a Delaware limited liability company constituting Collateral (as such term is defined in the Noteholder Agreement) (such assets of Vector Tobacco and capital stock owned by VGR Holding LLC, the "Noteholder Exclusive Assets"); *provided* that, if

Vector Tobacco becomes an additional borrower under the ABL Loan Agreement and executes a Joinder Agreement to this Agreement, the assets of Vector Tobacco shall no longer constitute a Noteholder Exclusive Asset and shall thereafter constitute ABL Collateral under this Agreement) and
(iv) as of the date hereof, the ABL Secured Parties do not have and will not hereafter obtain a Lien on the Noteholder Exclusive Assets, except a Lien, junior in priority to the Lien in favor of the Noteholder Secured Parties.

2.4 Cooperation. The parties hereto agree, subject to the other provisions of this Intercreditor Agreement, upon request by the ABL Agent or the Collateral Agent, as the case may be, to advise the other from time to time of the ABL Collateral for which such party has taken steps to perfect its Liens and to identify the parties obligated under the ABL Documents or Noteholder Documents, as the case may be.

Section 3. ENFORCEMENT.

3.1 Exercise of Rights and Remedies.

(a) Until the Discharge of Priority Debt, the Collateral Agent, for itself and on behalf of the other Noteholder Secured Parties, agrees that it:

(i) will not enforce or exercise, or seek to enforce or exercise, any rights or remedies (including any right of setoff or notification of account debtors) with respect to any ABL Collateral (including the enforcement of any right under any lockbox agreement, account control agreement, landlord waiver or bailee's letter or any similar agreement or arrangement to which the Collateral Agent or any other Noteholder Secured Party is a party) or commence or join with any Person (other than the ABL Agent) in commencing, or filing a petition for, any action or proceeding with respect to such rights or remedies with respect to the ABL Collateral (including any foreclosure action or proceeding or any Insolvency or Liquidation Proceeding); provided, however, that (A) the Collateral Agent and the Noteholder Secured Parties may take Permitted Actions, and (B) the Collateral Agent may exercise any or all of such rights or remedies after a period of 180 days has elapsed since the later of (1) the date on which any Noteholder Secured Party has declared the existence of any event of default under (and as defined in) the Noteholder Agreement, (2) any Noteholder Secured Party shall have demanded the repayment of all the principal amount of the Noteholder Debt and (3) any Noteholder Secured Party shall have notified the ABL Agent of such declaration of a Noteholder Default and demand (the "Standstill Period"); provided, further, that, notwithstanding the expiration of the Standstill Period or anything herein to the contrary, in no event shall the Collateral Agent or any other Noteholder Secured Party enforce or exercise any rights or remedies with respect to any ABL Collateral, or commence or petition for any such action or proceeding (including any foreclosure action or proceeding or any Insolvency or Liquidation Proceeding), at any time during which the ABL Agent or any other ABL Secured Party shall have commenced and shall be pursuing diligently a Lien Enforcement Action;

(ii) will not contest, protest or object to any foreclosure action or proceeding brought by the ABL Agent or any other ABL Secured Party, or any other enforcement or exercise by any ABL Secured Party of any rights or remedies, in each case relating to the ABL Collateral under the ABL Documents, so long as the Liens of the Collateral Agent attach to the proceeds thereof subject to the relative priorities set forth in Section 2.1 and such actions or proceedings are being pursued in good faith in accordance with applicable law;

(iii) subject to the Noteholder Secured Parties' rights under Section 3.1(a)(i), will not object to the forbearance by the ABL Agent or the other ABL Secured Parties from commencing or pursuing any foreclosure action or proceeding or any other enforcement or exercise of any rights or remedies with respect to any of the ABL Collateral;

(iv) will not except for actions permitted under Section 3.1(a)(i), take or receive any ABL Collateral, or any proceeds thereof or payment with respect thereto, in connection with the exercise of any right or remedy (including any right of setoff) with respect to any ABL Collateral or in connection with any insurance policy award or any condemnation award (or deed in lieu of condemnation) relating to the ABL Collateral;

(v) will not object to the manner in which the ABL Agent or any other ABL Secured Party may seek to enforce or collect the ABL Debt or the Liens of such ABL Secured Party securing First Priority Debt, regardless of whether any action or failure to act by or on behalf of the ABL Agent or any other ABL Secured Party is, or could be, adverse to the interests of the Noteholder Secured Parties, and will not

assert, and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or claim the benefit of any marshalling, appraisal, valuation or other similar right that may be available under applicable law with respect to the ABL Collateral or any other rights a junior secured creditor may have under applicable law with respect to the matters described in this clause (v), provided that at all times the ABL Agent is acting in good faith in accordance with applicable law; and

(vi) will not attempt, directly or indirectly, whether by judicial proceeding or otherwise, to challenge or question the validity or enforceability of any First Priority Debt, any Lien of the ABL Agent on the ABL Collateral securing the First Priority Debt or this Intercreditor Agreement, or the validity or enforceability of the priorities, rights or obligations established by this Intercreditor Agreement.

(b) After the Discharge of Priority Debt and until the Discharge of Priority Noteholder Debt has occurred, the ABL Agent, for itself and on behalf of the other ABL Secured Parties, with respect to Excess ABL Debt agrees that it:

(i) will not, enforce or exercise, or seek to enforce or exercise, any rights or remedies (including any right of setoff or notification of account debtors) with respect to any ABL Collateral (including the enforcement of any right under any lockbox agreement, account control agreement, landlord waiver or bailee's letter or any similar agreement or arrangement to which the ABL Agent or any other ABL Secured Party is a party) or commence or join with any Person (other than Collateral Agent or Noteholder Secured Parties) in commencing, or filing a petition for, any action or proceeding with respect to such rights or remedies with respect to the ABL Collateral (including any foreclosure action or proceeding or any Insolvency or Liquidation Proceeding); provided, however, that the ABL Agent and the ABL Secured Parties may take Permitted Actions;

(ii) will not contest, protest or object to any foreclosure action or proceeding brought by the Collateral Agent or any other Noteholder Secured Party, or any other enforcement or exercise by any Noteholder Secured Party of any rights or remedies relating to the ABL Collateral under the Noteholder Documents, so long as the Liens of ABL Secured Parties attach to the proceeds thereof subject to the relative priorities set forth in Section 2.1 and such actions or proceedings are being pursued in good faith in accordance with applicable law;

(iii) subject to the ABL Secured Parties' rights under Section 3.1(b)(i), will not object to the forbearance by the Collateral Agent or the other Noteholder Secured Parties from commencing or pursuing any foreclosure action or proceeding or any other enforcement or exercise of any rights or remedies with respect to any of the ABL Collateral;

(iv) will not except for actions permitted under Section 3.1(b)(i), take or receive any ABL Collateral, or any proceeds thereof or payment with respect thereto, in connection with the exercise of any right or remedy (including any right of setoff) with respect to any ABL Collateral or in connection with any insurance policy award or any condemnation award (or deed in lieu of condemnation) relating to the ABL Collateral;

(v) will not object to the manner in which the Collateral Agent or any other Noteholder Secured Party may seek to enforce or collect the Noteholder Debt or the Liens of such Noteholder Secured Party securing Noteholder Debt, regardless of whether any action or failure to act by or on behalf of the Collateral Agent or any other Noteholder Secured Party is, or could be, adverse to the interests of the ABL Secured Parties with respect to the Excess ABL Debt and Liens securing such Excess ABL Debt, and will not assert, and hereby waive, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or claim the benefit of any marshalling, appraisal, valuation or other similar right that may be available under applicable law with respect to the ABL Collateral or any other rights a junior secured creditor may have under applicable law with respect to the matters described in this clause (v) in each case to the extent that the ABL Collateral secures Excess ABL Debt, provided that at all times the Collateral Agent is acting in good faith in accordance with applicable law; and

(vi) will not attempt, directly or indirectly, whether by judicial proceeding or otherwise, to challenge or question the validity or enforceability of any Noteholder Debt or any Lien of the Collateral Agent or the Noteholder Secured Parties securing the Noteholder Debt or this Intercreditor Agreement, or the validity or enforceability of the priorities, rights or obligations established by this Intercreditor Agreement.

3.2 Rights As Unsecured Creditors. Notwithstanding anything to the contrary in this Intercreditor

Agreement, the Collateral Agent and the other Noteholder Secured Parties may exercise rights and remedies as an unsecured creditor against any Borrower in accordance with the terms of the Noteholder Documents and applicable law. For purposes hereof, the rights of an unsecured creditor do not include the rights of a creditor that holds a judgment lien to enforce such lien. Nothing in this Intercreditor Agreement shall prohibit the receipt by the Collateral Agent or any other Noteholder Secured Parties of the payments of any Noteholder Debt so long as such receipt is not the direct or indirect result of the exercise by the Collateral Agent or any other Noteholder Secured Party of foreclosure rights with respect to any ABL Collateral or other remedies as a secured creditor of any ABL Party or enforcement in contravention of this Intercreditor Agreement of any Lien held by any of them in any ABL Collateral or any other act in contravention of this Intercreditor Agreement.

3.3 Release of Liens on ABL Collateral.

(a) Prior to Discharge of Priority Debt, if (i) in connection with any sale, lease, license, exchange, transfer or other disposition of any ABL Collateral (A) permitted under the terms of the ABL Documents (whether or not an event of default or equivalent event thereunder, and as defined therein, has occurred and is continuing) or (B) consented to or approved by the ABL Agent, but in the case of (A) or (B) only if permitted under the terms of the Noteholder Documents or (ii) in connection with the exercise of the ABL Agent's remedies in respect of the ABL Collateral provided for in Section 3.1 (provided that after giving effect to the release and application of proceeds, ABL Debt (other than Excess ABL Debt) secured by the first priority Liens on the remaining ABL Collateral remains outstanding), the ABL Agent, for itself or on behalf of any of the other ABL Secured Parties, releases any of its Liens on any part of the ABL Collateral, then effective upon the consummation of such sale, lease, license, exchange, transfer or other disposition:

(1) the Liens, if any, of the Collateral Agent, for itself or for the benefit of the Noteholder Secured Parties, on such ABL Collateral shall be automatically, unconditionally and simultaneously released to the same extent as the release of the ABL Agent's Liens,

(2) the Collateral Agent, for itself or on behalf of the Noteholder Secured Parties, shall promptly upon the request of the ABL Agent execute and deliver such release documents and confirmations of the authorization to file UCC amendments and terminations provided for herein, in each case as the ABL Agent may reasonably require in connection with such sale or other disposition by the ABL Agent, the ABL Agent's agents or any Borrower with the consent of the ABL Agent to evidence and effectuate such termination and release; provided, that, any such release or UCC amendment or termination by Collateral Agent shall not extend to or otherwise affect any of the rights, if any, of Collateral Agent and Noteholder Secured Parties to the proceeds from any such sale or other disposition of ABL Collateral, and

(3) the Collateral Agent, for itself or on behalf of the other Noteholder Secured Parties, shall be deemed to have authorized the ABL Agent to file UCC amendments and terminations covering the ABL Collateral so sold or otherwise disposed of as to UCC financing statements between any Borrower and Collateral Agent or any other Noteholder Secured Party to evidence such release and termination.

(b) After Discharge of Priority Debt but prior to Discharge of Priority Noteholder Debt, if (i) in connection with any sale, lease, license, exchange, transfer or other disposition of any ABL Collateral (A) permitted under the terms of the Noteholder Documents (whether or not an event of default or equivalent event thereunder, and as defined therein, has occurred and is continuing) or (B) consented to or approved by Noteholder Secured Parties, but in the case of (A) and (B), only if permitted under the terms of the ABL Documents, or (ii) in connection with the exercise of the Collateral Agent's or any Noteholder Secured Party's remedies in respect of the ABL Collateral provided for in Section 3.1 (provided that after giving effect to the release and application of proceeds, Noteholder Debt secured by the Liens on the remaining ABL Collateral remain outstanding), the Collateral Agent, for itself or on behalf of any of the other Noteholder Secured Parties, releases any of its Liens on any part of the ABL Collateral, then effective upon the consummation of such sale, lease, license, exchange, transfer or other disposition:

(1) the Liens, if any, of the ABL Agent, for itself or for the benefit of the ABL Secured Parties, on such ABL Collateral shall be automatically, unconditionally and simultaneously released to the same extent as the release of the Collateral Agent's Liens,

(2) the ABL Agent, for itself or on behalf of the ABL Secured Parties, shall promptly upon the request of the Collateral Agent execute and deliver such release documents and confirmations of the authorization to file UCC amendments and terminations provided for herein, in each case

as the Collateral Agent may reasonably require in connection with such sale or other disposition by the Collateral Agent or any Noteholder Secured Party, or any of their agents or any Borrower with the consent of Noteholder Secured Parties to evidence and effectuate such termination and release; provided, that, any such release or UCC amendment or termination by the ABL Agent shall not extend to or otherwise affect any of the rights, if any, of the ABL Agent and ABL Secured Parties to the proceeds from any such sale or other disposition of ABL Collateral, and

(3) the ABL Agent, for itself or on behalf of the other ABL Secured Parties, shall be deemed to have authorized the Collateral Agent to file UCC amendments and terminations covering the ABL Collateral so sold or otherwise disposed of as to UCC financing statements between any Borrower and the ABL Agent or any other ABL Secured Party to evidence such release and termination.

(c) The Collateral Agent, for itself and on behalf of the other Noteholder Secured Parties, hereby irrevocably constitutes and appoints the ABL Agent and any officer or agent of the ABL Agent, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the Collateral Agent or such holder, from time to time in the ABL Agent's discretion, for the purpose of carrying out the terms of Section 3.3(a), to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of Section 3.3(a), including any termination statements, endorsements or other instruments of transfer or release. The ABL Agent, for itself and on behalf of the other ABL Secured Parties, hereby irrevocably constitutes and appoints the Collateral Agent and any officer or agent of the Noteholder, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of the ABL Agent or any ABL Secured Party for the purpose of carrying out the terms of Section 3.3(b), to take any and all appropriate action and to execute any and all documents and instruments which may be necessary or desirable to accomplish the purposes of Section 3.3(b), including any termination statements, endorsements or other instruments of transfer or release.

(d) Nothing contained in this Intercreditor Agreement shall be construed to modify the obligation of the ABL Agent or the Collateral Agent to act in a commercially reasonable manner in the exercise of its rights to sell, lease, license, exchange, transfer or otherwise dispose of any ABL Collateral.

3.4 Insurance and Condemnation Awards.

(a) So long as the Discharge of Priority Debt has not occurred, the ABL Agent and the other ABL Secured Parties shall have the sole and exclusive right, subject to the rights of the Borrowers under the ABL Documents, to settle and adjust claims in respect of ABL Collateral under policies of insurance and to approve any award granted in any condemnation or similar proceeding, or any deed in lieu of condemnation in respect of the ABL Collateral. So long as the Discharge of Priority Debt has not occurred, all proceeds of any such policy and any such award, or any payments with respect to a deed in lieu of condemnation, shall (i) first be paid to the ABL Agent for the benefit of the ABL Secured Parties to the extent required under the ABL Documents until the Priority Debt has been paid in full, (ii) second, be paid to the Collateral Agent for the benefit of the Noteholder Secured Parties to the extent required under the applicable Noteholder Documents until the Discharge of Priority Noteholder Debt has occurred, (iii) third, be paid to the ABL Agent for the benefit of the ABL Secured Parties to the extent required under the ABL Documents until the ABL Debt has been paid in full, and (iv) fourth, be paid to the owner of the subject property or as a court of competent jurisdiction may otherwise direct or may otherwise be required by applicable law. Until the Discharge of Priority Debt, if the Collateral Agent or any other Noteholder Secured Party shall, at any time, receive any proceeds of any such insurance policy or any such award or payment, it shall pay such proceeds over to the ABL Agent in accordance with the terms of Section 4.2.

(b) After the Discharge of Priority Debt has occurred but before the Discharge of Priority Noteholder Debt has occurred, the Collateral Agent and the other Noteholder Secured Parties shall have the sole and exclusive right, subject to the rights of the Borrowers under the Noteholder Documents, to settle and adjust claims in respect of ABL Collateral under policies of insurance and to approve any award granted in any condemnation or similar proceeding, or any deed in lieu of condemnation in respect of the ABL Collateral. After the Discharge of Priority Debt has occurred but before the Discharge of Priority Noteholder Debt has occurred, all proceeds of any such policy and any such award, or any payments with respect to a deed in lieu of condemnation, shall (i) first be paid to the Collateral Agent for the benefit of the Noteholder Secured Parties to the extent required under the Noteholder Documents until the Noteholder Debt has been paid in full, (ii) second, be paid to the ABL Agent for the benefit of the ABL Secured Parties to the extent required under the ABL

Documents until the Excess ABL Debt has been paid in full, and (iii) third, be paid to the owner of the subject property or as a court of competent jurisdiction may otherwise direct or may otherwise be required by applicable law. After the Discharge of Priority Debt has occurred but before the Discharge of Priority Noteholder Debt has occurred, if the ABL Agent or any other ABL Secured Party shall, at any time, receive any proceeds of any such insurance policy or any such award or payment, it shall pay such proceeds over to the Collateral Agent in accordance with the terms of Section 4.2.

Section 4. PAYMENTS.

4.1 Application of Proceeds.

(a) So long as the Discharge of ABL Debt has not occurred, the ABL Collateral or proceeds thereof received in connection with the sale or other disposition of, or collection on, such ABL Collateral upon the exercise of remedies, shall be applied in the following order of priority:

(i) first, to the First Priority Debt (including for cash collateral as required under the ABL Documents), and in such order as specified in the relevant ABL Documents until the Discharge of Priority Debt has occurred;

(ii) second, to the Noteholder Debt in such order as specified in the relevant Noteholder Documents until the Discharge of Priority Noteholder Debt has occurred; and

(iii) third, to the Excess ABL Debt until the Discharge of ABL Debt has occurred.

(b) Upon the Discharge of Priority Debt, to the extent permitted under applicable law, the ABL Agent shall deliver to the Collateral Agent, without representation or recourse, any proceeds of ABL Collateral held by it at such time in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct, to be applied by the Collateral Agent to the Noteholder Debt in such order as specified in the relevant Noteholder Documents.

(c) The foregoing provisions of this Section 4.1 are intended solely to govern the respective Lien priorities as between the Collateral Agent and the Noteholder Secured Parties, on the one hand, and the ABL Agent and the other ABL Secured Parties, on the other hand, and shall not impose on the ABL Agent or any other ABL Secured Party or on Collateral Agent or any other Noteholder Secured Party any obligations in respect of the disposition of proceeds of foreclosure on any ABL Collateral which would conflict with prior perfected claims therein in favor of any other person or any order or decree of any court or other governmental authority or any applicable law.

4.2 Payments Over. So long as the Discharge of Priority Debt has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against any Borrower, the Collateral Agent agrees, for itself and on behalf of the other Noteholder Secured Parties, that any ABL Collateral or proceeds from the enforcement of remedies with respect to the ABL Collateral (including any right of set-off) with respect to the ABL Collateral, and including in connection with any insurance policy claim or any condemnation award (or deed in lieu of condemnation) with respect to ABL Collateral, shall be segregated and held in trust and promptly transferred or paid over to the ABL Agent for the benefit of the ABL Secured Parties in the same form as received, with any necessary endorsements or assignments or as a court of competent jurisdiction may otherwise direct. After the Discharge of Priority Debt has occurred but before the Discharge of Priority Noteholder Debt has occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against any Borrower, the ABL Agent agrees, for itself and on behalf of the other ABL Secured Parties, that any ABL Collateral or proceeds from the enforcement of remedies with respect to the ABL Collateral or payment with respect thereto received by the ABL Agent or any other ABL Secured Party (including any right of set-off) with respect to the ABL Collateral, and including in connection with any insurance policy claim or any condemnation award (or deed in lieu of condemnation) with respect to ABL Collateral, shall be segregated and held in trust and promptly transferred or paid over to the Collateral Agent for the benefit of the Noteholder Secured Parties in the same form as received, with any necessary endorsements or assignments or as a court of competent jurisdiction may otherwise direct. The ABL Agent or the Collateral Agent, as applicable, is hereby authorized to make any such endorsements or assignments as agent for the other. This authorization is coupled with an interest and is irrevocable.

Section 5. BAILEE FOR PERFECTION.

5.1 Each Lender as Bailee.

(a) Each of the ABL Agent and Collateral Agent (each, for purposes of this Section 5, an "Agent") agrees to hold any ABL Collateral that can be perfected or the priority of which can be enhanced by the possession or control of such ABL Collateral or of any account in which such ABL Collateral is held, and if such ABL Collateral or any such account is in fact in the possession or under the control of an Agent, or of agents or bailees of such Agent (such ABL Collateral being referred to herein as the "Pledged ABL Collateral"), as bailee and agent for and on behalf of the other Agent solely for the purpose of perfecting the Lien granted to the other Agent in such Pledged ABL Collateral or enhancing the priority of such Lien (including, but not limited to, any securities or any deposit accounts or securities accounts, if any) pursuant to the ABL Documents or Noteholder Documents, as applicable, subject to the terms and conditions of this Section 5.

(b) Until the Discharge of Priority Debt has occurred, the ABL Agent shall be entitled to deal with the Pledged ABL Collateral in accordance with the terms of the ABL Documents subject to the terms of this Intercreditor Agreement and to the Borrowers' rights under the ABL Documents.

(c) Each of the ABL Agent and Collateral Agent shall have no obligation whatsoever to the other Agent or any other Secured Party to assure that the Pledged ABL Collateral is genuine or owned by any of the Borrowers or to preserve rights or benefits of any Person except as expressly set forth in this Section 5. The duties or responsibilities of each of ABL Agent and Collateral Agent under this Section 5 shall be limited solely to holding the Pledged ABL Collateral as bailee and agent for and on behalf of the other Agent for purposes of perfecting or enhancing the priority of the Lien held by the other Agent.

(d) Each of the ABL Agent and Collateral Agent shall not have by reason of the ABL Documents, the Noteholder Documents or this Intercreditor Agreement or any other document a fiduciary relationship in respect of the other Agent or any of the other Secured Parties and shall not have any liability to the other Agent or any other Secured Party in connection with its holding the Pledged ABL Collateral, other than for its gross negligence or willful misconduct as determined by a final, non-appealable order of a court of competent jurisdiction.

5.2 Transfer of Pledged ABL Collateral. Upon the Discharge of Priority Debt, to the extent permitted under applicable law, the ABL Agent shall, without recourse or warranty, transfer the possession and control of the Pledged ABL Collateral, if any, then in its possession or control to Collateral Agent, except in the event and to the extent (a) the ABL Agent or any other ABL Secured Party has retained or otherwise acquired such ABL Collateral in full or partial satisfaction of any of the ABL Debt, (b) such ABL Collateral is sold or otherwise disposed of by the ABL Agent or any other ABL Secured Party or by a Borrower as provided herein or (c) it is otherwise required by any order of any court or other governmental authority or applicable law. The foregoing provision shall not impose on the ABL Agent or any other ABL Secured Party any obligations which would conflict with prior perfected claims therein in favor of any other person or any order or decree of any court or other governmental authority or any applicable law. In connection with any transfer described herein to Collateral Agent, the Agent agrees to take reasonable actions in its power (with all costs and expenses in connection therewith to be for the account of the Collateral Agent and to be paid by Borrowers) as shall be reasonably requested by the Collateral Agent to permit the Collateral Agent to obtain, for the benefit of the Noteholder Secured Parties, a first priority Lien in the Pledged ABL Collateral.

Section 6. INSOLVENCY OR LIQUIDATION PROCEEDINGS.

6.1 General Applicability. This Intercreditor Agreement shall be applicable both before and after the institution of any Insolvency or Liquidation Proceeding involving any Borrower, including the filing of any petition by or against any Borrower under the Bankruptcy Code or under any other Bankruptcy Law and all converted or subsequent cases in respect thereof, and all references herein to any Borrower shall be deemed to apply to the trustee for such Borrower and such Borrower as debtor-in-possession. The relative rights of the ABL Secured Parties and the Noteholder Secured Parties in or to any distributions from or in respect of any ABL Collateral or proceeds of ABL Collateral shall continue after the institution of any Insolvency or Liquidation Proceeding involving any Borrower, including the filing of any petition by or against any Borrower under the Bankruptcy Code or under any other Bankruptcy Law and all converted cases and subsequent cases, on the same basis as prior to the date of such institution, subject to (i) any court order approving the financing

of, or use of cash collateral by any Borrower as debtor-in-possession, or (ii) any other court order affecting the rights and interests of the parties hereto, in either case so long as such court order is not in conflict with this Intercreditor Agreement. This Agreement shall constitute a Subordination Agreement for the purposes of Section 510(a) of the Bankruptcy Code and shall be enforceable in any Insolvency or Liquidation Proceeding in accordance with its terms.

6.2 Bankruptcy Financing. If any Borrower becomes subject to any Insolvency or Liquidation Proceeding, until the Discharge of Priority Debt has occurred, the Collateral Agent, for itself and on behalf of the other Noteholder Secured Parties, agrees that:

(a) each Noteholder Secured Party will raise no objection to, nor support any other Person objecting to, and will be deemed to have consented to, the use of any ABL Collateral constituting cash collateral under Section 363 of the Bankruptcy Code, or any comparable provision of any other Bankruptcy Law, or any post-petition financing to any Borrower provided by any ABL Secured Party or any Qualified Financier (which agrees to be bound by Section 8 hereof) under Section 364 of the Bankruptcy Code, or any comparable provision of any other Bankruptcy Law (a "DIP Financing"), will not request or accept adequate protection or any other relief in connection with the use of such cash collateral or such DIP Financing except as set forth in Section 6.4 below and will subordinate (and will be deemed hereunder to have subordinated) the Liens granted to Noteholder Secured Parties to such DIP Financing on the same terms as such Liens are subordinated to the Liens granted to the ABL Agent hereunder (and such subordination will not alter in any manner the terms of this Intercreditor Agreement), to any adequate protection provided to the ABL Secured Parties and to any Carve Out; provided that:

(i) the ABL Agent does not oppose or object to such use of cash collateral or DIP Financing,

(ii) the aggregate principal amount of such DIP Financing, together with the ABL Debt as of such date, does not exceed the principal component of the Maximum Priority ABL Debt Amount, and the DIP Financing is treated as ABL Debt hereunder,

(iii) the Liens on ABL Collateral granted to the ABL Secured Parties or Qualified Financier in connection with such DIP Financing are subject to this Intercreditor Agreement and considered to be Liens of the ABL Agent for purposes hereof,

(iv) the Collateral Agent retains a Lien on the ABL Collateral (including proceeds thereof) with the same priority as existed prior to such Insolvency or Liquidation Proceeding (except to the extent of any Carve Out agreed to by the ABL Agent),

(v) the Collateral Agent receives replacement Liens on all assets, including post-petition assets, of any Borrower in which any of the ABL Agent obtains a replacement Lien, or which secure the DIP Financing, with the same priority relative to the Liens of ABL Agent as existed prior to such Insolvency or Liquidation Proceeding, and

(vi) the Noteholder Secured Parties may oppose or object to such use of cash collateral or DIP Financing on the same bases as an unsecured creditor, so long as such opposition or objection is not based on the Noteholder Secured Parties' status as secured creditors.

(b) no Noteholder Secured Party shall, directly or indirectly, provide, or seek to provide or support any party seeking to provide (other than the ABL Agent or a Qualified Financier as provided above), DIP Financing secured by Liens equal or senior in priority to the Liens on the ABL Collateral of the ABL Agent, without the prior written consent of the ABL Agent.

6.3 Relief from the Automatic Stay. The Collateral Agent, for itself and on behalf of the other Noteholder Secured Parties, agrees that, so long as the Discharge of Priority Debt has not occurred, no Noteholder Secured Party shall, without the prior written consent of the ABL Agent, seek or request relief from or modification of the automatic stay or any other stay in any Insolvency or Liquidation Proceeding in respect of any part of the ABL Collateral, any proceeds thereof or any Lien securing any of the Noteholder Debt. Notwithstanding anything to the contrary set forth in this Intercreditor Agreement, no Borrower waives or shall be deemed to have waived any rights under Section 362 of the Bankruptcy Code.

6.4 Adequate Protection.

(a) The Collateral Agent, on behalf of itself and the other Noteholder Secured Parties, agrees that none of them shall object, contest, or support any other Person objecting to or contesting, (i) any request by the ABL Agent or any of the other ABL Secured Parties for adequate protection of the First Priority Debt or any adequate protection provided to the ABL Agent or other ABL Secured Parties with respect to the First Priority Debt or (ii) any objection by the ABL Agent or any of the other ABL Secured Parties to any motion, relief, action or proceeding based on a claim of a lack of adequate protection for the First Priority Debt or (iii) the payment of interest, fees, expenses or other amounts to the ABL Agent or any other ABL Secured Party with respect to the First Priority Debt under Section 506(b) or 506(c) of the Bankruptcy Code or otherwise.

(b) The Collateral Agent, on behalf of itself and the other Noteholder Secured Parties, agrees that none of them shall seek or accept adequate protection with respect to the Noteholder Debt secured by Liens on the ABL Collateral without the prior written consent of the ABL Agent; except, that, the Collateral Agent, for itself or on behalf of the other Noteholder Secured Parties, or the Noteholder Secured Parties shall be permitted (i) to obtain adequate protection in the form of the benefit of additional or replacement Liens on the ABL Collateral (including proceeds thereof arising after the commencement of any Insolvency or Liquidation Proceeding), or additional or replacement ABL Collateral to secure the Noteholder Debt, in connection with any DIP Financing or use of cash collateral as provided for in Section 6.2 above, or in connection with any such adequate protection obtained by ABL Agent and the other ABL Secured Parties, as long as in each case, the ABL Agent is also granted such additional or replacement Liens or additional or replacement ABL Collateral and such Liens of Collateral Agent or any other Noteholder Secured Party are subordinated to the Liens securing the ABL Debt to the same extent as the Liens of Collateral Agent and the other Noteholder Secured Parties on the ABL Collateral are subordinated to the Liens of the ABL Agent and the other ABL Secured Parties hereunder and (ii) to obtain adequate protection in the form of reports, notices, inspection rights and similar forms of adequate protection to the extent granted to the ABL Agent.

6.5 Reorganization Securities. If, in any Insolvency or Liquidation Proceeding, debt obligations of any reorganized Borrower secured by Liens upon any property of such reorganized Borrower are distributed, pursuant to a plan of reorganization, on account of both the ABL Debt and the Noteholder Debt, then, to the extent the debt obligations distributed on account of the ABL Debt and on account of the Noteholder Debt are secured by Liens upon the same assets or property, the provisions of this Intercreditor Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

6.6 Separate Classes. Each of the parties hereto irrevocably acknowledges and agrees that (a) the claims and interests of the ABL Secured Parties and the Noteholder Secured Parties are not "substantially similar" within the meaning of Section 1122 of the Bankruptcy Code, or any comparable provision of any other Bankruptcy Law, (b) the grants of the Liens to secure the ABL Debt and the grants of the Liens to secure the Noteholder Debt constitute two separate and distinct grants of Liens, (c) the ABL Secured Parties' rights in the ABL Collateral are fundamentally different from the Noteholder Secured Parties' rights in the ABL Collateral and (d) as a result of the foregoing, among other things, the ABL Debt and the Noteholder Debt must be separately classified in any plan of reorganization proposed or adopted in any Insolvency or Liquidation Proceeding.

6.7 Asset Dispositions. Until the Discharge of Priority Debt has occurred, the Collateral Agent, for itself and on behalf of the other Noteholder Secured Parties, agrees that, in the event of any Insolvency or Liquidation Proceeding, the Noteholder Secured Parties will not object or oppose (or support any Person in objecting or opposing) a motion to any sale, lease, license, exchange, transfer or other disposition of any ABL Collateral free and clear of the Liens of Collateral Agent and the other Noteholder Secured Parties or other claims under Section 363 of the Bankruptcy Code, or any comparable provision of any Bankruptcy Law and shall be deemed to have consented to any such any sale, lease, license, exchange, transfer or other disposition of any ABL Collateral under Section 363(f) of the Bankruptcy Code that has been consented to by the ABL Agent; provided, that, (a) the proceeds of such sale, lease, license, exchange, transfer or other disposition of any ABL Collateral to be applied to the ABL Debt or the Noteholder Debt are applied in accordance with Section 4.1. Nothing herein shall prevent the Collateral Agent or the Noteholder Secured Parties from taking Permitted Actions or action permitted under Section 3.2 permitted to unsecured creditors.

6.8 Preference Issues.

(a) If, in any Insolvency or Liquidation Proceeding or otherwise, all or part of any payment with respect to the First Priority Debt previously made shall be rescinded for any reason whatsoever, then the First Priority Debt shall be reinstated to the extent of the amount so rescinded and, if theretofore terminated, this Intercreditor Agreement shall be reinstated in full force and effect and such prior termination shall not diminish, release, discharge, impair or otherwise affect the Lien priorities and the relative rights and obligations of the ABL Secured Parties and the Noteholder Secured Parties provided for herein.

(b) If, in any Insolvency or Liquidation Proceeding or otherwise, all or part of any payment with respect to the Noteholder Debt previously made shall be rescinded for any reason whatsoever and the Discharge of Priority Debt shall, subject to (for the avoidance of doubt) the immediately preceding clause (a), have occurred, then the Noteholder Debt shall be reinstated to the extent of the amount so rescinded and, if theretofore terminated, this Intercreditor Agreement shall be reinstated in full force and effect and such prior termination shall not diminish, release, discharge, impair or otherwise affect the Lien priorities and the relative rights and obligations of the Noteholder Secured Parties and any Person that holds ABL Excess Debt provided for herein solely with respect to any ABL Excess Claims and for the avoidance of doubt, not with respect to any First Priority Debt.

6.9 Certain Waivers as to Section 1111(b)(2) of Bankruptcy Code. The Collateral Agent, for itself and on behalf of the other Noteholder Secured Parties, waives any claim any Noteholder Secured Party may hereafter have against any ABL Secured Party arising out of the election by any ABL Secured Party of the application of Section 1111(b)(2) of the Bankruptcy Code with respect to any Liens secured by the ABL Collateral, or any comparable provision of any other Bankruptcy Law. The ABL Agent, for itself and on behalf of the other ABL Secured Parties, waives any claim any ABL Secured Party may hereafter have against any Noteholder Secured Party arising out of the election by any Noteholder Secured Party of the application of Section 1111(b)(2) of the Bankruptcy Code with respect to any Liens secured by the ABL Collateral or any comparable provision of any other Bankruptcy Law.

6.10 Other Bankruptcy Laws. In the event that an Insolvency of Liquidation Proceeding is filed in a jurisdiction other than the United States or is governed by any Bankruptcy Law other than the Bankruptcy Code, each reference in this Intercreditor Agreement to a section of the Bankruptcy Code shall be deemed to refer to the substantially similar or corresponding provision of the Bankruptcy Law applicable to such Insolvency or Liquidation Proceeding, or in the absence of any specific similar or corresponding provision of the Bankruptcy Law, such other general Bankruptcy Law as may be applied in order to achieve substantially the same result as would be achieved under each applicable section of the Bankruptcy Code.

Section 7. NOTEHOLDER SECURED PARTIES' PURCHASE OPTION.

7.1 Exercise of Option. On or after the occurrence and during the continuance of an ABL Event of Default and either the acceleration of all of the ABL Debt or the receipt by Collateral Agent of written notice from the ABL Agent of its intention to commence a Lien Enforcement Action as provided in Section 7.5 below, the Noteholder Secured Parties shall have the option at any time within ninety (90) days of such acceleration or written notice, upon five (5) Business Days' prior written notice by Collateral Agent to the ABL Agent, to purchase all (but not less than all) of the ABL Debt from the ABL Secured Parties. Such notice from Collateral Agent to the ABL Agent shall be irrevocable.

7.2 Purchase and Sale. On the date specified by Collateral Agent in the notice referred to in Section 7.1 (which shall not be less than five (5) Business Days, nor more than twenty (20) days, after the receipt by the ABL Agent of the notice from Collateral Agent of its election to exercise such option), ABL Secured Parties shall, subject to any required approval of any court or other regulatory or governmental authority then in effect (the time to obtain any such approval shall extend the proposed date of sale and purchase), if any, sell to Noteholder Secured Parties, and Noteholder Secured Parties shall purchase from ABL Secured Parties, all of the ABL Debt. Notwithstanding anything to the contrary contained herein, in connection with any such purchase and sale, ABL Secured Parties shall retain all rights under the ABL Documents to be indemnified or held harmless by the Borrowers in accordance with the terms thereof.

7.3 Payment of Purchase Price.

(a) Upon the date of such purchase and sale, Noteholder Secured Parties shall (i) pay to the ABL Agent for the account of the ABL Secured Parties as the purchase price therefor the full amount of all of the ABL Debt then outstanding and unpaid (including principal, interest, fees and expenses, including reasonable attorneys' fees and legal expenses), (ii) furnish cash collateral to ABL Agent in such amounts as ABL Agent determines is reasonably necessary to secure ABL Secured Parties in connection with any issued and outstanding letters of credit issued under the ABL Documents (but not in any event in an amount greater than one hundred five (105%) percent of the aggregate undrawn face amount of such letters of credit) (the ABL Agent agrees to refund this cash collateral to the Noteholder Secured Parties to the extent any letter of credit expires or is terminated or any amount is reimbursed from other sources), and (iii) agree to reimburse ABL Secured Parties for any loss, cost, damage or expense (including reasonable attorneys' fees and legal expenses) in connection with any commissions, fees, costs or expenses related to any issued and outstanding letters of credit as described above and any checks or other payments provisionally credited to the ABL Debt, and/or as to which ABL Secured Parties have not yet received final payment.

(b) Such purchase price and cash collateral shall be remitted by wire transfer in federal funds to such bank account of the ABL Agent as the ABL Agent may designate in writing to Collateral Agent for such purpose. Interest shall be calculated to but excluding the Business Day on which such purchase and sale shall occur if the amounts so paid by Noteholder Secured Parties to the bank account designated by the ABL Agent are received in such bank account prior to 12:00 noon, New York City time and interest shall be calculated to and including such Business Day if the amounts so paid by Noteholder Secured Parties to the bank account designated by the ABL Agent are received in such bank account later than 12:00 noon, New York City time.

7.4 Representations Upon Purchase and Sale. Such purchase shall be expressly made without representation or warranty of any kind by ABL Secured Parties as to the ABL Debt, the ABL Collateral or otherwise and without recourse to ABL Secured Parties, except that each ABL Secured Party shall represent and warrant, severally, as to it: (a) the amount of the ABL Debt being purchased from it are as reflected in the books and records of such ABL Secured Party (but without representation or warranty as to the collectibility, validity or enforceability thereof), (b) that such ABL Secured Party owns the ABL Debt being sold by it free and clear of any liens or encumbrances and (c) such ABL Secured Party has the right to assign the ABL Debt being sold by it and the assignment is duly authorized. Upon the purchase by Noteholder Secured Parties of the ABL Debt, Noteholder Secured Parties agree to indemnify and hold ABL Secured Parties harmless from and against all loss, cost, damage or expense (including reasonable attorneys' fees and legal expenses) suffered or incurred by ABL Secured Parties arising from or in any way relating to acts or omissions of Collateral Agent or any of the other Noteholder Secured Parties after the purchase. Subject to the foregoing, ABL Secured Parties shall execute and deliver such instruments of transfer and other documents as shall be necessary or desirable to fully vest title to the ABL Debt in the Noteholder Secured Parties (or their designee) and to effectively transfer all Liens securing the ABL Debt to the Noteholder Secured Parties (or their designee).

7.5 Notice from the ABL Agent Prior to Lien Enforcement Action. The ABL Agent agrees that it will give Collateral Agent ten (10) Business Days prior written notice of its intention to commence a Lien Enforcement Action. In the event that during such ten (10) Business Day period, Collateral Agent shall send to the ABL Agent the irrevocable notice of the intention of the Noteholder Secured Parties to exercise the purchase option given by ABL Secured Parties to Noteholder Secured Parties under this Section 7, ABL Secured Parties shall not commence any foreclosure or other action to sell or otherwise realize upon the ABL Collateral, provided, that, the purchase and sale with respect to the ABL Debt provided for herein shall have closed within thirty (30) Business Days thereafter and ABL Secured Parties shall have received final payment in full of the ABL Debt as provided for herein within such thirty (30) Business Day period.

Section 8. RELIANCE; WAIVERS; ETC.

8.1 Reliance. The consent by the ABL Secured Parties to the execution and delivery of the Noteholder Documents and the grant to the Collateral Agent on behalf of the Noteholder Secured Parties of a Lien on the ABL Collateral and all loans and other extensions of credit made or deemed made on and after the date hereof by the Noteholder Secured Parties to any Borrower shall be deemed to have been given and made in reliance upon this Intercreditor Agreement.

8.2 No Warranties or Liability. The Collateral Agent, for itself and on behalf of the other Noteholder

Secured Parties, acknowledges and agrees that each of the ABL Agent and the other ABL Secured Parties have made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any of the ABL Documents, the ownership of any ABL Collateral or the perfection or priority of any Liens thereon. The Collateral Agent agrees, for itself and on behalf of the other Noteholder Secured Parties, that the ABL Secured Parties will be entitled to manage and supervise their respective loans and extensions of credit under the ABL Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate, and the ABL Secured Parties may manage their loans and extensions of credit without regard to any rights or interests that the Collateral Agent or any of the other Noteholder Secured Parties have in the ABL Collateral or otherwise, in each case except as otherwise provided in this Intercreditor Agreement. The ABL Agent, for itself and on behalf of the ABL Secured Parties, acknowledges and agrees that neither the Collateral Agent nor any other Noteholder Secured Party has made any express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any of the Noteholder Documents, the ownership of any ABL Collateral or the perfection of priority of any Liens thereon. The ABL Agent agrees, for itself and on behalf of the other ABL Secured Parties, that the Collateral Agent and the Noteholder Secured Parties will be entitled to manage the Noteholder Debt under the Noteholder Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate, and the Collateral Agent and the Noteholder Secured Parties may manage their Noteholder Debt without regard to any rights or interests that the ABL Agent or any of the other ABL Secured Parties have in the ABL Collateral or otherwise, in each case except as otherwise provided in this Intercreditor Agreement. Neither the ABL Agent nor any of the other ABL Secured Parties shall have any duty to the Collateral Agent or any of the other Noteholder Secured Parties, and neither the Collateral Agent or any of the other Noteholder Secured Parties shall have any duty to the ABL Agent or any of the ABL Secured Parties, to act or refrain from acting in a manner which allows, or results in, the occurrence or continuance of an event of default or default under any agreements with any Borrower (including the Noteholder Documents or any ABL Documents), regardless of any knowledge thereof which they may have or be charged with.

8.3 No Waiver of Lien Priorities.

(a) No right of the ABL Agent or any of the other ABL Secured Parties or of the Collateral Agent or the Noteholder Secured Parties to enforce any provision of this Intercreditor Agreement or any of the ABL Documents or Noteholder Documents, as the case may be, shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of any Borrower, or by any noncompliance by any Person with the terms, provisions and covenants of this Intercreditor Agreement, any of the ABL Documents or any of the Noteholder Documents, regardless of any knowledge thereof which the ABL Agent or any of the other ABL Secured Parties or the Collateral Agent or the Noteholder Secured Parties may have or be otherwise charged with.

(b) Without in any way limiting the generality of the foregoing paragraph (but subject to the rights of the Borrowers under the ABL Documents and the rights of the Noteholder Secured Parties under the Noteholder Documents), the ABL Agent and any of the other ABL Secured Parties may, at any time and from time to time, without the consent of, or notice to, the Collateral Agent or any other Noteholder Secured Party, without incurring any liabilities to the Collateral Agent or any other Noteholder Secured Party and without impairing or releasing the Lien priorities and other benefits provided in this Intercreditor Agreement (even if any right of subrogation or other right or remedy of the Collateral Agent or any other Noteholder Secured Party is affected, impaired or extinguished thereby) do any one or more of the following:

(i) change the manner, place or terms of payment or change or extend the time of payment of, or amend, renew, exchange, increase or alter, the terms of any of the ABL Debt or any Lien on any ABL Collateral or guaranty thereof or any liability of any Borrower, or any liability incurred directly or indirectly in respect thereof (including any increase in or extension of the ABL Debt, without any restriction as to the amount, tenor or terms of any such increase or extension, and including addition of Vector Tobacco Inc. and any other Affiliate of the Issuer as a "Borrower" under and as defined in the ABL Loan Agreement) or otherwise amend, renew, exchange, extend, modify or supplement in any manner any Liens held by the ABL Agent or any of the other ABL Secured Parties, the ABL Debt or any of the ABL Documents; except that the ABL Agent and the ABL Secured Parties may not consent to any amendment, modification or waiver to the ABL Documents that:

(A) results in the sum of (1) the aggregate principal amount of loans outstanding under the ABL Documents, plus (2) the unused portion of the revolving commitments under the ABL

Documents, plus (3) the aggregate face amount of all letters of credit issued or deemed issued and outstanding under the ABL Documents plus (4) the Cash Management Obligations plus the Hedging Obligations (in the case of each of the foregoing, as determined after giving effect to such amendment, modification or waiver) exceeding $120,000,000,

(B) increase the "Applicable Margins" or similar component of the interest rate under the ABL Loan Agreement in a manner that would result in the total yield on the ABL Date to exceed by more than two (2%) percent per annum the total yield on the ABL Debt as in effect on the date hereof (excluding increases resulting from the accrual or payment of interest at the default rate),

(C) modify or add any covenant or event of default under the ABL Documents that directly restricts any Borrower from making mandatory payments of the Noteholder Debt that would otherwise be permitted under the ABL Documents (as in effect on the date hereof),

(D) contractually subordinates the Liens of the ABL Secured Parties to any other debt of the Borrowers except as permitted herein or in the ABL Documents (as in effect on the date hereof), or

(E) contravene the provisions of this Intercreditor Agreement;

(ii) until the Discharge of Priority Debt, sell, exchange, release, surrender, realize upon, enforce or otherwise deal with in any manner and in any order any part of the ABL Collateral or any liability of any Borrower to the ABL Agent or any of the other ABL Secured Parties, or any liability incurred directly or indirectly in respect thereof in accordance with the terms hereof;

(iii) settle or compromise any of the ABL Debt or any other liability of any Borrower or any security therefor or any liability incurred directly or indirectly in respect thereof and apply any sums by whomsoever paid and however realized to any liability (including the ABL Debt) in any manner or order, but subject however to the terms of this Intercreditor Agreement; and

(iv) exercise or delay in or refrain from exercising any right or remedy against any Borrower or any other Person, elect any remedy and otherwise deal freely with any Borrower or any ABL Collateral and any security and any guarantor or any liability of any Borrower to any of the ABL Secured Parties or any liability incurred directly or indirectly in respect thereof, but subject however to the terms of this Intercreditor Agreement.

(c) Each of the Collateral Agent and the ABL Agent agrees not to assert and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or otherwise claim the benefit of, any marshalling, appraisal, valuation or other similar right that may otherwise be available under applicable law with respect to the ABL Collateral or any other similar rights a junior secured creditor may have under applicable law with respect to the ABL Collateral.

Section 9. JOINDER.

9.1 Joinder of Other Borrowers. Any Person that is an Affiliate of the Issuer and an Indenture Loan Party and is added as a "Borrower" (as defined in the ABL Loan Agreement) shall become a party hereto as an Other Borrower by executing and delivering a Joinder Agreement.

Section 10. MISCELLANEOUS.

10.1 Conflicts; Additional Security. In the event of any conflict between the provisions of this Intercreditor Agreement and the provisions of the ABL Documents or the Noteholder Documents, the provisions of this Intercreditor Agreement shall govern.

10.2 Continuing Nature of this Intercreditor Agreement; Severability. This Agreement shall continue to be effective until the earlier of (a) the Discharge of ABL Debt or (b) the final payment in full in cash of the Noteholder Debt and the termination and release by each Noteholder Secured Party of any Liens to secure the Noteholder Debt. This is a continuing agreement of Lien subordination and the ABL Secured Parties may continue, at any time and without notice to the Collateral Agent or any other Noteholder Secured Party, to

extend credit and other financial accommodations and lend monies to or for the benefit of any Borrower constituting ABL Debt in reliance hereon and the Noteholder Secured Parties may purchase Notes constituting Noteholder Debt in reliance hereon. Each of the Collateral Agent, for itself and on behalf of the Noteholder Secured Parties, and the ABL Agent, for itself and on behalf of the ABL Secured Parties, hereby waives any right it may have under applicable law to revoke this Intercreditor Agreement or any of the provisions of this Intercreditor Agreement. The terms of this Intercreditor Agreement shall survive, and shall continue in full force and effect, in any Insolvency or Liquidation Proceeding. Any provision of this Intercreditor Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.3 When Discharge of ABL Debt and Discharge of Priority Noteholder Debt Deemed to Not Have Occurred.

(a) If substantially contemporaneously with the Discharge of ABL Debt, any Borrower refinances indebtedness outstanding under the ABL Documents, then after written notice to Collateral Agent, (i) the indebtedness and other obligations arising pursuant to such refinancing of the then outstanding indebtedness under the ABL Documents shall automatically be treated as ABL Debt for all purposes of this Intercreditor Agreement, including for purposes of the Lien priorities and rights in respect of ABL Collateral set forth herein, provided that such indebtedness would have been a permitted modification or amendment under Section 8.3(b) hereof, (ii) the credit agreement and the other loan documents evidencing such new indebtedness shall automatically be treated as the ABL Loan Agreement and the ABL Documents for all purposes of this Intercreditor Agreement and (iii) the administrative agent under the new ABL Loan Agreement shall be deemed to be the ABL Agent for all purposes of this Intercreditor Agreement.

(b) If substantially contemporaneously with the Discharge of Priority Noteholder Debt, any Borrower refinances indebtedness outstanding under the Noteholder Documents, then after written notice to the ABL Agent, (i) the indebtedness and other obligations arising pursuant to such refinancing of the then outstanding indebtedness under the Noteholder Documents shall automatically be treated as Noteholder Debt for all purposes of this Intercreditor Agreement, including for purposes of the Lien priorities and rights in respect of ABL Collateral set forth herein, provided that such indebtedness would have been a permitted modification or amendment under this Intercreditor Agreement, (ii) the credit agreement or indenture and the other loan or note documents evidencing such new indebtedness shall automatically be treated as the Noteholder Agreement and the Noteholder Documents for all purposes of this Intercreditor Agreement and (iii) the administrative agent or trustee under the new Noteholder Agreement shall be deemed to be the Collateral Agent for all purposes of this Intercreditor Agreement.

10.4 Amendments to Noteholder Documents. Without the prior written consent of the ABL Agent, no Noteholder Document may be amended, supplemented or otherwise modified, and no new Noteholder Document may be entered into, to the extent such amendment, supplement or other modification or new document would contravene the provisions of this Intercreditor Agreement.

10.5 Amendments; Waivers. No amendment, modification or waiver of any of the provisions of this Intercreditor Agreement by the Collateral Agent or the ABL Agent shall be deemed to be made unless the same shall be in writing signed on behalf of the party making the same or its authorized agent and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the parties making such waiver or the obligations of the other parties to such party in any other respect or at any other time. The Borrowers shall not have any right to consent to or approve any amendment, modification or waiver of any provision of this Intercreditor Agreement except to the extent their rights or obligations are directly affected. Notwithstanding this Section 10.5, without the consent of the Collateral Agent or any other party hereto, any Other Borrower may become a party hereto by execution and delivery of a Joinder Agreement in accordance with Section 9, and upon such execution and delivery, such Other Borrower shall be subject to the terms hereof and be treated as a "Borrower" hereunder.

10.6 Subrogation; Marshalling.

(a) The Collateral Agent agrees that no payment or distribution to any ABL Secured Party pursuant to the provisions of this Intercreditor Agreement shall entitle any Noteholder Secured Party to exercise any rights of subrogation in respect thereof until the Discharge of Priority Debt shall have occurred. Following

the Discharge of Priority Debt, each the ABL Agent agrees to execute such documents, agreements, and instruments as the Collateral Agent or any Noteholder Secured Party may reasonably request to evidence the transfer by subrogation to any the Collateral Agent, for the benefit of the Noteholder Secured Parties, of an interest in the First Priority Debt resulting from payments or distributions to such ABL Secured Party by such Person, so long as all reasonable costs and expenses (including all reasonable legal fees and disbursements) incurred in connection therewith by such ABL Secured Party are paid by such Person upon request for payment thereof.

(b) The Noteholder Secured Parties hereby waive any and all rights to have any ABL Collateral or any part thereof granted to or held by the ABL Agent marshaled upon any foreclosure or other disposition of such ABL Collateral by the ABL Agent or any Borrower without the consent of the ABL Agent, and ABL Secured Parties hereby waive any and all rights to have any ABL Collateral or any part thereof granted to or held by the Collateral Agent or any other Noteholder Secured Party marshaled upon any foreclosure or other disposition of such ABL Collateral by the Collateral Agent or any Noteholder Secured Party or any Borrower without the consent of Noteholder Secured Parties, in each case subject to the other terms of this Intercreditor Agreement.

10.7 Consent to Jurisdiction; Waivers. The parties hereto consent to the jurisdiction of any state or federal court located in New York, New York, and consent that all service of process may be made by registered mail directed to such party as provided in Section 10.9 below for such party. The parties hereto waive any objection to any action instituted hereunder based on forum non conveniens, and any objection to the venue of any action instituted hereunder. Each of the parties hereto waives any right it may have to trial by jury in respect of any litigation based on, or arising out of, under or in connection with this Intercreditor Agreement, or any course of conduct, course of dealing, verbal or written statement or action of any party hereto.

10.8 Notices. All notices to the Noteholder Secured Parties and the ABL Secured Parties permitted or required under this Intercreditor Agreement may be sent to the Collateral Agent and the ABL Agent, respectively. Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, electronically mailed or sent by courier service, facsimile transmission or U.S. mail and shall be deemed to have been given when delivered in person or by courier service, upon receipt of a facsimile transmission or electronic mail or four (4) Business Days after deposit in the U.S. mail (registered or certified, with postage prepaid and properly addressed). For the purposes hereof, the addresses of the parties hereto shall be as set forth below, or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties.

Collateral Agent:

U.S. Bank National Association Global Corporate Trust Services 60
Livingstone Avenue
EP-MN-WS3C
St. Paul, Minnesota 55107-2292 Attention: Joshua A. Hahn Facsimile No.:
651-466-7430

ABL Agent:

Wells Fargo Bank, National Association 100 Park Avenue, 14th Floor
New York, New York 10017 MAC J0149-030
Attention: Portfolio Manager – Liggett Facsimile No.: 212-545-4283

Each Initial Borrower:

Liggett Group LLC 100 Maple LLC
c/o Liggett Vector Brands LLC 3800 Paramount Parkway, Suite 250

Morrisville, North Carolina 27560 Attention: Victoria Spier Evans Facsimile No.: 919-990-3590

with a copy to:

Vector Group Ltd.
4400 Biscayne Boulevard, 10th Floor Miami, Florida 33137-3212 Attention: Marc Bell

Facsimile No.: 305-579-8016 Each Other Borrower:

Vector Group Ltd.
4400 Biscayne Boulevard, 10th Floor Miami, Florida 33137-3212 Attention: Marc Bell

Facsimile No.: 305-579-8016 with a copy to:

Vector Group Ltd.
4400 Biscayne Boulevard, 10th Floor Miami, Florida 33137-3212 Attention: Bryant Kirkland Facsimile No.: 305-579-8046

10.9 Further Assurances.

(a) The Collateral Agent agrees that it shall, for itself and on behalf of the Noteholder Secured Parties, take such further action and shall execute and deliver to the ABL Agent such additional documents and instruments (in recordable form, if requested) as the ABL Agent may reasonably request to effectuate the terms of and the lien priorities contemplated by this Intercreditor Agreement.

(b) The ABL Agent agrees that it shall, for itself and on behalf of the ABL Secured Parties, take such further action and shall execute and deliver to the Collateral Agent such additional documents and instruments (in recordable form, if requested) as the Collateral Agent may reasonably request to effectuate the terms of and the lien priorities contemplated by this Intercreditor Agreement.

10.10 Consent to Jurisdiction; Waiver of Jury Trial. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY CONSENTS TO THE NON-EXCLUSIVE JURISDICTION OF THE SUPREME COURT OF THE STATE OF NEW YORK IN NEW YORK COUNTY AND THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK AND WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING WITH RESPECT TO THIS AGREEMENT.

10.11 Governing Law. The validity, construction and effect of this Intercreditor Agreement shall be governed by the internal laws of the State of New York but excluding any principles of conflicts of law or any other rule of law that would result in the application of the law of any jurisdiction other than the laws of the State of New York.

10.12 Binding on Successors and Assigns. This Agreement shall be binding upon the ABL Agent, the other ABL Secured Parties, the Collateral Agent, the other Noteholder Secured Parties, the Borrowers and their respective permitted successors and assigns.

10.13 Specific Performance. The ABL Agent or the Collateral Agent may demand specific performance of this Intercreditor Agreement. The Collateral Agent, for itself and on behalf of the Noteholder Secured Parties, and the ABL Agent, for itself and on behalf of the ABL Secured Parties, hereby irrevocably waives any defense based on the adequacy of a remedy at law and any other defense which might be asserted to

bar the remedy of specific performance in any action which may be brought by the ABL Agent or the Collateral Agent, as applicable.

10.14 Section Titles; Time Periods. The section titles contained in this Intercreditor Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of this Intercreditor Agreement.

10.15 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which shall together constitute one and the same document. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to this Agreement or any document to be signed in connection with this Agreement shall be deemed to include electronic signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act or any other similar state laws based on the Uniform Electronic Transactions Act, and the parties hereto consent to conduct the transactions contemplated hereunder by electronic means.

10.16 Authorization. By its signature, each Person executing this Intercreditor Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Intercreditor Agreement.

10.17 No Third Party Beneficiaries. This Agreement and the rights and benefits hereof shall inure to the benefit of each of the parties hereto and their respective successors and assigns and shall inure to the benefit of each of the holders of ABL Debt and Noteholder Debt. No other Person shall have or be entitled to assert rights or benefits hereunder.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Intercreditor Agreement as of the date first written above.

ABL AGENT:

WELLS FARGO BANK, NATIONAL ASSOCIATION, as ABL Agent

By: /s/ Andrew Rogow
Name: Andrew Rogow
Title: Vice President

[Signature Page to Intercreditor and Lien Subordination Agreement]

BORROWERS:

LIGGETT GROUP LLC

By: /s/ Nicholas P. Anson
Name: Nicholas P. Anson
Title: President and Chief Operating Officer

100 MAPLE LLC

By: /s/ Victoria Spier Evans
Name: Victoria Spier Evans
Title: Secretary

COLLATERAL AGENT:

U.S. BANK NATIONAL ASSOCIATION, as the Collateral Agent

By: /s/ Joshua A. Hahn
Name: Joshua A. Hahn
Title: Vice President

EXHIBIT A

FORM OF JOINDER AGREEMENT

JOINDER AGREEMENT NO. [●] (the "Joinder"), dated as of [●], 20[●], to the SECOND AMENDED AND RESTATED INTERCREDITOR AND LIEN SUBORDINATION AGREEMENT, dated as of January 28, 2021 (the "Intercreditor Agreement"), among Wells Fargo Bank, National Association, in its capacity as administrative agent (in such capacity, the "ABL Agent"), for itself and on behalf of the other ABL Secured Parties, U.S. Bank National Association, in its capacity as collateral agent for the Noteholder Secured Parties (in such capacity, the "Collateral Agent"), Liggett Group LLC, a Delaware limited liability company ("Liggett Group"), 100 Maple LLC, a Delaware limited liability company ("100 Maple" and, together with Liggett Group, the "Initial Borrowers") and each other borrower under the ABL Loan Agreement that becomes party thereto pursuant to a Joinder Agreement (each, an "Other Borrower" and, together with the Initial Borrowers and each other Other Borrower, the "Borrowers" and each individually, a "Borrower").

A. Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to such terms in the Intercreditor Agreement.

B. Section 9 of the Intercreditor Agreement provides that an Other Borrower may become a party to the Intercreditor Agreement upon the execution and delivery by such Other Borrower of an instrument substantially in the form of this Joinder. The undersigned Other Borrower (the "New Other Borrower") is executing this Joinder in accordance with the requirements of the Intercreditor Agreement.

Accordingly, the New Other Borrower agrees as follows:

SECTION 1. In accordance with Section 9 of the Intercreditor Agreement, the undersigned New Other Borrower by its signature below becomes an Other Borrower under the Intercreditor Agreement with the same force and effect as if the New Other Borrower had originally been named therein as a Borrower, and the New Other Borrower hereby agrees to all the terms and provisions of the Intercreditor Agreement applicable to it as a Borrower. Each reference to a "Borrower" in the Intercreditor Agreement shall be deemed to include the New Other Borrower. The Intercreditor Agreement is hereby incorporated herein by reference.

SECTION 2. The New Other Borrower represents and warrants to the ABL Agent and the Collateral Agent that (i) it has full power and authority to enter into this Joinder and (ii) this Joinder has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable against it in accordance with its the terms.

SECTION 3. This Joinder may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Joinder shall become effective when the ABL Agent and the Collateral Agent shall have received a counterpart of this Joinder that bears the signature of the New Other Borrower. Delivery of an executed signature page to this Joinder by facsimile transmission shall be effective as delivery of a manually signed counterpart of this Joinder.

SECTION 4. Except as expressly supplemented hereby, the Intercreditor Agreement shall remain in full force and effect.

SECTION 5. The validity, construction and effect of this Joinder shall be governed by the internal laws of the State of New York but excluding any principles of conflicts of law or any other rule of law that would result in the application of the law of any jurisdiction other than the laws of the State of New York.

SECTION 6. All communications and notices hereunder shall be in writing and given as provided in Section 10.8 of the Intercreditor Agreement. All communications and notices hereunder to the New Other Borrower shall be given to it at the address set forth below its signature hereto.

IN WITNESS WHEREOF, the New Other Borrower has duly executed this Joinder to the Intercreditor Agreement as of the day and year first above written.

[NAME OF NEW OTHER BORROWER]

By: ___

Name:
Title:

Address for notices:

_____

_____

attention of: __

Facsimile:

EXHIBIT 10.29

NON-EMPLOYEE DIRECTOR

RESTRICTED SHARES AWARD AGREEMENT

PURSUANT TO THE

VECTOR GROUP LTD.

AMENDED & RESTATED 2014 MANAGEMENT INCENTIVE PLAN

THIS AGREEMENT (the "Agreement"), made as of [Grant Date] ("Grant Date"), by and between Vector Group Ltd., a Delaware Corporation, with its principal office at 4400 Biscayne Boulevard, 10th Floor, Miami, FL 33137 (the "Company"), and [Participant] (the "Participant").

WHEREAS, the Board of Directors of the Company (the "Board") originally adopted the Vector Group Ltd. 2014 Management Incentive Plan on March 10, 2014 (approved by the stockholders of the Company on May 16, 2014) and subsequently amended and restated such plan as the Vector Group Ltd. Amended & Restated 2014 Management Incentive Plan on May 25, 2021 (as such plan may be amended from time to time, the "Plan");

WHEREAS, the Plan provides that the Company, through the Compensation Committee of the Board (the "Committee"), can grant awards of Restricted Shares to Employees, Non-Employee Directors and Consultants who provide services to the Company; and

WHEREAS, subject to the terms and conditions of this Agreement and the Plan, the Committee has determined that Participant, a Non-Employee Director of the Company, shall be awarded Restricted Shares in the amount set forth below and subject to the terms, conditions and restrictions set forth herein.

NOW, THEREFORE, the Company and the Participant each agree as follows:

1. **Grant of Restricted Shares**. Subject to the terms, conditions and restrictions of the Plan and this Agreement, the Company hereby grants to the Participant [Amount of] Restricted Shares effective as of the Grant Date. For the avoidance of doubt, the Participant shall be entitled to all rights of a holder of shares of common stock of the Company ("Common Stock") set forth in Section 4 hereof as of the Grant Date. Pursuant to the Plan and Section 2 of this Agreement, the Restricted Shares are subject to certain restrictions, some of which shall expire in accordance with the provisions of the Plan and Section 2 hereof. A book entry in Participant's name evidencing the Restricted Shares will be made with the Company or its designated agent until such Restricted Shares are released to the Participant or forfeited in accordance with this Agreement. Unless otherwise provided herein, capitalized terms used herein that are not defined herein shall have the meanings attributable thereto in the Plan.

2. **Vesting**. (a) Except as otherwise provided in Sections 2(b) and 3 hereof, the Restricted Shares shall become vested in the following percentages and at the following times, subject to the Participant's continued engagement with the Company through and on the applicable Vesting Date:

Percentage of Restricted Shares	Vesting Date
[Percentage]	[Date]

There shall be no proportionate or partial vesting of the Restricted Shares in or during the months, days or periods prior to each Vesting Date, and all vesting of the Restricted Shares shall occur only on the applicable Vesting Date. Upon the termination or cessation of the Participant's engagement with the Company, other than as set forth below in Section 2(b) hereof, any portion of the Restricted Shares which is not yet then vested shall automatically and without notice terminate, be forfeited and be and become null and void except as otherwise provided herein.

(b) Notwithstanding any other term or provision of this Agreement, in the event that an Acceleration Event (as defined below) occurs, the Restricted Shares subject to this Agreement shall become immediately fully vested as of the date of the Acceleration Event. For purposes of this Agreement, an "Acceleration Event" shall mean the first to occur of any of the following: (i) a Change in Control (as defined below) provided that the Participant's engagement with the Company and its Related Entities continues through and on the date of

such Change in Control; or (ii) the Participant's engagement with the Company and its Related Entities thereof terminates due to death or disability.

(c) For purposes of this Agreement, "Change in Control" shall be as defined in Section 13.3 of the Plan.

3. **Effect of Vesting; Forfeiture**.

(a) Upon the vesting of any Restricted Shares, such vested Restricted Shares will no longer be subject to forfeiture as provided in this Agreement. Promptly after vesting, the Company will deliver to the Participant the Restricted Shares that have vested subject to applicable tax withholding obligations, if any, pursuant to Section 10.

(b) If the Participant's engagement with the Company and the Related Entities is terminated for any reason other than in connection with Participant's death or disability, the Participant shall automatically forfeit any unvested Restricted Shares and the Company shall acquire such unvested Restricted Shares for the amount paid by the Participant for such Restricted Shares (or, if no amount was paid by the Participant for such Restricted Shares, then the Company shall acquire such Restricted Shares for no consideration). The Committee shall have the power and authority to enforce on behalf of the Company any rights of the Company under this Agreement in the event of the Participant's forfeiture of the Restricted Shares pursuant to this Section 3.

4. **Rights as a Holder of Restricted Shares**. From and after the Grant Date, the Participant shall have, with respect to the Restricted Shares (whether vested or unvested), all of the rights of a holder of shares of Common Stock of the Company, including, without limitation, the right to vote the shares, to receive and retain all regular dividends payable to holders of shares of record on and after the Grant Date, and to exercise all other rights, powers and privileges of a holder of shares with respect to the Restricted Shares; provided, that, the right to receive and retain such regular dividends (whether paid in the form of cash, shares or other property) shall be subject to the same restrictions that are then applicable to the Restricted Shares under the Plan and this Agreement and such restrictions shall expire at the same time as the restrictions on the Restricted Shares expire.

5. **Taxes; Section 83(b) Election**. The Participant acknowledges that (i) no later than the earlier of (x) the date on which any Restricted Shares shall have become vested or (y) the date on which the Participant makes a Section 83(b) election (if he or she so chooses to make such an election), the Participant shall pay to the Company, or make arrangements satisfactory to the Company regarding payment of, any Federal, state or local or other taxes of any kind required by law to be withheld with respect to any Restricted Shares which shall have become so vested; (ii) the Company shall, to the extent permitted by law, have the right to deduct from any payment of any kind otherwise due to the Participant any Federal, state or local or other taxes of any kind required by law to be withheld with respect to any Restricted Shares which shall have become so vested, including that the Company may, but shall not be required to, sell a number of Restricted Shares sufficient to cover applicable withholding taxes; and (iii) in the event that the Participant does not satisfy (i) above on a timely basis, the Company may, but shall not be required to, pay such required withholding and, to the extent permitted by applicable law, treat such amount as a demand loan to the Participant at the maximum rate permitted by law, with such loan, at the Company's sole discretion and provided the Company so notifies the Participant within thirty (30) days of the making of the loan, secured by the Restricted Shares and any failure by the Participant to pay the loan upon demand shall entitle the Company to all of the rights at law of a creditor secured by the Restricted Shares. The Company may hold as security any certificates representing any Restricted Shares and, upon demand of the Company, the Participant shall deliver to the Company any certificates in his or her possession representing the Restricted Shares together with a stock power duly endorsed in blank. The Participant also acknowledges that it is his or her sole responsibility, and not the Company's, to file timely and properly any election under Section 83(b) of the Code, and any corresponding provisions of state tax laws, if the Participant wishes to utilize such election.

6. **No Obligation to Continue Employment**. This Agreement is not an agreement of employment. Neither the execution of this Agreement nor the issuance of the Restricted Shares hereunder constitute an agreement by the Company or any Related Entity thereof to employ or to continue to employ the Participant during the entire, or any portion of, the term of this Agreement, including but not limited to any period during which any Restricted Shares are outstanding.

7. **Legend**. In the event that a certificate evidencing the Restricted Shares is issued, the certificate representing the Restricted Shares shall have endorsed thereon the following legends:

(a) "THE ANTICIPATION, ALIENATION, ATTACHMENT, SALE, TRANSFER, ASSIGNMENT, PLEDGE, ENCUMBRANCE OR CHARGE OF THE SHARES OF STOCK REPRESENTED HEREBY ARE SUBJECT TO THE TERMS AND CONDITIONS (INCLUDING FORFEITURE) OF VECTOR GROUP LTD. (THE "COMPANY") AMENDED & RESTATED 2014 MANAGEMENT INCENTIVE PLAN

ORIGINALLY ADOPTED BY THE COMPANY'S BOARD OF DIRECTORS ON MARCH 10, 2014 (APPROVED BY THE STOCKHOLDERS OF THE COMPANY ON MAY 16, 2014) (AS SUCH PLAN MAY BE AMENDED FROM TIME TO TIME, THE "PLAN") AND AMENDED AND RESTATED ON MAY 25, 2021 AND AN AGREEMENT ENTERED INTO BETWEEN THE REGISTERED OWNER AND THE COMPANY DATED AS OF [GRANT DATE]. COPIES OF SUCH PLAN AND AGREEMENT ARE ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY."

(b) Any legend required to be placed thereon by applicable blue sky laws of any state.

Notwithstanding the foregoing, in no event shall the Company be obligated to issue a certificate representing the Restricted Shares prior to vesting as set forth in Section 2 hereof.

8. **Power of Attorney**. The Company, its successors and assigns, is hereby appointed the attorney-in-fact, with full power of substitution, of the Participant for the purpose of carrying out the provisions of this Agreement and taking any action and executing any instruments which such attorney-in-fact may deem necessary or advisable to accomplish the purposes hereof, which appointment as attorney-in-fact is irrevocable and coupled with an interest. The Company, as attorney-in-fact for the Participant, may in the name and stead of the Participant, make and execute all conveyances, assignments and transfers of the Restricted Shares provided for herein, and the Participant hereby ratifies and confirms that which the Company, as said attorney-in-fact, shall do by virtue hereof. Nevertheless, the Participant shall, if so requested by the Company, execute and deliver to the Company all such instruments as may, in the judgment of the Company, be advisable for this purpose.

9. **Transferability**. Unless otherwise determined by the Committee, the Restricted Shares shall not be subject to a Transfer (as defined below), otherwise than by will or under the applicable laws of descent and distribution, unless and until the shares become vested under Section 2 hereof. The terms of this Agreement shall be binding upon the executors, administrators, heirs, successors and assigns of the Participant. Except as otherwise permitted pursuant to the first sentence of this Section 9, any attempt to effect a Transfer of any Restricted Shares shall be void *ab initio*. For purposes of this Agreement, "Transfer" shall mean any sale, transfer, encumbrance, gift, donation, assignment, pledge, hypothecation, or other disposition, whether similar or dissimilar to those previously enumerated, whether voluntary or involuntary, and including, but not limited to, any disposition by operation of law, by court order, by judicial process, or by foreclosure, levy or attachment.

10. **Tax Withholding**. Upon each vesting of the Restricted Shares, the Company shall withhold shares of Common Stock having a Fair Market Value (as defined in the Plan) on the date the tax is to be determined equal to the maximum statutory amount to satisfy any federal, state or local taxes required by law to be withheld as a result of such vesting.

11. **Miscellaneous**.

(a) This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, personal legal representatives, successors, trustees, administrators, distributes, devisees and legatees. The Company may assign to, and require, any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company to expressly assume and agree in writing to perform this Agreement. Notwithstanding the foregoing, the Participant may not assign this Agreement or any of the Participant's rights, interest or obligations hereunder.

(b) This award of Restricted Shares shall not affect in any way the right or power of the Board or stockholders of the Company to make or authorize an adjustment, recapitalization or other change in the capital structure or the business of the Company, any merger or consolidation of the Company or subsidiaries, any issue of bonds, debentures, preferred or prior preference stock ahead of or affecting the Restricted Shares, the dissolution or liquidation of the Company, any sale or transfer of all or part of its assets or business or any other corporate act or proceeding.

(c) The Participant agrees that the award of the Restricted Shares hereunder is special incentive compensation and that, with the exception of dividends paid thereon, will not be taken into account as "salary", "Base Salary" (as defined in the Participant's employment agreement), "compensation" or "bonus" in determining the amount of any matching payment under the Liggett Vector Brands Savings Plan or any other pension, retirement or profit-sharing plan of the Company or subsidiary thereof or any life insurance, disability or other benefit plan of the Company or subsidiary thereof.

(d) No modification or waiver of any of the provisions of this Agreement shall be effective unless in writing and signed by the party against whom it is sought to be enforced.

(e) This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one contract, and such execution may be evidenced by electronic means pursuant to any procedures established by the Company for electronic acceptance.

(f) The failure of any party hereto at any time to require performance by another party of any provision of this Agreement shall not affect the right of such party to require performance of that provision, and any waiver by any party of any breach of any provision of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right under this Agreement.

(g) The headings of the sections of this Agreement have been inserted for convenience of reference only and shall in no way restrict or modify any of the terms or provisions hereof.

(h) All notices, consents, requests, approvals, instructions and other communications provided for herein shall be in writing and validly given or made when delivered, or on the second succeeding business day after being mailed by registered or certified mail, whichever is earlier, to the persons entitled or required to receive the same, at the addresses set forth at the heading of this Agreement or to such other address as either party may designate by like notice. Notices to the Company shall be addressed to Vector Group Ltd. at 4400 Biscayne Boulevard, 10th Floor, Miami, Florida 33137, Attn: Marc N. Bell, Senior Vice President, General Counsel and Secretary.

(i) This Agreement shall be construed and interpreted in accordance with and governed by the laws of the state of Florida (disregarding any choice of law rules which might look to the laws of any other jurisdiction).

12. **Provisions of Plan Control**. This Agreement is subject to all the terms, conditions and provisions of the Plan, including, without limitation, the amendment provisions thereof, and to such rules, regulations and interpretations relating to the Plan as may be adopted thereunder and as may be in effect from time to time. The Plan is incorporated herein by reference. A copy of the Plan has been delivered to the Participant. If and to the extent that this Agreement conflicts or is inconsistent with the terms, conditions and provisions of the Plan, the Plan shall control, and this Agreement shall be deemed to be modified accordingly. This Agreement contains the entire understanding of the parties with respect to the subject matter hereof (other than any other documents expressly contemplated herein or in the Plan) and supersedes any prior agreements between the Company and the Participant.

[signature page(s) follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

VECTOR GROUP LTD.

By: _____
Name: [Name of Officer]
Title: [Title of Officer]

Participant:

_____

[Participant]

3rd AMENDMENT TO OFFICE LEASE
VECTOR GROUP LTD. — 10th FLOOR

THIS 3rd AMENDMENT TO OFFICE LEASE (this "Amendment") is made as of January 30, 2023, by and between FROST REAL ESTATE HOLDINGS LLC, a Florida limited liability company ("Landlord") and VECTOR GROUP LTD, a Delaware Corporation (Tenant").

Landlord and Tenant entered into that certain Office Lease, dated as of September 10, 2012 (as amended, the "Lease") as amended on November 12, 2012 (reflecting May 12, 2012 as the lease commencement date), whereby Landlord leased to Tenant the premises as more fully described therein, consisting of approximately 12,390 SF (the "Premises") in the building located at 4400 Biscayne Boulevard, Miami Florida 33137, which Premises are described on Exhibit-A of the Lease; as further amended by that certain 2nd Amendment to Office Lease dated September 1, 2017, extending term to April 30, 2023, and Landlord and Tenant are executing this Amendment in order to modify certain terms of the Lease as previously amended.

NOW THEREFORE, in consideration of the premises and the agreements and covenants contained herein, Landlord and Tenant agree that the *Lease* is amended and modified *as* follows:

A. Exercise of Extension:

1. Pursuant to Section 34 B of the Lease, Tenant hereby agrees to exercise the optional 2nd Five (5) years term extension from May 01, 2023 through April 30th, 2028

2. The rent due by the Tenant during the ensuing 5 year term of the Lease is as follows:

Lease Term /Months	Monthly Rent	Annual Rent
5/1/2023 — 4/30/2024	$42,649.31	$511,791.72
5/1/2024 — 4/30/2025	$44,035.41	$528,424.92
5/1/2025 — 4/30/2026	$45,466.56	$545,598.72
5/1/2026 — 4/30/2027	$46,944.22	$563,330.64
5/1/2027 — 4/30/2028	$48,469.91	$581,638.92

B. Miscellaneous:

Except as set forth in this Amendment, all other terms and conditions of the Lease shall remain in full force and effect, and this Amendment is hereby incorporated into and becomes part of the Lease. In the event of a conflict between the terms of this Amendment and the terms of the Lease, the terms of this Amendment shall control. Defined terms used in this Amendment not defined herein shall have the meaning set forth in the Lease.

IN WITNESS WHEREOF, the parties have duly executed this Amendment as of the day and year first above written.

LANDLORD: Frost Real Estate Holdings, LLC

By: Steven Rubin Title: Executive Vice President

Signature: /s/ Steven Rubin

TENANT: Vector Group LTD

By: Marc N. Bell Title: **Senior Vice President**

Signature: /s/ Marc N. Bell

EXHIBIT 10.39

Executive Compensation Clawback Policy

(Adopted as of April 24, 2020)

General

As a condition to receiving bonus and incentive-based compensation from Vector Group Ltd. (the "Company") and its subsidiaries, each executive officer named in the summary compensation table of the Company's proxy statement (a "NEO") shall enter into an agreement with the Company providing that any performance-based compensation awarded, paid or payable by the Company or any of its subsidiaries subsequent to the date of adoption of this Policy shall be subject to recovery or "clawback" by the Company pursuant to this policy.

II. Procedure

a. In the event of a restatement of the Company's financial results (other than due to a change in applicable accounting methods, rules or interpretations) the result of which is that any performance-based compensation paid would have been lower had it been calculated based on such restated results, the Compensation and Human Capital Committee of the Board of Directors (the "Committee") shall review such performance-based compensation.

b. If the Committee determines that the amount of any such performance-based compensation actually paid or awarded to a

NEO (the “Awarded Compensation”) would have been a lower amount had it been calculated based on such restated financial statement (the “Actual Compensation”), and that such NEO engaged in fraud, material financial or ethical misconduct or recklessness in the performance of the NEO’s duties, which materially contributed to the need for such restatement, then the Committee shall, except as provided below, seek to recover for the benefit of the Company the after-tax portion of the difference between the Awarded Compensation and the Actual Compensation (such difference, the “Excess Compensation”). In determining the after-tax portion of such Excess Compensation, the Committee shall take into account its good faith estimate of the value of any tax deduction available to the NEO in respect of such repayment.

c. The Committee shall not seek recovery to the extent it determines (i) that to do so would be unreasonable or (ii) that it would be better for the Company not to do so. In making such determination, the Committee shall take into account such considerations as it deems appropriate, including without limitation (A) the likelihood of success under governing law versus the cost and effort involved, (B) whether the assertion of a claim may prejudice the interests of the Company, including in any related proceeding or investigation, (C) the passage of time since the occurrence of the act in respect of the applicable fraud or intentional illegal conduct and (D) any threatened or pending

legal proceeding relating to the applicable fraud or intentional illegal conduct.

d. Before the Committee determines to seek recovery pursuant to this policy, it shall provide to the applicable NEO prior written notice and the opportunity to be heard, at a meeting of the Committee (which may be in-person or telephonic, as determined by the Committee) held after a reasonable time period.

e. If the Committee determines to seek a recovery pursuant to this policy, it shall make a written demand for repayment from the NEO and, if the NEO does not within a reasonable period tender repayment in response to such demand, and the Committee determines that he or she is unlikely to do so, the Committee may initiate legal proceedings against the NEO for such repayment.

f. For the purposes of this policy the term “performance-based compensation” means all bonuses and other incentive and equity compensation awarded to each of the Company’s NEOs, the amount, payment and/or vesting of which was calculated based wholly or in part on the application of objective, financial performance criteria measured during any part of the period covered by the restatement.

Any determination, modification, interpretation or other action by the Committee pursuant to this policy shall be made and taken by a vote of a majority of its members. The Committee has the sole authority to construe, interpret and implement this policy, make any determination necessary or

advisable in administering this policy, and modify, supplement, rescind or replace all or any portion of this policy.

EXHIBIT 10.40

THIRD AMENDED AND RESTATED CREDIT AGREEMENT

by and among

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Administrative Agent,

THE LENDERS THAT ARE PARTIES HERETO,

as the Lenders, and

LIGGETT GROUP LLC, 100 MAPLE LLC,
and
VECTOR TOBACCO INC.,
as Borrowers

Dated as of January 14, 2015,
as amended by Amendment No. 1 dated as of January 27, 2017, Amendment No. 2 dated as of October 30, 2018,
Amendment No. 3 dated as of October 31, 2019 and Amendment No. 4 dated as of March 22, 2021

TABLE OF CONTENTS

EXHIBITS AND SCHEDULES

Exhibit A-1 Form of Assignment and Acceptance Exhibit B-1 Form of Borrowing

Base Certificate Exhibit C-1 Form of Compliance Certificate

Exhibit D-1 Form of U.S. Tax Compliance Certificate (For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Exhibit D-2 Form of U.S. Tax Compliance Certificate (For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Exhibit D-3 Form of U.S. Tax Compliance Certificate (For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Exhibit D-4 Form of U.S. Tax Compliance Certificate (For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Exhibit L-1 Form of LIBOR Notice Exhibit P-1 Form of Perfection Certificate

Schedule A-1 Agent's Account Schedule A-2 Authorized Persons
Schedule C-1 Revolver Commitments Schedule D-1 Designated Account
Schedule E-1 Eligible Inventory Schedule P-1 Permitted Investments
Schedule P-2 Permitted Liens Schedule R-1 Real Property Collateral
Schedule 1.1 Definitions
Schedule 3.1 Conditions Precedent Schedule 3.6 Conditions Subsequent
Schedule 4.1(b) Capitalization of Borrowers
Schedule 4.1(c) Capitalization of Borrowers' Subsidiaries Schedule 4.1(d) Subscriptions, Options, Warrants, Calls Schedule 4.6 Litigation
Schedule 4.10 Benefit Plans
Schedule 4.11 Environmental Matters
Schedule 4.14 Permitted Indebtedness Schedule 4.24 Location of Inventory
Schedule 5.1 Financial Statements, Reports, Certificates Schedule 5.2 Collateral Reporting
Schedule 5.15 Chief Executive Office Schedule 6.5 Nature of Business

THIRD AMENDED AND RESTATED CREDIT AGREEMENT

THIS THIRD AMENDED AND RESTATED CREDIT AGREEMENT, dated as of January 14, 2015 (this "Agreement"), is entered into by and among the lenders identified on the signature pages hereof (each of such lenders, together with its successors and permitted assigns, a "Lender," as that term is hereinafter further defined), **WELLS FARGO BANK, NATIONAL ASSOCIATION**, a national banking association, as administrative and collateral agent (together with its successors and assigns, in such capacity, "Agent"), Liggett Group LLC, a Delaware limited liability company, as successor to Liggett Group Inc. ("Liggett"), 100 Maple LLC, a Delaware limited liability company ("100 Maple") and Vector Tobacco Inc., a Virginia corporation ("Vector Tobacco" and, together with Liggett and 100 Maple, "Borrowers" and each individually, a "Borrower").

WHEREAS, Agent, Liggett and 100 Maple previously entered into financing arrangements pursuant to which Agent, in its capacity as a Lender, made loans and advances and provided other financial accommodations to Liggett and 100 Maple as set forth in the Existing Credit Agreement (as hereinafter defined) and the Existing Mebane Loan Documents (as hereinafter defined);

WHEREAS, Borrowers requested that Agent amend and restate the Existing Credit Agreement, and effective on the Restatement Effective Date (as hereinafter defined) Agent and the Lender Group agreed to amend and restate the Existing Credit Agreement;

WHEREAS, such amended and restated Agreement was subsequently amended by Amendment No. 1, dated as of January 27, 2017, Amendment No. 2, dated as of October 30, 2018, and Amendment No. 3, dated as of October 31, 2019;

WHEREAS, effective on the Amendment No. 4 Effective Date (as hereinafter defined), Agent and Lender Group agreed to further amend the Agreement as set forth herein;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **DEFINITIONS AND CONSTRUCTION.**

1.1 **Definitions.**

(a) Capitalized terms used in this Agreement shall have the meanings specified therefor on Schedule 1.1.

(b) All of the definitions set forth in Section 1 of the Guaranty and Security Agreement are hereby incorporated into this Agreement by this reference as if fully set forth in Schedule 1.1 hereto.

1.2 **Accounting Terms.** All accounting terms not specifically defined herein shall be construed in accordance with GAAP; provided that, if Borrowers notify Agent that Borrowers request an amendment to any provision hereof to eliminate the effect of any Accounting Change occurring after the Restatement Effective Date on the operation of such provision (or if Agent notifies Borrowers that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such Accounting Change, then Agent and Borrowers agree that they will negotiate in good faith amendments to the provisions of this Agreement that are directly affected by such Accounting Change with the intent of having the respective positions of the Lenders and Borrowers after such Accounting Change conform as nearly as possible to their respective positions prior

to such Accounting Change and, until any such amendments have been agreed upon and agreed to by the Required Lenders, the provisions in this Agreement shall be construed as if no such Accounting Change had occurred. When used herein, the term "financial statements" shall include the notes and schedules thereto. Whenever the term "Borrowers" is used in respect of a financial covenant or a related definition, it shall be understood to mean all Borrowers taken as a whole with all of their Subsidiaries on a consolidated combined basis, unless the context clearly requires otherwise. Notwithstanding anything to the contrary contained herein, (a) all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein (including the computations and ratios referred to in Section 7) shall be calculated, (i) without giving effect to any election under the Statement of Financial Accounting Standards Board's Accounting Standards Codification topic 825 (or any similar accounting principle) permitting a Person to value its financial liabilities or Indebtedness at the fair value thereof and (ii) without giving effect to any change to, or modification of, or the phase-in of the effectiveness of any amendments to, GAAP which would require the capitalization of leases characterized as "operating leases" as of the Restatement Effective Date, and (b) the term "unqualified opinion" or "certified without any qualifications," as used herein to refer to opinions or reports provided by accountants, shall mean an opinion or report that is (i) unqualified, and (ii) does not include any explanation, supplemental comment, or other comment concerning the ability of the applicable Person to continue as a going concern (other than as resulting from the impending scheduled maturity of any Indebtedness) or concerning the scope of the audit.

1.3 **Code.** Any terms used in this Agreement that are defined in the Code shall be construed and defined as set forth in the Code unless otherwise defined herein; provided that, to the extent the Code is used to define any term herein and such term is defined differently in different Articles of the Code, the definition of such term contained in Article 9 of the Code shall govern.

1.4 **Construction.** Unless the context of this Agreement or any other Loan Document clearly requires otherwise:

(a) References to the plural include the singular, references to the singular include the plural, the terms "includes" and "including" are not limiting, and the term "or" has, except where otherwise indicated, the inclusive meaning represented by the phrase "and/or."

(b) The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement or any other Loan Document refer to this Agreement or such other Loan Document, as the case may be, as a whole and not to any particular provision of this Agreement or such other Loan Document, as the case may be.

(c) Section, subsection, clause, schedule, and exhibit references herein are to this Agreement unless otherwise specified.

(d) Any reference in this Agreement or in any other Loan Document to any agreement, instrument, or document shall include all alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements thereto and thereof, as applicable (subject to any restrictions on such alterations, amendments, changes, extensions, modifications, renewals, replacements, substitutions, joinders, and supplements set forth herein).

(e) The words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties.

(f) Any reference herein or in any other Loan Document to the satisfaction, repayment, or payment in full of the Obligations shall mean (i) the payment or repayment in full in immediately

available funds of (A) the principal amount of, and interest accrued and unpaid with respect to, all outstanding Loans, together with the payment of any premium applicable to the repayment of the Loans,
(B) all Lender Group Expenses that have accrued and are unpaid regardless of whether demand has been made therefor, and (C) all fees or charges that have accrued hereunder or under any other Loan Document (including the Letter of Credit Fee and the Unused Line Fee) and are unpaid, (ii) in the case of contingent reimbursement obligations with respect to Letters of Credit, providing Letter of Credit Collateralization, (iii) in the case of obligations with respect to Bank Products (other than Hedge Obligations), providing Bank Product Collateralization, (iv) the receipt by Agent of cash collateral in order to secure any other contingent Obligations for which a claim or demand for payment has been made on or prior to such time or in respect of matters or circumstances known to Agent or a Lender at such time that are reasonably expected to result in any loss, cost, damage, or expense (including attorneys' fees and legal expenses), such cash collateral to be in such amount as Agent reasonably determines is appropriate to secure such contingent Obligations, (v) the payment or repayment in full in immediately available funds of all other outstanding Obligations (including the payment of any termination amount then applicable (or which would or could become applicable as a result of the repayment of the other Obligations) under Hedge Agreements provided by Hedge Providers) other than (A) contingent Obligations in respect of indemnification and expense reimbursement for which no demand has been made and other inchoate Obligations, (B) any Bank Product Obligations (other than Hedge Obligations) that, at such time, are allowed by the applicable Bank Product Provider to remain outstanding without being required to be repaid or cash collateralized, and (C) any Hedge Obligations that, at such time, are allowed by the applicable Hedge Provider to remain outstanding without being required to be repaid, and (vi) the termination of all of the Revolver Commitments of the Lenders.

(g) Any reference herein to any Person shall be construed to include such Person's successors and assigns.

(h) Any requirement of a writing contained herein or in any other Loan Document shall be satisfied by the transmission of a Record.

(i) References in any Loan Document to 2021 Note Equivalent Indebtedness, the 2021 Notes, the 2021 Notes Indenture, the 2021 Notes Intercreditor Agreement, the 2021 Notes Trustee, 2025 Note Equivalent Indebtedness, the 2025 Notes, the 2025 Notes Indenture, the 2025 Notes Intercreditor Agreement and the 2025 Notes Trustee shall be deemed to be references to 2029 Note Equivalent Indebtedness, the 2029 Notes, the 2029 Notes Indenture, the 2029 Notes Intercreditor Agreement and the 2029 Notes Trustee, as the case may be.

1.5 **Time References.** Unless the context of this Agreement or any other Loan Document clearly requires otherwise, all references to time of day refer to Pacific Standard Time or Pacific Daylight Saving Time, as in effect in Los Angeles, California on such day. For purposes of the computation of a period of time from a specified date to a later specified date, unless otherwise expressly provided, the word "from" means "from and including" and the words "to" and "until" each means "to and including"; provided that, with respect to a computation of fees or interest payable to Agent or any Lender, such period shall in any event consist of at least one full day.

1.6 **Schedules and Exhibits.** All of the schedules and exhibits attached to this Agreement shall be deemed incorporated herein by reference.

1.7 **Divisions.** For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the

subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

2. **LOANS AND TERMS OF PAYMENT.**

2.1 **Revolving Loans**.

(a) Subject to the terms and conditions of this Agreement, and during the term of this Agreement, each Lender agrees (severally, not jointly or jointly and severally) to make revolving loans ("Revolving Loans") to Borrowers in an amount at any one time outstanding not to exceed *the lesser of*:

(i) such Lender's Revolver Commitment at such time; or

(ii) such Lender's Pro Rata Share of an amount equal to *the lesser of*:

(A) the amount equal to (1) the Maximum Revolver Amount at such time, *less* (2) the sum of (x) the Letter of Credit Usage at such time and (y) the principal amount of Swing Loans outstanding at such time; and

(B) the amount equal to (1) the Borrowing Base as of such date (based upon the most recent Borrowing Base Certificate delivered by Borrowers to Agent, but as adjusted for reserves established by Agent in accordance with Section 2.1(c)), *less* (2) the sum of (x) the Letter of Credit Usage at such time and (y) the principal amount of Swing Loans outstanding at such time.

(b) Amounts borrowed pursuant to this Section 2.1 may be repaid and, subject to the terms and conditions of this Agreement, reborrowed at any time during the term of this Agreement. The outstanding principal amount of the Revolving Loans, together with interest accrued and unpaid thereon, shall constitute Obligations and shall be due and payable on the Maturity Date or, if earlier, on the date on which they otherwise become due and payable pursuant to the terms of this Agreement.

(c) Anything to the contrary in this Section 2.1 notwithstanding, Agent shall have the right (but not the obligation), upon not less than ten (10) days' prior notice to Borrowers (but no notice shall be required as long as any Default or Event of Default has occurred and is continuing), in the exercise of its Permitted Discretion, to establish and increase or decrease Receivable Reserves, Inventory Reserves, Real Property Reserves, Bank Product Reserves, and other Reserves against the Borrowing Base or the Maximum Revolver Amount. The amount of any Receivable Reserve, Inventory Reserve, Real Property Reserve, Bank Product Reserve, or other Reserve established by Agent shall have a reasonable relationship to the event, condition, other circumstance, or fact that is the basis for such reserve and shall not be duplicative of any other reserve established and currently maintained. Upon establishment or increase in reserves, Agent agrees to make itself available to discuss the reserve or increase, and Borrowers may take such action as may be required so that the event, condition, circumstance, or fact that is the basis for such reserve or increase no longer exists, in a manner and to the extent reasonably satisfactory to Agent in the exercise of its Permitted Discretion. In no event shall such notice and opportunity limit the right of Agent to establish or change such Receivable Reserve, Inventory Reserve, Real Property Reserve, Bank Product Reserve, or other Reserves in its Permitted Discretion, unless Agent shall have determined, in its Permitted Discretion, that the event, condition, other circumstance, or fact that was the basis for such Receivable Reserve, Inventory Reserve, Real Property Reserve, Bank Product Reserve, or other Reserves or such change no longer exists or has otherwise been adequately addressed by Borrowers.

2.2 **[Reserved].**

2.3 **Borrowing Procedures and Settlements**.

(a) **Procedure for Borrowing Revolving Loans.** Each Borrowing shall be made by a written request by an Authorized Person of the requesting Borrower delivered to Agent and received by Agent no later than 11:00 a.m. (i) on the Business Day that is the requested Funding Date in the case of a request for a Swing Loan, a Base Rate Loan or a Daily LIBOR Rate Loan and (ii) on the Business Day that is one (1) Business Day prior to the requested Funding Date in the case of all other requests, specifying (A) the amount of such Borrowing, (B) the requested Funding Date (which shall be a Business Day) and (C) the Designated Account for such Borrowing; provided that Agent may, in its sole discretion, elect to accept as timely requests that are received later than 11:00 a.m. on the applicable Business Day. Requests for Borrowings may be delivered on-line through Agent's electronic platform or portal. If any Borrower is unable to access such platform or portal for any reason, in lieu of delivering the above described written request, such Borrower's Authorized Person may give Agent telephonic notice of such request in accordance with Agent's procedures by the required time. In such circumstances, Borrowers agree that such telephonic notice will be confirmed in writing within twenty-four (24) hours of the giving of such telephonic notice, but the failure to provide such written confirmation shall not affect the validity of such request. Except in the case of a Borrowing request described in the preceding sentence, all Borrowing requests which are not delivered on-line via Agent's electronic platform or portal shall be subject to Agent's authentication process (with results satisfactory to Agent) prior to the funding of any such requested Revolving Loan (and unless Agent elects otherwise in the exercise of its sole discretion, such Borrowings shall not be made until the completion of such authentication process).

(b) **Making of Swing Loans.**

(i) In the case of a request for a Swing Loan and so long as either (A) the aggregate amount of Swing Loans made since the last Settlement Date, *minus* all payments or other amounts applied to Swing Loans since the last Settlement Date, *plus* the amount of the requested Swing Loan does not exceed $15,000,000, or (B) Swing Lender, in its sole discretion, agrees to make a Swing Loan notwithstanding the foregoing limitation, Swing Lender shall make a Revolving Loan (any such Revolving Loan made by Swing Lender pursuant to this Section 2.3(b) being referred to as a "Swing Loan" and all such Revolving Loans being referred to as "Swing Loans") available to the requesting Borrower on the Funding Date applicable thereto by transferring immediately available funds in the amount of such requested Borrowing to the applicable Designated Account.

(ii) Each Swing Loan shall be deemed to be a Revolving Loan hereunder and shall be subject to all the terms and conditions (including Section 3) applicable to other Revolving Loans, except that all payments (including interest) on any Swing Loan shall be payable to Swing Lender solely for its own account.

(iii) Subject to the provisions of Section 2.3(d)(ii), Swing Lender shall not make and shall not be obligated to make any Swing Loan if Swing Lender has actual knowledge that (A) one or more of the applicable conditions precedent set forth in Section 3 will not be satisfied on the requested Funding Date for the applicable Borrowing, or (B) the requested Borrowing would exceed the Availability on such Funding Date.

(iv) Swing Lender shall not otherwise be required to determine whether the applicable conditions precedent set forth in Section 3 have been satisfied on the Funding Date applicable thereto prior to making any Swing Loan.

(v) The Swing Loans shall be secured by Agent's Liens, constitute Revolving Loans and Obligations, and bear interest at the rate applicable from time to time to Revolving Loans that are Base Rate Loans.

(c) **Making of Revolving Loans.**

(i) In the event that a Swing Loan is not requested or Swing Lender is not obligated to make a Swing Loan, then after receipt of a request for a Borrowing pursuant to Section 2.3(a), Agent shall notify the Lenders by telecopy, telephone, email, or other electronic form of transmission, of the requested Borrowing; such notification to be sent on the Business Day that is one (1) Business Day prior to the requested Funding Date. If Agent has notified the Lenders of a requested Borrowing on the Business Day that is one (1) Business Day prior to the Funding Date, then each Lender shall make the amount of such Lender's Pro Rata Share of the requested Borrowing available to Agent in immediately available funds, to the applicable Agent's Account, not later than 10:00 a.m. on the Business Day that is the requested Funding Date. After Agent's receipt of the proceeds of such Revolving Loans from the Lenders, Agent shall make the proceeds thereof available to the requesting Borrower on the applicable Funding Date by transferring immediately available funds equal to such proceeds received by Agent to the applicable Designated Account; provided that, subject to the provisions of Section 2.3(d)(ii), no Lender shall have an obligation to make any Revolving Loan, if (A) one or more of the applicable conditions precedent set forth in Section 3 will not be satisfied on the requested Funding Date for the applicable Borrowing unless such condition has been waived, or (B) the requested Borrowing would exceed the Availability on such Funding Date.

(ii) Unless Agent receives notice from a Lender prior to 9:30 a.m. on the Business Day that is the requested Funding Date relative to a requested Borrowing as to which Agent has notified the Lenders of a requested Borrowing that such Lender will not make available as and when required hereunder to Agent for the account of the requesting Borrower the amount of that Lender's Pro Rata Share of the Borrowing, Agent may assume that each Lender has made or will make such amount available to Agent in immediately available funds on the Funding Date and Agent may (but shall not be so required), in reliance upon such assumption, make available to the requesting Borrower a corresponding amount. If, on the requested Funding Date, any Lender shall not have remitted the full amount that it is required to make available to Agent in immediately available funds and if Agent has made available to the requesting Borrower such amount on the requested Funding Date, then such Lender shall make the amount of such Lender's Pro Rata Share of the requested Borrowing available to Agent in immediately available funds, to the applicable Agent's Account, no later than 10:00 a.m. on the Business Day that is the first (1st) Business Day after the requested Funding Date (in which case, the interest accrued on such Lender's portion of such Borrowing for the Funding Date shall be for Agent's separate account). If any Lender shall not remit the full amount that it is required to make available to Agent in immediately available funds as and when required hereby and if Agent has made available to the requesting Borrower such amount, then that Lender shall be obligated to immediately remit such amount to Agent, together with interest at the Defaulting Lender Rate for each day until the date on which such amount is so remitted. A notice submitted by Agent to any Lender with respect to amounts owing under this Section 2.3(c)(ii) shall be conclusive, absent manifest error. If the amount that a Lender is required to remit is made available to Agent, then such payment to Agent shall constitute such Lender's Revolving Loan for all purposes of this Agreement. If such amount is not made available to Agent on the Business Day following the Funding Date, Agent will notify the applicable Borrower of such failure to fund and, upon demand by Agent, the applicable Borrower shall pay such amount to Agent for Agent's account, together with interest thereon for each day elapsed since the date of such Borrowing, at a rate per annum equal to the interest rate applicable at the time to the Revolving Loans composing such Borrowing.

(d) **Protective Advances and Optional Overadvances.**

(i) Any contrary provision of this Agreement or any other Loan Document notwithstanding, but subject to Section 2.3(d)(iv), at any time (A) after the occurrence and during the continuance of a Default or an Event of Default, or (B) that any of the other applicable conditions precedent set forth in Section 3 are not satisfied, Agent hereby is authorized by Borrowers and the Lenders, from time to time, in Agent's sole discretion, to make Revolving Loans to, or for the benefit of, any of the Borrowers, on behalf of the Lenders, that Agent, in its Permitted Discretion, deems necessary or desirable (1) to preserve or protect the Collateral, or any portion thereof, or (2) to enhance the likelihood of repayment of the Obligations (other than the Bank Product Obligations) (the Revolving Loans described in this Section 2.3(d)(i) shall be referred to as "Protective Advances").

(ii) Any contrary provision of this Agreement or any other Loan Document notwithstanding, but subject to Section 2.3(d)(iv), the Lenders hereby authorize Agent or Swing Lender, as applicable, and either Agent or Swing Lender, as applicable, may, but is not obligated to, knowingly and intentionally, continue to make Revolving Loans (including Swing Loans) to any of the Borrowers notwithstanding that an Overadvance exists or would be created thereby, so long as after giving effect to such Revolving Loans, the outstanding Revolver Usage (except for and excluding amounts charged to the Loan Account for interest, fees, or Lender Group Expenses) does not exceed the Maximum Revolver Amount at such time. In the event Agent obtains actual knowledge that the Revolver Usage exceeds the amounts permitted by the immediately foregoing provisions, regardless of the amount of, or reason for, such excess, Agent shall notify the Lenders as soon as practicable (and prior to making any (or any additional) intentional Overadvances (except for and excluding amounts charged to the Loan Account for interest, fees, or Lender Group Expenses) unless Agent determines that prior notice would result in imminent harm to the Collateral or its value, in which case Agent may make such Overadvances and provide notice as promptly as practicable thereafter), and the Lenders with Revolver Commitments thereupon shall, together with Agent, jointly determine the terms of arrangements that shall be implemented with Borrowers intended to reduce, within a reasonable time, the outstanding principal amount of the Revolving Loans to Borrowers to an amount permitted by the preceding sentence. In such circumstances, if any Lender with a Revolver Commitment objects to the proposed terms of reduction or repayment of any Overadvance, the terms of reduction or repayment thereof shall be implemented according to the determination of the Required Lenders. The foregoing provisions are meant for the benefit of the Lenders and Agent and are not meant for the benefit of Borrowers, which shall continue to be bound by the provisions of Section 2.4(e)(i). Each Lender with a Revolver Commitment shall be obligated to settle with Agent as provided in Section 2.3(e) (or Section 2.3(g), as applicable) for the amount of such Lender's Pro Rata Share of any unintentional Overadvances by Agent reported to such Lender, any intentional Overadvances made as permitted under this Section 2.3(d)(ii), and any Overadvances resulting from the charging to the Loan Account of interest, fees, or Lender Group Expenses.

(iii) Each Protective Advance and each Overadvance (each, an "Extraordinary Advance") shall be deemed to be a Revolving Loan hereunder, except that no Extraordinary Advance shall be eligible to be a LIBOR Rate Loan or a Daily LIBOR Rate Loan and, prior to Settlement therefor, all payments on the Extraordinary Advances shall be payable to Agent solely for its own account. The Extraordinary Advances shall be repayable on demand, secured by Agent's Liens, constitute Obligations hereunder, and bear interest at the rate applicable from time to time to Revolving Loans that are Base Rate Loans. The provisions of this Section 2.3(d) are for the exclusive benefits of Agent, Swing Lender, and the Lenders and are not intended to benefit Borrowers (or any other Loan Party) in any way.

(iv) Notwithstanding anything contained in this Agreement or any other Loan Document to the contrary: (A) no Extraordinary Advance may be made by Agent if such Extraordinary Advance would cause the aggregate principal amount of Extraordinary Advances outstanding to exceed an amount equal to 10% of the Maximum Revolver Amount at such time; and (B) to the extent that the making of any Extraordinary Advance causes the aggregate Revolver Usage to exceed the Maximum Revolver Amount at such time, such portion of such Extraordinary Advance shall be for Agent's sole and separate account and not for the account of any Lender and shall be entitled to priority in repayment in accordance with Section 2.4(b).

(e) **Settlement.** It is agreed that each Lender's funded portion of the Revolving Loans is intended by the Lenders to equal, at all times, such Lender's Pro Rata Share of the outstanding Revolving Loans. Such agreement notwithstanding, Agent, Swing Lender, and the other Lenders agree

(which agreement shall not be for the benefit of Borrowers) that in order to facilitate the administration of this Agreement and the other Loan Documents, settlement among the Lenders as to the Revolving Loans, the Swing Loans, and the Extraordinary Advances shall take place on a periodic basis in accordance with the following provisions:

(i) Agent shall request settlement ("Settlement") with the Lenders on a weekly basis, or on a more frequent basis if so determined by Agent in its sole discretion, (A) on behalf of Swing Lender, with respect to the outstanding Swing Loans, (B) for itself, with respect to the outstanding Extraordinary Advances, and (C) with respect to Borrowers' or any of their Subsidiaries' payments or other amounts received, as to each by notifying the Lenders by telecopy, telephone, email or other similar form of transmission, of such requested Settlement, no later than 2:00 p.m. on the Business Day immediately prior to the date of such requested Settlement (the date of such requested Settlement being the "Settlement Date"). Such notice of a Settlement Date shall include a summary statement of the amount of outstanding Revolving Loans (including Swing Loans and Extraordinary Advances) for the period since the prior Settlement Date. Subject to the terms and conditions contained herein (including Section 2.3(g)): (y) if the amount of the Revolving Loans (including Swing Loans and Extraordinary Advances) made by a Lender that is not a Defaulting Lender exceeds such Lender's Pro Rata Share of the Revolving Loans (including Swing Loans and Extraordinary Advances) as of a Settlement Date, then Agent shall, by no later than 12:00 p.m. on the Settlement Date, transfer in immediately available funds to a Deposit Account of such Lender (as such Lender may designate), an amount such that each such Lender shall, upon receipt of such amount, have as of the Settlement Date, its Pro Rata Share of the Revolving Loans (including Swing Loans and Extraordinary Advances), and (z) if the amount of the Revolving Loans (including Swing Loans and Extraordinary Advances) made by a Lender is less than such Lender's Pro Rata Share of the Revolving Loans (including Swing Loans and Extraordinary Advances) as of a Settlement Date, such Lender shall, by no later than 12:00 p.m. on the Settlement Date, transfer in immediately available funds to the applicable Agent's Account, an amount such that each such Lender shall, upon transfer of such amount, have as of the Settlement Date, its Pro Rata Share of the Revolving Loans (including Swing Loans and Extraordinary Advances). Such amounts made available to Agent under clause (z) of the immediately preceding sentence shall be applied against the amounts of the applicable Swing Loans or Extraordinary Advances and, together with the portion of such Swing Loans or Extraordinary Advances representing Swing Lender's Pro Rata Share thereof, shall constitute Revolving Loans of such Lenders. If any such amount is not made available to Agent by any Lender on the Settlement Date applicable thereto to the extent required by the terms hereof, Agent shall be entitled to recover for its account such amount on demand from such Lender together with interest thereon at the Defaulting Lender Rate.

(ii) In determining whether a Lender's balance of the Revolving Loans (including Swing Loans and Extraordinary Advances) is less than, equal to, or greater than such Lender's Pro Rata Share of the Revolving Loans (including Swing Loans and Extraordinary Advances) as of a Settlement Date, Agent shall, as part of the relevant Settlement, apply to such balance the portion of payments actually received in good funds by Agent with respect to principal, interest, fees payable by Borrowers and allocable to the Lenders hereunder, and proceeds of Collateral.

(iii) Between Settlement Dates, Agent, to the extent Extraordinary Advances or Swing Loans are outstanding, may pay over to Agent or Swing Lender, as applicable, any payments or other amounts received by Agent, that in accordance with the terms of this Agreement would be applied to the reduction of the Revolving Loans, for application to the Extraordinary Advances or Swing Loans. Between Settlement Dates, Agent, to the extent no Extraordinary Advances or Swing Loans are outstanding, may pay over to Swing Lender any payments or other amounts received by Agent, that in accordance with the terms of this Agreement would be applied to the reduction of the Revolving Loans, for application to Swing Lender's Pro Rata Share of the Revolving Loans. If, as of any Settlement Date, payments or other amounts of the Loan Parties or their Subsidiaries received since the then immediately preceding Settlement Date have been applied to Swing Lender's Pro Rata Share of the Revolving Loans other than to Swing Loans, as provided for in the previous sentence, Swing Lender shall pay to Agent for the accounts of the Lenders, and Agent shall pay to the Lenders (other than a Defaulting Lender if Agent has implemented the provisions of Section 2.3(g)), to be applied to the outstanding Revolving Loans of such Lenders, an amount such that each such Lender shall, upon receipt of such amount, have, as of such Settlement Date, its Pro Rata Share of the Revolving Loans. During the period between Settlement Dates, Swing Lender with respect to Swing Loans, Agent with respect to Extraordinary Advances, and each Lender with respect to the Revolving Loans other than Swing Loans and Extraordinary Advances, shall be entitled to interest at the applicable rate or rates payable under this Agreement on the daily amount of funds employed by Swing Lender, Agent, or the Lenders, as applicable.

(iv) Anything in this Section 2.3(e) to the contrary notwithstanding, in the event that a Lender is a Defaulting Lender, Agent shall be entitled to refrain from remitting settlement amounts to the Defaulting Lender and, instead, shall be entitled to elect to implement the provisions set forth in Section 2.3(g).

(f) **Notation.** Agent, as a non-fiduciary agent for Borrowers, shall maintain a register showing the principal amount of the Revolving Loans owing to each Lender, including the Swing Loans owing to Swing Lender, and Extraordinary Advances owing to Agent, and the interests therein of each Lender, from time to time and such register shall, absent manifest error, conclusively be presumed to be correct and accurate.

(g) **Defaulting Lenders.**

(i) Notwithstanding the provisions of Section 2.4(b)(ii) or (iii), Agent shall not be obligated to transfer to a Defaulting Lender any payments made by any Borrower to Agent for the Defaulting Lender's benefit or any proceeds of Collateral that would otherwise be remitted hereunder to the Defaulting Lender, and, in the absence of such transfer to the Defaulting Lender, Agent shall transfer any such payments (A) first, to Swing Lender to the extent of any Swing Loans that were made by Swing Lender and that were required to be, but were not, paid by the Defaulting Lender, (B) second, to Issuing Bank, to the extent of the portion of a Letter of Credit Disbursement that was required to be, but was not, paid by the Defaulting Lender, (C) third, to each Non-Defaulting Lender ratably in accordance with their Revolver Commitments (but, in each case, only to the extent that such Defaulting Lender's portion of a Revolving Loan (or other funding obligation) was funded by such other Non-Defaulting Lender), (D) fourth, to a suspense account maintained by Agent, the proceeds of which shall be retained by Agent and may be made available to be re-advanced to or for the benefit of Borrowers (upon the request of Borrowers and subject to the conditions set forth in Section 3.2) as if such Defaulting Lender had made its portion of Revolving Loans (or other funding obligations) hereunder, and (E) fifth, from and after the date on which all other Obligations have been paid in full, to such Defaulting Lender in accordance with tier (L) of Section 2.4(b)(iii). Subject to the foregoing, Agent may hold and, in its discretion, re-lend to Borrowers for the account of such Defaulting Lender the amount of all such payments received and retained by Agent for the account of such Defaulting Lender. Solely for the purposes of voting or

consenting to matters with respect to the Loan Documents (including the calculation of Pro Rata Share in connection therewith) and for the purpose of calculating the fee payable under Section 2.10(c), such Defaulting Lender shall be deemed not to be a "Lender" and such Lender's Revolver Commitment shall be deemed to be zero; provided that the foregoing shall not apply to any of the matters governed by Section 15.1(a)(i) through (iii). The provisions of this Section 2.3(g) shall remain effective with respect to such Defaulting Lender until the earlier of (y) the date on which all of the Non-Defaulting Lenders, Agent, Issuing Bank, and Borrowers shall have waived, in writing, the application of this Section 2.3(g) to such Defaulting Lender, or (z) the date on which such Defaulting Lender makes payment of all amounts that it was obligated to fund hereunder, pays to Agent all amounts owing by such Defaulting Lender in respect of the amounts that it was obligated to fund hereunder, and, if requested by Agent, provides adequate assurance of its ability to perform its future obligations hereunder (on which earlier date, so long as no Event of Default has occurred and is continuing, any remaining cash collateral held by Agent pursuant to Section 2.3(g)(ii) shall be released to Borrowers). The operation of this Section 2.3(g) shall not be construed to increase or otherwise affect the Revolver Commitment of any Lender, to relieve or excuse the performance by such Defaulting Lender or any other Lender of its duties and obligations hereunder, or to relieve or excuse the performance by any Borrower of its duties and obligations hereunder to Agent, Issuing Bank, or to the Lenders other than such Defaulting Lender. Any failure by a Defaulting Lender to fund amounts that it was obligated to fund hereunder shall constitute a material breach by such Defaulting Lender of this Agreement and shall entitle Borrowers, at their option, upon written notice to Agent, to arrange for a substitute Lender to assume the Revolver Commitment of such Defaulting Lender, such substitute Lender to be reasonably acceptable to Agent. In connection with the arrangement of such a substitute Lender, the Defaulting Lender shall have no right to refuse to be replaced hereunder, and agrees to execute and deliver a completed form of Assignment and Acceptance in favor of the substitute Lender (and agrees that it shall be deemed to have executed and delivered such document if it fails to do so) subject only to being paid its share of the outstanding Obligations (other than Bank Product Obligations, but including (1) all interest, fees, and other amounts that may be due and payable in respect thereof, and (2) an assumption of its Pro Rata Share of its participation in the Letters of Credit); provided that any such assumption of the Revolver Commitment of such Defaulting Lender shall not be deemed to constitute a waiver of any of the Lender Group's or Borrowers' rights or remedies against any such Defaulting Lender arising out of or in relation to such failure to fund. In the event of a direct conflict between the priority provisions of this Section 2.3(g) and any other provision contained in this Agreement or any other Loan Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of this Section 2.3(g) shall control and govern.

(ii) If any Swing Loan or Letter of Credit is outstanding at the time that a Lender becomes a Defaulting Lender then:

(A) such Defaulting Lender's Swing Loan Exposure and Letter of Credit Exposure shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares but only to the extent (x) the sum of all Non-Defaulting Lenders' Revolving Loan Exposures plus such Defaulting Lender's Swing Loan Exposure and Letter of Credit Exposure does not exceed the total of all Non-Defaulting Lenders' Revolver Commitments and (y) the conditions set forth in Section 3.2 are satisfied at such time;

(B) if the reallocation described in clause (A) above cannot, or can only partially, be effected, the applicable Borrower or Borrowers shall within one (1) Business Day following notice by Agent (x) first, prepay such Defaulting Lender's Swing Loan Exposure (after giving effect to any partial reallocation pursuant to clause (A) above) and (y) second, cash collateralize such Defaulting Lender's Letter of Credit Exposure (after giving effect to any partial reallocation pursuant to clause (A)

above), pursuant to a cash collateral agreement to be entered into in form and substance reasonably satisfactory to Agent, for so long as such Letter of Credit Exposure is outstanding; provided that no Borrower shall be obligated to cash collateralize any Defaulting Lender's Letter of Credit Exposure if such Defaulting Lender is also Issuing Bank;

(C) if any Borrower cash collateralizes any portion of such Defaulting Lender's Letter of Credit Exposure pursuant to this Section 2.3(g)(ii), such Borrower shall not be required to pay any Letter of Credit Fees to Agent for the account of such Defaulting Lender pursuant to
Section 2.6(b) with respect to such cash collateralized portion of such Defaulting Lender's Letter of Credit Exposure during the period such Letter of Credit Exposure is cash collateralized;

(D) to the extent the Letter of Credit Exposure of the Non-Defaulting Lenders is reallocated pursuant to this Section 2.3(g)(ii), then the Letter of Credit Fees payable to the Non- Defaulting Lenders pursuant to Section 2.6(b) shall be adjusted in accordance with such Non-Defaulting Lenders' Letter of Credit Exposure;

(E) to the extent any Defaulting Lender's Letter of Credit Exposure is neither cash collateralized nor reallocated pursuant to this Section 2.3(g)(ii), then, without prejudice to any rights or remedies of Issuing Bank or any Lender hereunder, all Letter of Credit Fees that would have otherwise been payable to such Defaulting Lender under Section 2.6(b) with respect to such portion of such Letter of Credit Exposure shall instead be payable to Issuing Bank until such portion of such Defaulting Lender's Letter of Credit Exposure is cash collateralized or reallocated;

(F) so long as any Lender is a Defaulting Lender, Swing Lender shall not be required to make any Swing Loan and Issuing Bank shall not be required to issue, amend, or increase any Letter of Credit, in each case, to the extent (x) the Defaulting Lender's Pro Rata Share of such Swing Loans or Letter of Credit cannot be reallocated pursuant to this Section 2.3(g)(ii) or (y) Swing Lender or Issuing Bank, as applicable, has not otherwise entered into arrangements reasonably satisfactory to Swing Lender or Issuing Bank, as applicable, and Borrowers to eliminate Swing Lender's or Issuing Bank's risk with respect to the Defaulting Lender's participation in Swing Loans or Letters of Credit; and

(G) Agent may release any cash collateral provided by any Borrower pursuant to this Section 2.3(g)(ii) to Issuing Bank and Issuing Bank may apply any such cash collateral to the payment of such Defaulting Lender's Pro Rata Share of any Letter of Credit Disbursement that is not reimbursed by a Borrower pursuant to Section 2.11(d).

(h) **Independent Obligations.** All Revolving Loans (other than Swing Loans and Extraordinary Advances) shall be made by the Lenders contemporaneously and in accordance with their Pro Rata Shares. It is understood that (i) no Lender shall be responsible for any failure by any other Lender to perform its obligation to make any Revolving Loan (or other extension of credit) hereunder, nor shall any Revolver Commitment of any Lender be increased or decreased as a result of any failure by any other Lender to perform its obligations hereunder, and (ii) no failure by any Lender to perform its obligations hereunder shall excuse any other Lender from its obligations hereunder.

2.4 **Payments; Reductions of Revolver Commitments; Prepayments**.

(a) **Payments by Borrowers.**

(i) Except as otherwise expressly provided herein, all payments to be made by any Borrower shall be made to the applicable Agent's Account for the account of the Lender Group and shall be made in immediately available funds no later than 1:30 p.m. on the date specified herein; provided

that, for the avoidance of doubt, any payments deposited into a Controlled Account shall be deemed not to be received by Agent on any Business Day unless immediately available funds have been credited to the applicable Agent's Account prior to 1:30 p.m. on such Business Day. Any payment received by Agent in immediately available funds in Agent's Account later than 1:30 p.m. shall be deemed to have been received on the following Business Day (unless Agent, in its sole discretion, elects to credit it on the date received) and any applicable interest or fee shall continue to accrue until such following Business Day. Unless otherwise agreed by Agent and Borrowers, all payments to be made by a Borrower other than Vector Tobacco shall be made to the designated Agent's Account for Liggett, and all payments to be made by Vector Tobacco shall be made to the designated Agent's Account for Vector Tobacco.

(ii) Unless Agent receives notice from a Borrower prior to the date on which any payment is due to the Lenders that such Borrower will not make such payment in full as and when required, Agent may assume that the relevant Borrower has made (or will make) such payment in full to Agent on such date in immediately available funds and Agent may (but shall not be so required), in reliance upon such assumption, distribute to each Lender on such due date an amount equal to the amount then due to such Lender. If and to the extent any Borrower does not make such payment in full to Agent on the date when due, each Lender severally shall repay to Agent on demand such amount distributed to such Lender, together with interest thereon at the Defaulting Lender Rate for each day from the date such amount is distributed to such Lender until the date repaid.

(b) **Apportionment and Application.**

(i) So long as no Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, all principal and interest payments received by Agent shall be apportioned ratably among the Lenders (according to the unpaid principal balance of the Obligations to which such payments relate held by each Lender) and all payments of fees and expenses received by Agent (other than fees or expenses that are for Agent's separate account or for the separate account of Issuing Bank) shall be apportioned ratably among the Lenders having a Pro Rata Share of the Obligation to which a particular fee or expense relates.

(ii) Subject to Section 2.4(b)(iii) and Section 2.4(e), all payments to be made hereunder by any Borrower shall be remitted to Agent, and all such payments, as well as Collections in respect of, and proceeds of, Collateral received by Agent after the occurrence and during the continuation of a Cash Dominion Event, shall be applied, so long as no Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, as follows: (A) first, to reduce the balance of the outstanding Revolving Loans (and any payments of interest due and payable thereon) of the applicable Borrower and to any other Obligations then due and payable by the applicable Borrower, (B) second, to reduce the balance of the outstanding Revolving Loans (and any payments of interest due and payable thereon) of the other Borrowers and to any other Obligations then due and payable by the other Borrowers, and (C) third, to Borrowers as directed by Administrative Borrower (to be wired to the Designated Account of Administrative Borrower in the case of Liggett and 100 Maple and the Designated Account of Vector Tobacco in the case of Vector Tobacco) or such other Person entitled thereto under applicable law.

(iii) At any time that an Application Event has occurred and is continuing and except as otherwise provided herein with respect to Defaulting Lenders, all payments remitted to Agent and all proceeds of Collateral received by Agent shall be applied as follows:

(A) first, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to Agent under the Loan Documents, until paid in full;

(B) second, to pay any fees or premiums then due to Agent under the Loan Documents until paid in full;

(C) third, to pay interest due in respect of all Protective Advances until paid in full;

(D) fourth, to pay the principal of all Protective Advances until paid in full;

(E) fifth, ratably, to pay any Lender Group Expenses (including cost or expense reimbursements) or indemnities then due to any of the Lenders under the Loan Documents, until paid in full;

(F) sixth, ratably, to pay any fees or premiums then due to any of the Lenders under the Loan Documents until paid in full;

(G) seventh, to pay interest accrued in respect of the Swing Loans until paid in full;

(H) eighth, to pay the principal of all Swing Loans until paid in full;

(I) ninth, ratably, to pay interest accrued in respect of the Revolving Loans (other than Protective Advances) until paid in full;

(J) tenth, ratably

(1) ratably, to pay the principal of all Revolving Loans until paid in full; and

(2) to Agent, to be held by Agent, for the benefit of Issuing Bank (and for the ratable benefit of each of the Lenders that have an obligation to pay to Agent, for the account of Issuing Bank, a share of each Letter of Credit Disbursement), as cash collateral in an amount up to 105% of the Letter of Credit Usage (to the extent permitted by applicable law, such cash collateral shall be applied to the reimbursement of any Letter of Credit Disbursement as and when such disbursement occurs and, if a Letter of Credit expires undrawn, the cash collateral held by Agent in respect of such Letter of Credit shall, to the extent permitted by applicable law, be reapplied pursuant to this Section 2.4(b)(iii), beginning with tier (A) hereof);

(K) eleventh, ratably to the Bank Product Providers based upon amounts then certified by the applicable Bank Product Provider to Agent (in form and substance satisfactory to Agent) to be due and payable to such Bank Product Providers on account of Bank Product Obligations, and with any balance to be paid to Agent, to be held by Agent, for the ratable benefit of the Bank Product Providers, as cash collateral (which cash collateral may be released by Agent to the applicable Bank Product Provider and applied by such Bank Product Provider to the payment or reimbursement of any amounts due and payable with respect to Bank Product Obligations owed to the applicable Bank Product Provider as and when such amounts first become due and payable and, if and at such time as all such Bank Product Obligations are paid or otherwise satisfied in full);

(L) twelfth, ratably to pay any Obligations owed to Defaulting Lenders; and

(M) thirteenth, to Borrowers as directed by Administrative Borrower (to be wired to the Designated Account of Administrative Borrower in the case of Liggett and 100 Maple and

the Designated Account of Vector Tobacco in the case of Vector Tobacco) or such other Person entitled thereto under applicable law.

(iv) Agent promptly shall distribute to each Lender, pursuant to the applicable wire instructions received from each Lender in writing, such funds as it may be entitled to receive, subject to a Settlement delay as provided in Section 2.3(e).

(v) In each instance, so long as no Application Event has occurred and is continuing, Section 2.4(b)(i) shall not apply to any payment made by a Borrower to Agent and specified by such Borrower to be for the payment of specific Obligations then due and payable (or prepayable) under any provision of this Agreement or any other Loan Document.

(vi) In the event of a direct conflict between the priority provisions of this Section 2.4 and any other provision contained in this Agreement or any other Loan Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, if the conflict relates to the provisions of Section 2.3(g) and this Section 2.4, then the provisions of Section 2.3(g) shall control and govern, and if otherwise, then the terms and provisions of this Section 2.4 shall control and govern.

(c) **Reduction of Revolver Commitments.** The Revolver Commitments shall terminate on the Maturity Date. Borrowers may reduce the Revolver Commitments, without premium or penalty, to an amount (which may be zero) not less than the sum of (A) the Revolver Usage as of such date, *plus* (B) the principal amount of all Revolving Loans not yet made as to which a request has been given by an Authorized Person under Section 2.3(a), *plus* (C) the amount of all Letters of Credit not yet issued as to which a request has been given by a Borrower pursuant to Section 2.11(a). Each such reduction shall be in an amount which is not less than $5,000,000 (unless the Revolver Commitments are being reduced to zero and the amount of the Revolver Commitments in effect immediately prior to such reduction are less than $5,000,000), shall be made by providing not less than five (5) Business Days prior written notice to Agent, and shall be irrevocable, except to the extent set forth in Section 3.5. The Revolver Commitments once reduced may not be increased.

(d) **Optional Prepayments.** Any Borrower may prepay the principal of any Revolving Loan at any time in whole or in part, without premium or penalty.

(e) **Mandatory Prepayments.**

(i) **Borrowing Base**. If, at any time, (A) the Revolver Usage on such date exceeds
(B) the lesser of (x) the Borrowing Base reflected in the Borrowing Base Certificate most recently delivered by Borrowers to Agent, and (y) the Maximum Revolver Amount at such time, in all cases as adjusted for Reserves established by Agent in accordance with Section 2.1(c), then Borrowers shall promptly, but in any event within one (1) Business Day thereafter, prepay the Obligations in accordance with Section 2.4(f) in an aggregate amount equal to the amount of such excess.

(ii) **Dispositions.** At any time upon the occurrence and during the continuation of a Cash Dominion Event, within one (1) Business Day after the date of receipt by any Loan Party of the Net Cash Proceeds (or any insurance proceeds or proceeds from casualty losses or condemnations, but excluding proceeds from sales or dispositions which qualify as Permitted Dispositions under clauses (a), (b), (c), (d), (e), (j), (k), (l), (m), (n), (o), (p), or (q) of the definition of Permitted Dispositions) of any voluntary or involuntary sale or disposition by such Loan Party of assets, Borrowers shall prepay the outstanding principal amount of the Obligations in accordance with Section 2.4(f) in an amount equal to

100% of such Net Cash Proceeds (or other proceeds) received by such Person in connection with such sale or disposition; provided that, so long as (A) no Default or Event of Default shall have occurred and be continuing or would result therefrom, (B) such Loan Party shall have given Agent prior written notice of such Loan Party's intention to apply such monies to the costs of replacement of the properties or assets that are the subject of such sale or disposition or the cost of purchase or construction of other assets useful in the business of the Loan Parties or their Subsidiaries, (C) the monies are held in a Deposit Account in which Agent has a perfected first-priority security interest, and (D) such Loan Party or its Subsidiaries, as applicable, either complete such replacement, purchase, or construction within 180 days after the initial receipt of such monies or enter into a binding commitment during such 180-day period to complete such replacement, purchase or construction, then the Loan Party whose assets were the subject of such disposition shall have the option to apply such monies to the costs of replacement of the assets that are the subject of such sale or disposition or the costs of purchase or construction of other assets useful in the business of the Loan Parties and their Subsidiaries unless and to the extent that such applicable period shall have expired without such replacement, purchase, or construction being made or completed or without a binding commitment to complete such replacement, purchase or construction being entered into, in which case, any amounts remaining in the Deposit Account referred to in clause (C) above shall be paid to Agent and applied in accordance with Section 2.4(f); provided, further, that no Loan Party shall have the right to use such Net Cash Proceeds to make such replacements, purchases, or construction in excess of $1,500,000 in the aggregate for such Loan Party in any given fiscal year (with such limit not applying to insurance proceeds and proceeds from casualty losses). Nothing contained in this Section 2.4(e)(ii) shall permit any Borrower or any of its Subsidiaries to sell or otherwise dispose of any assets other than in accordance with Section 6.4.

(iii) **Extraordinary Receipts.** Upon and during the continuance of a Cash Dominion Event, within one (1) Business Day after the date of receipt by any Borrower or any of its Subsidiaries of any Extraordinary Receipts, Borrowers shall prepay the outstanding principal amount of the Obligations in accordance with Section 2.4(f) in an amount equal to 100% of such Extraordinary Receipts, net of any reasonable expenses incurred in collecting such Extraordinary Receipts.

(iv) **Indebtedness.** Upon the occurrence and during the continuance of a Cash Dominion Event, within one (1) Business Day after the date of incurrence by any Borrower or any of its Subsidiaries of any Indebtedness (other than Permitted Indebtedness), Borrowers shall prepay the outstanding principal amount of the Obligations in accordance with Section 2.4(f) in an amount equal to 100% of the Net Cash Proceeds received by such Person in connection with such incurrence. The provisions of this Section 2.4(e)(iv) shall not be deemed to be implied consent to any such incurrence otherwise prohibited by the terms of this Agreement.

(f) **Application of Payments.** Each prepayment pursuant to Section 2.4(e) shall (A) so long as no Application Event shall have occurred and be continuing, be applied, *first*, to the outstanding principal amount of the Revolving Loans until paid in full, and *second*, to cash collateralize the Letters of Credit in an amount equal to 105% of the then outstanding Letter of Credit Usage, and (B) if an Application Event shall have occurred and be continuing, be applied in the manner set forth in Section 2.4(b)(iii).

2.5 **Promise to Pay; Promissory Notes.**

(a) Borrowers agree to pay the Lender Group Expenses on the earlier of (i) the first day of the month following the date on which the applicable Lender Group Expenses were first incurred or
(ii) the date on which demand therefor is made by Agent (it being acknowledged and agreed that any charging of such costs, expenses or Lender Group Expenses to the Loan Account pursuant to the provisions of Section 2.6(d) shall be deemed to constitute a demand for payment thereof for the purposes

of this sub-clause (ii)). Borrowers promise to pay all of the Obligations (including principal, interest, premiums, if any, fees, costs, and expenses (including Lender Group Expenses)) in full on the Maturity Date or, if earlier, on the date on which the Obligations (other than the Bank Product Obligations) become due and payable pursuant to the terms of this Agreement. Borrowers agree that their obligations contained in the first sentence of this Section 2.5(a) shall survive payment or satisfaction in full of all other Obligations.

(b) Any Lender may request that any portion of its Revolver Commitment or the Loans made by it be evidenced by one or more promissory notes. In such event, Borrowers shall execute and deliver to such Lender the requested promissory notes payable to the order of such Lender in a form furnished by Agent and reasonably satisfactory to Borrowers. Thereafter, the portion of the Revolver Commitment and Loans evidenced by such promissory notes and interest thereon shall at all times be represented by one or more promissory notes in such form payable to the order of the payee named therein.

2.6 **Interest Rates and Letter of Credit Fee: Rates, Payments, and Calculations**.

(a) **Interest Rates.** Except as provided in Section 2.6(c), all Obligations (except for undrawn Letters of Credit) shall bear interest as follows:

(i) if the relevant Obligation is a LIBOR Rate Loan, at a *per annum* rate equal to the LIBOR Rate, *plus* the LIBOR Rate Margin;

(ii) if the relevant Obligation is a Daily LIBOR Rate Loan, at a *per annum* rate equal to the Daily LIBOR Rate, *plus* the Daily LIBOR Rate Margin; and

(iii) otherwise, at a *per annum* rate equal to the Base Rate, *plus* the Base Rate Margin.

(b) **Letter of Credit Fee.** Borrowers shall pay Agent (for the ratable benefit of the Lenders) a Letter of Credit fee (the "Letter of Credit Fee") (which fee shall be in addition to the fronting fees and commissions, other fees, charges and expenses set forth in Section 2.11(k)) that shall accrue at a *per annum* rate equal to the LIBOR Rate Margin, *multiplied by* the undrawn amount of all outstanding Letters of Credit.

(c) **Default Rate.** Upon the occurrence and during the continuation of an Event of Default upon the election of Agent or the Required Lenders:

(i) all Obligations (except for undrawn Letters of Credit) that have been charged to the Loan Account pursuant to the terms hereof shall bear interest at a *per annum* rate equal to 2.00 percentage points above the per annum rate otherwise applicable thereunder; and

(ii) the Letter of Credit Fee shall be increased to 2.00 percentage points above the *per annum* rate otherwise applicable hereunder.

(d) **Payment.** Except to the extent provided to the contrary in Section 2.10, Section 2.11(k) or Section 2.12(a), (i) all interest, all Letter of Credit Fees, and all other fees payable hereunder or under any of the other Loan Documents shall be due and payable, in arrears, on the first day of each month; and (ii) all costs and expenses payable hereunder or under any of the other Loan Documents, and all Lender Group Expenses shall be due and payable on the earlier of (x) the first day of the month following the date on which the applicable costs, expenses, or Lender Group Expenses were

first incurred or (y) the date on which demand therefor is made by Agent (it being acknowledged and agreed that any charging of such costs, expenses or Lender Group Expenses to the Loan Account pursuant to the provisions of the following sentence shall be deemed to constitute a demand for payment thereof for the purposes of this sub-clause (y)). Borrowers hereby authorize Agent, from time to time without prior notice to Borrowers, to charge to the Loan Account (A) on the first day of each month, all interest accrued during the prior month on the Revolving Loans hereunder, (B) on the first day of each month, all Letter of Credit Fees accrued or chargeable hereunder during the prior month, (C) as and when incurred or accrued, all fees and costs provided for in Section 2.10(b) or (d), (D) on the first day of each month, the Unused Line Fee accrued during the prior month pursuant to Section 2.10(c), (E) as and when due and payable, all other fees payable hereunder or under any of the other Loan Documents, (F) as and when incurred or accrued, the fronting fees and all commissions, other fees, charges and expenses provided for in Section 2.11(i), (G) as and when incurred or accrued, all other Lender Group Expenses, and (H) as and when due and payable all other payment obligations payable under any Loan Document or any Bank Product Agreement (including any amounts due and payable to the Bank Product Providers in respect of Bank Products). All amounts (including interest, fees, costs, expenses, Lender Group Expenses, or other amounts payable hereunder or under any other Loan Document or under any Bank Product Agreement) charged to the Loan Account shall if not paid when due thereupon constitute Revolving Loans hereunder, shall constitute Obligations hereunder, and shall initially accrue interest at the rate then applicable to Revolving Loans that are Base Rate Loans (unless and until converted into LIBOR Rate Loans or Daily Rate LIBOR Rate Loans in accordance with the terms of this Agreement).

(e) **Computation.** All interest and fees chargeable under the Loan Documents shall be computed on the basis of a 360 day year, in each case, for the actual number of days elapsed in the period during which the interest or fees accrue. In the event the Base Rate or the Daily Adjusted LIBOR Rate is changed from time to time hereafter, the rates of interest hereunder based upon the Base Rate and the Daily Adjusted LIBOR Rate, as the case may be, automatically and immediately shall be increased or decreased by an amount equal to such change in the Base Rate or the Daily Adjusted LIBOR Rate, as the case may be.

(f) **Intent to Limit Charges to Maximum Lawful Rate.** In no event shall the interest rate or rates payable under this Agreement, plus any other amounts paid in connection herewith, exceed the highest rate permissible under any law that a court of competent jurisdiction shall, in a final determination, deem applicable. Borrowers and the Lender Group, in entering into this Agreement, intend legally to agree upon the rate or rates of interest and manner of payment stated within it; provided that, anything contained herein to the contrary notwithstanding, if such rate or rates of interest or manner of payment exceeds the maximum allowable under applicable law, then, *ipso facto*, as of and from the date of this Agreement, Borrowers are and shall be liable only for the payment of such maximum amount as is allowed by law, and payment received from any Borrower in excess of such legal maximum, whenever received, shall be applied to reduce the principal balance of the Obligations to the extent of such excess.

2.7 **Crediting Payments.** The receipt of any payment item by Agent shall not be required to be considered a payment on account unless such payment item is a wire transfer of immediately available funds made to the applicable Agent's Account or unless and until such payment item is honored when presented for payment. Should any payment item not be honored when presented for payment, then Borrowers shall be deemed not to have made such payment and interest shall be calculated accordingly. Anything to the contrary contained herein notwithstanding, any payment item shall be deemed received by Agent only if it is received into the applicable Agent's Account on a Business Day on or before 1:30 p.m. If any payment item is received into Agent's Account on a non-Business Day or after 1:30 p.m. on a Business Day, it shall be deemed to have been received by Agent as of the opening of business on the

immediately following Business Day (unless Agent, in its sole discretion, elects to credit it on the date received).

2.8 **Designated Account.** Agent is authorized to make the Revolving Loans, and Issuing Bank is authorized to issue the Letters of Credit, under this Agreement based upon telephonic or other instructions received from anyone purporting to be an Authorized Person or, without instructions, if pursuant to Section 2.6(d). Borrowers agree to establish and maintain the Designated Accounts with the Designated Account Bank for the purpose of receiving the proceeds of the Revolving Loans requested by Borrowers and made by Agent or the Lenders hereunder. Unless otherwise agreed by Agent and Borrowers, any Revolving Loan or Swing Loan requested by a Borrower other than Vector Tobacco and made by Agent or the Lenders hereunder shall be made to the Designated Account of Liggett, and any Revolving Loan or Swing Loan requested by Vector Tobacco and made by Agent or the Lenders hereunder shall be made to the Designated Account of Vector Tobacco.

2.9 **Maintenance of Loan Account; Statements of Obligations.** Agent shall maintain an account on its books in the name of Borrowers (the "Loan Account") on which Borrowers will be charged with the Revolving Loans (including Extraordinary Advances and Swing Loans) made by Agent, Swing Lender, or the Lenders to Borrowers or for Borrowers' account, the Letters of Credit issued or arranged by Issuing Bank for Borrowers' account, and with all other payment Obligations hereunder or under the other Loan Documents, including accrued interest, fees and expenses, and Lender Group Expenses. In accordance with Section 2.7, the Loan Account will be credited with all payments received by Agent from Borrowers or for Borrowers' account. Agent shall make available to Borrowers monthly statements regarding the Loan Account, including the principal amount of the Revolving Loans, interest accrued hereunder, fees accrued or charged hereunder or under the other Loan Documents, and a summary itemization of all charges and expenses constituting Lender Group Expenses accrued hereunder or under the other Loan Documents, and each such statement, absent manifest error, shall be conclusively presumed to be correct and accurate and constitute an account stated between Borrowers and the Lender Group unless, within thirty (30) days after Agent first makes such a statement available to Borrowers, Borrowers shall deliver to Agent written objection thereto describing the error or errors contained in such statement.

2.10 **Fees**.

(a) **Amendment and Restatement Fee.** Borrowers shall pay to Agent, for the account of Agent, an amendment and restatement fee in the amount of $210,000, which fee shall be duly earned and payable on the Restatement Effective Date.

(b) **Servicing Fee**. Borrowers shall pay to Agent a monthly servicing fee in an amount equal to $2,500 in respect of Agent's services for each month (or part thereof) while this Agreement remains in effect and for so long thereafter as any of the Obligations are outstanding, which fee shall be fully earned as of and payable in advance on the first date of the calendar month occurring after the Restatement Effective Date and on the first day of each month hereafter.

(c) **Unused Line Fee.** Borrowers shall pay to Agent for the ratable account of the Lenders, an unused line fee (the "Unused Line Fee") in an amount equal to the *per annum* Applicable Unused Line Fee Percentage as in effect at such time, *multiplied by* the result of (i) the aggregate amount of the Maximum Revolver Amount at such time, *less* (ii) the Average Revolver Usage during the immediately preceding month (or portion thereof), which Unused Line Fee shall be due and payable on the first day of each month; provided that, if an Event of Default has occurred and is continuing, such Unused Line Fee shall be due and payable, in arrears, on the first day of each month prior to the date on which the Obligations are paid in full and on the date on which the Obligations are paid in full.

(d) **Field Examination and Other Fees.** Borrowers shall pay to Agent field examination, appraisal, and valuation fees and charges, as and when incurred or chargeable, as follows:
(i) a fee of $1,000 per day, per examiner, plus reasonable and documented out-of-pocket expenses (including travel, meals, and lodging) for each field examination of any Borrower performed by personnel employed by Agent, and (ii) the fees or charges paid or incurred by Agent (but, in any event, no less than a charge of $1,000 per day, per Person, plus reasonable and documented out-of-pocket expenses (including travel, meals, and lodging)) if it elects to employ the services of one or more third Persons to perform field examinations of any Borrower or its Subsidiaries, to establish electronic collateral reporting systems, to appraise the Collateral, or any portion thereof, or to assess any Borrower's or its Subsidiaries' business valuation; provided that:

(i) as to appraisals, (A) there shall be no more than two (2) inventory appraisals in any twelve (12) consecutive month period at the expense of Borrowers, (B) at any time an Event of Default has occurred and is continuing, there shall be such other and additional appraisals as Agent may request at the expense of Borrowers, and (C) at any other times there shall be such other appraisals as Agent may request at its expense; and

(ii) as to field examinations, (A) there shall be no more than one (1) field examination in any twelve (12) consecutive month period at the expense of Borrowers, unless Average Excess Availability, for any period of thirty (30) consecutive days, is less than $30,000,000 or Borrowers and their Subsidiaries, on a consolidated combined basis, have TTM EBITDA of less than $100,000,000 during such twelve (12) consecutive month period, in which case, at Agent's option, there may be up to two (2) field examinations at the expense of Borrowers during such twelve (12) consecutive month period, (B) at any time an Event of Default has occurred and is continuing, there shall be such other field examinations as Agent may request at the expense of Borrowers, and (C) at any other times there shall be such other field examinations as Agent may request at its expense.

2.11 **Letters of Credit**.

(a) Subject to the terms and conditions of this Agreement, upon the request of a Borrower made in accordance herewith, and prior to the Maturity Date, Issuing Bank agrees to issue a requested Letter of Credit for the account of such Borrower. By submitting a request to Issuing Bank for the issuance of a Letter of Credit, the applicable Borrower shall be deemed to have requested that Issuing Bank issue the requested Letter of Credit. Each request for the issuance of a Letter of Credit, or the amendment, renewal, or extension of any outstanding Letter of Credit, shall be irrevocable and shall be made in writing by an Authorized Person and delivered to Issuing Bank via telefacsimile, email or other electronic method of transmission reasonably acceptable to Issuing Bank and reasonably in advance of the requested date of issuance, amendment, renewal, or extension. Each such request shall be in form and substance reasonably satisfactory to Issuing Bank and (i) shall specify (A) the amount of such Letter of Credit, (B) the date of issuance, amendment, renewal, or extension of such Letter of Credit, (C) the proposed expiration date of such Letter of Credit, (D) the name and address of the beneficiary of the Letter of Credit, and (E) such other information (including the conditions to drawing, and, in the case of an amendment, renewal, or extension, identification of the Letter of Credit to be so amended, renewed, or extended) as shall be necessary to prepare, amend, renew, or extend such Letter of Credit, and (ii) shall be accompanied by such Issuer Documents as Agent or Issuing Bank may request or require, to the extent that such requests or requirements are consistent with the Issuer Documents that Issuing Bank generally requests for Letters of Credit in similar circumstances. Issuing Bank's records of the content of any such request will be conclusive. Anything contained herein to the contrary notwithstanding, Issuing Bank may, but shall not be obligated to, issue a Letter of Credit that supports the obligations of any Borrower or one of their respective Subsidiaries in respect of (x) a lease of real property to the extent that the face amount of such Letter of Credit exceeds the highest rent (including all rent-like charges) payable under

such lease for a period of one year, or (y) an employment contract to the extent that the face amount of such Letter of Credit exceeds the highest compensation payable under such contract for a period of one year.

(b) Issuing Bank shall have no obligation to issue a Letter of Credit if any of the following would result after giving effect to the requested issuance:

(i) the Letter of Credit Usage would exceed $7,500,000; or

(ii) the Letter of Credit Usage would exceed the Maximum Revolver Amount at such time, *less* the principal amount of Revolving Loans (including Swing Loans) outstanding at such time; or

(iii) the Letter of Credit Usage would exceed the Borrowing Base at such time, *less* the principal amount of the Revolving Loans (including Swing Loans) outstanding at such time.

(c) In the event there is a Defaulting Lender as of the date of any request for the issuance of a Letter of Credit, Issuing Bank shall not be required to issue or arrange for such Letter of Credit to the extent (i) the Defaulting Lender's Letter of Credit Exposure with respect to such Letter of Credit may not be reallocated pursuant to Section 2.3(g)(ii) or (ii) Issuing Bank has not otherwise entered into arrangements reasonably satisfactory to it and Borrowers to eliminate Issuing Bank's risk with respect to the participation in such Letter of Credit of the Defaulting Lender, which arrangements may include Borrowers cash collateralizing such Defaulting Lender's Letter of Credit Exposure in accordance with Section 2.3(g)(ii). Additionally, Issuing Bank shall have no obligation to issue a Letter of Credit if (A) any order, judgment, or decree of any Governmental Authority or arbitrator shall, by its terms, purport to enjoin or restrain Issuing Bank from issuing such Letter of Credit, or any law applicable to Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over Issuing Bank shall prohibit or request that Issuing Bank refrain from the issuance of letters of credit generally or such Letter of Credit in particular, (B) the issuance of such Letter of Credit would violate one or more policies of Issuing Bank applicable to letters of credit generally, or (C) if amounts demanded to be paid under any Letter of Credit will or may not be in United States Dollars.

(d) Any Issuing Bank (other than Wells Fargo or any of its Affiliates) shall notify Agent in writing no later than the Business Day immediately following the Business Day on which such Issuing Bank issued any Letter of Credit; provided that (i) until Agent advises any such Issuing Bank that the provisions of Section 3.2 are not satisfied, or (ii) unless the aggregate amount of the Letters of Credit issued in any such week exceeds such amount as shall be agreed by Agent and such Issuing Bank, such Issuing Bank shall be required to so notify Agent in writing only once each week of the Letters of Credit issued by such Issuing Bank during the immediately preceding week as well as the daily amounts outstanding for the prior week, such notice to be furnished on such day of the week as Agent and such Issuing Bank may agree. Each Letter of Credit shall be in form and substance reasonably acceptable to Issuing Bank, including the requirement that the amounts payable thereunder must be payable in Dollars. If Issuing Bank makes a payment under a Letter of Credit, the applicable Borrower shall pay to Agent an amount equal to the applicable Letter of Credit Disbursement on the Business Day such Letter of Credit Disbursement is made and, in the absence of such payment, the amount of the Letter of Credit Disbursement immediately and automatically shall be deemed to be a Revolving Loan hereunder (notwithstanding any failure to satisfy any condition precedent set forth in Section 3) and, initially, shall bear interest at the rate then applicable to Revolving Loans that are Base Rate Loans. If a Letter of Credit Disbursement is deemed to be a Revolving Loan hereunder, the applicable Borrower's obligation to pay the amount of such Letter of Credit Disbursement to Issuing Bank shall be automatically converted into an obligation to pay the resulting Revolving Loan. Promptly following receipt by Agent of any payment

from a Borrower pursuant to this paragraph, Agent shall distribute such payment to Issuing Bank or, to the extent that Lenders have made payments pursuant to Section 2.11(e) to reimburse Issuing Bank, then to such Lenders and Issuing Bank, then to Agent and Issuing Bank as their interests may appear.

(e) Promptly following receipt of a notice of a Letter of Credit Disbursement pursuant to Section 2.11(d), each Lender agrees to fund its Pro Rata Share of any Revolving Loan deemed made pursuant to Section 2.11(d) on the same terms and conditions as if the applicable Borrower had requested the amount thereof as a Revolving Loan and Agent shall promptly pay to Issuing Bank the amounts so received by it from the Lenders. By the issuance of a Letter of Credit (or an amendment, renewal, or extension of a Letter of Credit) and without any further action on the part of Issuing Bank or the Lenders, Issuing Bank shall be deemed to have granted to each Lender, and each Lender shall be deemed to have purchased, a participation in each Letter of Credit issued by Issuing Bank, in an amount equal to its Pro Rata Share of such Letter of Credit, and each such Lender agrees to pay to Agent, for the account of Issuing Bank, such Lender's Pro Rata Share of any Letter of Credit Disbursement made by Issuing Bank under the applicable Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to Agent, for the account of Issuing Bank, such Lender's Pro Rata Share of each Letter of Credit Disbursement made by Issuing Bank and not reimbursed by a Borrower on the date due as provided in Section 2.11(d), or of any reimbursement payment that is required to be refunded (or that Agent or Issuing Bank elects, based upon the advice of counsel, to refund) to a Borrower for any reason. Each Lender acknowledges and agrees that its obligation to deliver to Agent, for the account of Issuing Bank, an amount equal to its respective Pro Rata Share of each Letter of Credit Disbursement pursuant to this Section 2.11(e) shall be absolute and unconditional and such remittance shall be made notwithstanding the occurrence or continuation of an Event of Default or Default or the failure to satisfy any condition set forth in Section 3. If any such Lender fails to make available to Agent the amount of such Lender's Pro Rata Share of a Letter of Credit Disbursement as provided in this Section, such Lender shall be deemed to be a Defaulting Lender and Agent (for the account of Issuing Bank) shall be entitled to recover such amount on demand from such Lender together with interest thereon at the Defaulting Lender Rate until paid in full.

(f) Each Borrower agrees to indemnify, defend and hold harmless each member of the Lender Group (including Issuing Bank and its branches, Affiliates, and correspondents) and each such Person's respective directors, officers, employees, attorneys and agents (each, including Issuing Bank, a "Letter of Credit Related Person") (to the fullest extent permitted by law) from and against any and all claims, demands, suits, actions, investigations, proceedings, liabilities, fines, costs, penalties, and damages, and all reasonable and documented fees and disbursements of attorneys, experts, or consultants and all other reasonable and documented out-of-pocket costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification (as and when they are incurred and irrespective of whether suit is brought), which may be incurred by or awarded against any such Letter of Credit Related Person (other than Taxes, which shall be governed by Section 17) (the "Letter of Credit Indemnified Costs"), and which arise out of or in connection with, or as a result of:

(i) any Letter of Credit or any pre-advice of its issuance;

(ii) any transfer, sale, delivery, surrender or endorsement of any Drawing Document at any time(s) held by any such Letter of Credit Related Person in connection with any Letter of Credit;

(iii) any action or proceeding arising out of, or in connection with, any Letter of Credit (whether administrative, judicial or in connection with arbitration), including any action or proceeding to compel or restrain any presentation or payment under any Letter of Credit, or for the wrongful dishonor of, or honoring a presentation under, any Letter of Credit;

(iv) any independent undertakings issued by the beneficiary of any Letter of Credit;

(v) any unauthorized instruction or request made to Issuing Bank in connection with any Letter of Credit or requested Letter of Credit or any error, omission, interruption or delay in such instruction or request, whether transmitted by mail, courier or electronic transmission, SWIFT, or any other telecommunication, including communications through a correspondent;

(vi) an adviser, confirmer or other nominated person seeking to be reimbursed, indemnified or compensated;

(vii) any third party seeking to enforce the rights of an applicant, beneficiary, nominated person, transferee, assignee of Letter of Credit proceeds or holder of an instrument or document;

(viii) the fraud, forgery or illegal action of parties other than the Letter of Credit Related Person;

(ix) any prohibition on payment or delay in payment of any amount payable by Issuing Bank to a beneficiary or transferee beneficiary of a Letter of Credit arising out of Anti-Corruption Laws, Anti-Money Laundering Laws, or Sanctions;

(x) Issuing Bank's performance of the obligations of a confirming institution or entity that wrongfully dishonors a confirmation;

(xi) any foreign language translation provided to Issuing Bank in connection with any Letter of Credit;

(xii) any foreign law or usage as it related to Issuing Bank's issuance of a Letter of Credit in support of a foreign guaranty including the expiration of such guaranty after the related Letter of Credit expiration date and any resulting drawing paid by Issuing Bank in connection therewith; or

(xiii) the acts or omissions, whether rightful or wrongful, of any present or future de jure or de facto governmental or regulatory authority or cause or event beyond the control of the Letter of Credit Related Person;

provided that such indemnity shall not be available to any Letter of Credit Related Person claiming indemnification under clauses (i) through (xiii) above to the extent that such Letter of Credit Indemnified Costs may be determined in a final, non-appealable judgment of a court of competent jurisdiction to have resulted directly from the gross negligence or willful misconduct of the Letter of Credit Related Person claiming indemnity or its officers, directors, employees, attorneys, or agents. Borrowers hereby agree to pay the Letter of Credit Related Person claiming indemnity on demand from time to time all amounts owing under this Section 2.11(f). If and to the extent that the obligations of Borrowers under this Section 2.11(f) are unenforceable for any reason, Borrowers agree to make the maximum contribution to the Letter of Credit Indemnified Costs permissible under applicable law. This indemnification provision shall survive termination of this Agreement and all Letters of Credit.

(g) The requesting Borrower is responsible for preparing or approving the final text of the Letter of Credit as issued by Issuing Bank, irrespective of any assistance Issuing Bank may provide, such as drafting or recommending text, or Issuing Bank's use or refusal to use text submitted by any Borrower. Borrowers understand that the final form of any Letter of Credit may be subject to such revisions and changes as are deemed necessary or appropriate by Issuing Bank, and Borrowers hereby consent to such

revisions and changes not materially different from the application executed in connection therewith. Each Borrower is solely responsible for the suitability of the Letter of Credit for such Borrower's purposes. If a Borrower requests Issuing Bank to issue a Letter of Credit for an affiliated or unaffiliated third party (an "Account Party"), (i) such Account Party shall have no rights against Issuing Bank; (ii) such requesting Borrower shall be responsible for the application and obligations under this Agreement; and (iii) communications (including notices) related to the respective Letter of Credit shall be among Issuing Bank and such requesting Borrower. The requesting Borrower will examine the copy of the Letter of Credit and any other documents sent by Issuing Bank in connection therewith and shall promptly notify Issuing Bank (not later than three (3) Business Days following such Borrower's receipt of documents from Issuing Bank) of any non-compliance with such Borrower's instructions and of any discrepancy in any document under any presentment or other irregularity. Borrowers understand and agree that Issuing Bank is not required to extend the expiration date of any Letter of Credit for any reason. With respect to any Letter of Credit containing an "automatic amendment" to extend the expiration date of such Letter of Credit, Issuing Bank, in its sole and absolute discretion, may give notice of nonrenewal of such Letter of Credit and, if the requesting Borrower does not at any time want the then current expiration date of such Letter of Credit to be extended, such Borrower will so notify Agent and Issuing Bank at least thirty (30) calendar days before Issuing Bank is required to notify the beneficiary of such Letter of Credit or any advising bank of such non-extension pursuant to the terms of such Letter of Credit.

(h) Borrowers' reimbursement and payment obligations under this Section 2.11 are absolute, unconditional and irrevocable and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever, including:

(i) any lack of validity, enforceability or legal effect of any Letter of Credit, any Issuer Document or this Agreement, or any Loan Document, or any term or provision therein or herein;

(ii) payment against presentation of any draft, demand or claim for payment under any Drawing Document that does not comply in whole or in part with the terms of the applicable Letter of Credit or which proves to be fraudulent, forged or invalid in any respect or any statement therein being untrue or inaccurate in any respect, or which is signed, issued or presented by a Person or a transferee of such Person purporting to be a successor or transferee of the beneficiary of such Letter of Credit;

(iii) Issuing Bank or any of its branches or Affiliates being the beneficiary of any Letter of Credit;

(iv) Issuing Bank or any correspondent honoring a drawing against a Drawing Document up to the amount available under any Letter of Credit even if such Drawing Document claims an amount in excess of the amount available under the Letter of Credit;

(v) the existence of any claim, set-off, defense or other right that any Loan Party or any of its Subsidiaries may have at any time against any beneficiary or transferee beneficiary, any assignee of proceeds, Issuing Bank or any other Person;

(vi) Issuing Bank or any correspondent honoring a drawing upon receipt of an electronic presentation under a Letter of Credit requiring the same, regardless of whether the original Drawing Documents arrive at Issuing Bank's counters or are different from the electronic presentation;

(vii) any other event, circumstance or conduct whatsoever, whether or not similar to any of the foregoing that might, but for this Section 2.11(i), constitute a legal or equitable defense to or discharge of, or provide a right of set-off against, any Borrower's or any of its Subsidiaries'

reimbursement and other payment obligations and liabilities, arising under, or in connection with, any Letter of Credit, whether against Issuing Bank, the beneficiary or any other Person; or

(viii) the fact that any Default or Event of Default shall have occurred and be continuing;

provided that, subject to Section 2.11(g) above, the foregoing shall not release Issuing Bank from such liability to any Borrower as may be determined in a final, non-appealable judgment of a court of competent jurisdiction against Issuing Bank following reimbursement or payment of the obligations and liabilities, including reimbursement and other payment obligations, of such Borrower to Issuing Bank arising under, or in connection with, this Section 2.11 or any Letter of Credit.

(i) The requesting Borrower shall pay immediately upon demand to Agent for the account of Issuing Bank as non-refundable fees, commissions, and charges (it being acknowledged and agreed that any charging of such fees, commissions, and charges to the Loan Account pursuant to the provisions of Section 2.6(d) shall be deemed to constitute a demand for payment thereof for the purposes of this Section 2.11(i)): (i) a fronting fee, which shall be imposed by Issuing Bank upon the issuance of each Letter of Credit requested by such Borrower, of 0.125% per annum of the face amount thereof, *plus* (ii) any and all other customary commissions, fees and charges then in effect and imposed by, and any and all reasonable and documented expenses incurred by, Issuing Bank, or by any adviser, confirming institution or entity or other nominated person, relating to Letters of Credit requested by such Borrower, at the time of issuance of any such Letter of Credit and upon the occurrence of any other activity with respect to any such Letter of Credit (including transfers, assignments of proceeds, amendments, drawings, renewals or cancellations).

(j) If by reason of (x) any Change in Law, or (y) compliance by Issuing Bank or any other member of the Lender Group with any direction, request, or requirement (irrespective of whether having the force of law) of any Governmental Authority or monetary authority, including Regulation D of the Board of Governors as from time to time in effect (and any successor thereto):

(i) any reserve, deposit, or similar requirement is or shall be imposed or modified in respect of any Letter of Credit issued or caused to be issued hereunder or hereby; or

(ii) there shall be imposed on Issuing Bank or any other member of the Lender Group any other condition regarding any Letter of Credit;

and the result of the foregoing is to increase, directly or indirectly, the cost to Issuing Bank or any other member of the Lender Group of issuing, making, participating in, or maintaining any Letter of Credit or to reduce the amount receivable in respect thereof, then, and in any such case, Agent may, at any time within a reasonable period after the additional cost is incurred or the amount received is reduced, notify Borrowers, and Borrowers shall pay within thirty (30) days after demand therefor, such amounts as Agent may specify to be necessary to compensate Issuing Bank or any other member of the Lender Group for such additional cost or reduced receipt, together with interest on such amount from the date of such demand until payment in full thereof at the rate then applicable to Base Rate Loans hereunder; provided that (A) no Borrower shall be required to provide any compensation pursuant to this Section 2.11(j) for any such amounts incurred more than one hundred eighty (180) days prior to the date on which the demand for payment of such amounts is first made to a Borrower, and (B) if an event or circumstance giving rise to such amounts is retroactive, then the one hundred eighty (180)-day period referred to above shall be extended to include the period of retroactive effect thereof. The determination by Agent of any amount due pursuant to this Section 2.11(j), as set forth in a certificate setting forth the calculation thereof

in reasonable detail, shall, in the absence of manifest or demonstrable error, be final and conclusive and binding on all of the parties hereto.

(k) Each standby Letter of Credit shall expire not later than the date that is twelve (12) months after the date of the issuance of such Letter of Credit; provided that any standby Letter of Credit may provide for the automatic extension thereof for any number of additional periods each of up to one year in duration; provided, further, that with respect to any Letter of Credit which extends beyond the Maturity Date, Letter of Credit Collateralization shall be provided therefor on or before the date that is five (5) Business Days prior to the Maturity Date. Each commercial Letter of Credit shall expire on the earlier of (i) one hundred twenty (120) days after the date of the issuance of such commercial Letter of Credit and (ii) five (5) Business Days prior to the Maturity Date.

(l) If (i) any Event of Default shall occur and be continuing, or (ii) Availability shall at any time be less than zero, then on the Business Day following the date when the Borrowers receive notice from Agent or the Required Lenders (or, if the maturity of the Obligations has been accelerated, Lenders with Letter of Credit Exposure representing greater than fifty percent (50%) of the total Letter Credit Exposure) demanding Letter of Credit Collateralization pursuant to this Section 2.11(l) upon such demand, Borrowers shall provide Letter of Credit Collateralization with respect to the then existing Letter of Credit Usage. If a Borrower has provided Letter of Credit Collateralization hereunder as a result of the occurrence of an Event of Default, any cash collateral held by Agent as a result of such Letter of Credit Collateralization shall be returned by Agent to such Borrower promptly, but in no event later than seven (7) Business Days, after such Event of Default has been cured or waived in accordance with this Agreement. If Borrowers fail to provide Letter of Credit Collateralization as required by this Section 2.11(l), the Lenders may (and, upon direction of Agent, shall) advance, as Revolving Loans the amount of the cash collateral required pursuant to the Letter of Credit Collateralization provision so that the then existing Letter of Credit Usage is cash collateralized in accordance with the Letter of Credit Collateralization provision (whether or not the Revolver Commitments have terminated, an Overadvance exists or the conditions in Section 3 are satisfied).

(m) Unless otherwise expressly agreed by Issuing Bank and the requesting Borrower when a Letter of Credit is issued, (i) the rules of the ISP and the UCP shall apply to each standby Letter of Credit, and (ii) the rules of the UCP shall apply to each commercial Letter of Credit.

(n) Issuing Bank shall be deemed to have acted with due diligence and reasonable care if Issuing Bank's conduct is in accordance with Standard Letter of Credit Practice or in accordance with this Agreement.

(o) In the event of a direct conflict between the provisions of this Section 2.11 and any provision contained in any Issuer Document, it is the intention of the parties hereto that such provisions be read together and construed, to the fullest extent possible, to be in concert with each other. In the event of any actual, irreconcilable conflict that cannot be resolved as aforesaid, the terms and provisions of this Section 2.11 shall control and govern.

(p) The provisions of this Section 2.11 shall survive the termination of this Agreement and the repayment in full of the Obligations with respect to any Letters of Credit that remain outstanding.

(q) At Borrowers' cost and expense, Borrowers shall execute and deliver to Issuing Bank such additional certificates, instruments and/or documents and take such additional action as may be reasonably requested by Issuing Bank to enable Issuing Bank to issue any Letter of Credit pursuant to this Agreement and any related Issuer Document, to protect, exercise and/or enforce Issuing Bank's rights and interests under this Agreement or to give effect to the terms and provisions of this Agreement or any

Issuer Document. Each Borrower irrevocably appoints Issuing Bank as its attorney-in-fact and authorizes Issuing Bank, without notice to Borrowers, to execute and deliver ancillary documents and letters customary in the letter of credit business that may include advisements, indemnities, checks, bills of exchange and issuance documents. The power of attorney granted by Borrowers is limited solely to such actions related to the issuance, confirmation or amendment of any Letter of Credit and to ancillary documents or letters customary in the letter of credit business. This appointment is coupled with an interest.

2.12 **LIBOR Option**.

(a) **Interest and Interest Payment Dates.** In lieu of having interest charged at the rate based upon the Base Rate or the Daily LIBOR Rate with respect to Revolving Loans, each Borrower shall have the option, subject to Section 2.12(b) below (the "LIBOR Option") to have interest on all or a portion of its Revolving Loans be charged (whether at the time when made (unless otherwise provided herein), upon conversion from a Base Rate Loan or a Daily LIBOR Rate Loan, as the case may be, to a LIBOR Rate Loan, or upon continuation of a LIBOR Rate Loan as a LIBOR Rate Loan) at a rate of interest based upon the LIBOR Rate. Interest on LIBOR Rate Loans shall be payable on the earliest of (i) the last day of the Interest Period applicable thereto; (ii) the date on which all or any portion of the Obligations are accelerated pursuant to the terms hereof, or (iii) the date on which this Agreement is terminated pursuant to the terms hereof. On the last day of each applicable Interest Period, unless the applicable Borrower has properly exercised the LIBOR Option with respect thereto, the interest rate applicable to such LIBOR Rate Loan automatically shall convert to the rate of interest then applicable to Base Rate Loans of the same type hereunder. At any time that an Event of Default has occurred and is continuing, at the written election of the Required Lenders, Borrowers no longer shall have the option to request that Revolving Loans bear interest at a rate based upon the LIBOR Rate or the Daily LIBOR Rate.

(b) **LIBOR Election.**

(i) Any Borrower may, at any time and from time to time, so long as such Borrower has not received a notice from Agent (which notice Agent may elect to give or not give in its discretion unless Agent is directed to give such notice by the Required Lenders, in which case, it shall give the notice to Borrowers), after the occurrence and during the continuance of an Event of Default, to terminate the right of any Borrower to exercise the LIBOR Option during the continuance of such Event of Default, elect to exercise the LIBOR Option by notifying Agent prior to 11:00 a.m. at least one (1) Business Day prior to the commencement of the proposed Interest Period (the "LIBOR Deadline"). Notice of such Borrower's election of the LIBOR Option for a permitted portion of the Revolving Loans and an Interest Period pursuant to this Section shall be made by delivery to Agent of a LIBOR Notice received by Agent before the LIBOR Deadline, or by telephonic notice received by Agent before the LIBOR Deadline (to be confirmed by delivery to Agent of a LIBOR Notice received by Agent prior to 5:00 p.m. on the same day). Promptly upon its receipt of each such LIBOR Notice, Agent shall provide a copy thereof to each of the affected Lenders.

(ii) Each LIBOR Notice shall be irrevocable and binding on Borrowers. In connection with each LIBOR Rate Loan, each Borrower shall indemnify, defend, and hold Agent and the Lenders harmless against any loss, cost, or expense actually incurred by Agent or any Lender as a result of (A) the payment or required assignment of any principal of any LIBOR Rate Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (B) the conversion of any LIBOR Rate Loan other than on the last day of the Interest Period applicable thereto, or (C) the failure to borrow, convert, continue or prepay any LIBOR Rate Loan on the date specified in any LIBOR Notice delivered pursuant hereto (such losses, costs, or expenses, "Funding Losses"). A certificate of Agent or a Lender delivered to Borrowers setting forth in reasonable detail any amount or

amounts that Agent or such Lender is entitled to receive pursuant to this Section 2.12 shall be conclusive absent manifest error. Borrowers shall pay such amount to Agent or the Lender, as applicable, within 30 days of the date of its receipt of such certificate.

(iii) Unless Agent, in its sole discretion, agrees otherwise, Borrowers shall have not more than five (5) LIBOR Rate Loans in effect at any given time. Borrowers may only exercise the LIBOR Option for proposed LIBOR Rate Loans of at least $1,000,000.

(c) **Conversion; Prepayment.** A Borrower may convert its LIBOR Rate Loans to Base Rate Loans or Daily LIBOR Rate Loans, as the case may be, at any time; provided that, in the event that LIBOR Rate Loans are converted or prepaid on any date that is not the last day of the Interest Period applicable thereto, including as a result of any prepayment through the required application by Agent of any payments or proceeds of Collateral in accordance with Section 2.4(b) or for any other reason, including early termination of the term of this Agreement or acceleration of all or any portion of the Obligations pursuant to the terms hereof, such Borrower shall indemnify, defend, and hold Agent and the Lenders and their Participants harmless against any and all Funding Losses in accordance with Section 2.12(b)(ii).

(d) **Special Provisions Applicable to LIBOR Rate.**

(i) The LIBOR Rate may be adjusted by Agent with respect to any Lender on a prospective basis to take into account any additional or increased costs to such Lender of maintaining or obtaining any eurodollar deposits or increased costs (other than Taxes which shall be governed by Section 17), in each case, due to changes in applicable law occurring subsequent to the commencement of the then applicable Interest Period, including any Changes in Law (including any changes in tax laws (except changes of general applicability in corporate income tax laws) and changes in the reserve requirements imposed by the Board of Governors), which additional or increased costs would increase the cost of funding or maintaining loans bearing interest at the LIBOR Rate. In any such event, the affected Lender shall give Borrowers and Agent notice of such a determination and adjustment and Agent promptly shall transmit the notice to each other Lender and, upon its receipt of the notice from the affected Lender, Borrowers may, by notice to such affected Lender (A) require such Lender to furnish to Borrowers a statement setting forth in reasonable detail the basis for adjusting such LIBOR Rate and the method for determining the amount of such adjustment, or (B) repay the LIBOR Rate Loans of such Lender with respect to which such adjustment is made (together with any amounts due under Section 2.12(b)(ii)).

(ii) Subject to the provisions set forth in Section 2.12(d)(iii) below, in the event that any change in market conditions or any Change in Law shall at any time after the date hereof, in the reasonable opinion of any Lender, make it unlawful or impractical for such Lender to fund or maintain LIBOR Rate Loans or to continue such funding or maintaining, or to determine or charge interest rates at the LIBOR Rate, such Lender shall give notice of such changed circumstances to Agent and Borrowers and Agent promptly shall transmit the notice to each other Lender and (y) in the case of any LIBOR Rate Loans of such Lender that are outstanding, the date specified in such Lender's notice shall be deemed to be the last day of the Interest Period of such LIBOR Rate Loans, and interest upon the LIBOR Rate Loans of such Lender thereafter shall accrue interest at the rate then applicable to Base Rate Loans, and (z) Borrowers shall not be entitled to elect the LIBOR Option until such Lender determines that it would no longer be unlawful or impractical to do so.

(iii) (A) Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, Agent and Borrowers may amend this Agreement to replace the LIBOR Rate and/or Daily

One Month LIBOR with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 pm on the fifth (5th) Business Day after Agent has posted such proposed amendment to all Lenders and Borrowers, so long as Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Required Lenders. Any such amendment with respect to an Early Opt-in Election will become effective on the date that Lenders comprising the Required Lenders have delivered to Agent written notice that such Required Lenders accept such amendment. No replacement of the LIBOR Rate or Daily One Month LIBOR with a Benchmark Replacement pursuant to this Section 2.12(d)(iii) will occur prior to the applicable Benchmark Transition Start Date.

(B) In connection with the implementation of a Benchmark Replacement, Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement.

(C) Agent will promptly notify Borrowers and the Lenders of (1) any occurrence of a Benchmark Transition Event or an Early Opt-in Election, as applicable, and its related Benchmark Replacement Date and Benchmark Transition Start Date, (2) the implementation of any Benchmark Replacement, (3) the effectiveness of any Benchmark Replacement Conforming Changes, and (4) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by Agent or Lenders pursuant to this Section 2.12(d)(iii), including any determination with respect to a tenor rate or adjustment, or of the occurrence or non-occurrence of an event, circumstance, or date, and any decision to take or refrain from taking any action, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party hereto, except, in each case, as expressly required pursuant to this
Section 2.12(d)(iii).

(D) Upon Borrowers' receipt of notice of the commencement of a Benchmark Unavailability Period, each Borrower may revoke any request for a Borrowing of, conversion to, or continuation of, LIBOR Rate Loans or Daily LIBOR Rate Loans to be made, converted, or continued during any Benchmark Unavailability Period and, failing that, each Borrower will be deemed to have converted any such request into a request for a Borrowing of, or conversion to, Base Rate Loans. During any Benchmark Unavailability Period, the component of Base Rate based upon the LIBOR Rate will not be used in any determination of the Base Rate.

(e) **No Requirement of Matched Funding.** Anything to the contrary contained herein notwithstanding, neither Agent, nor any Lender, nor any of their Participants, is required actually to acquire eurodollar deposits to fund or otherwise match fund any Obligation as to which interest accrues at the LIBOR Rate.

2.13 **Capital Requirements**.

(a) If, after the date hereof, Issuing Bank or any Lender determines that (i) any Change in Law regarding capital, liquidity or reserve requirements for banks or bank holding companies, or (ii) compliance by Issuing Bank or such Lender, or their respective parent bank holding companies with any guideline, request or directive of any Governmental Authority regarding capital adequacy or liquidity requirements (whether or not having the force of law), has the effect of reducing the return on Issuing Bank's, such Lender's, or such holding companies' capital or liquidity as a consequence of Issuing Bank's or such Lender's commitments, Loans, participations, or other obligations hereunder to a level below that which Issuing Bank, such Lender, or such holding companies could have achieved but

for such Change in Law or compliance (taking into consideration Issuing Bank's, such Lender's, or such holding companies' then existing policies with respect to capital adequacy or liquidity requirements and assuming the full utilization of such entity's capital) by any amount deemed by Issuing Bank or such Lender to be material, then Issuing Bank or such Lender may notify Borrowers and Agent thereof. Following receipt of such notice, Borrowers agree to pay Issuing Bank or such Lender on demand the amount of such reduction of return of capital as and when such reduction is determined, payable within thirty (30) days after presentation by Issuing Bank or such Lender of a statement in the amount and setting forth in reasonable detail Issuing Bank's or such Lender's calculation thereof and the assumptions upon which such calculation was based (which statement shall be deemed true and correct absent manifest error). In determining such amount, Issuing Bank or such Lender may use any reasonable averaging and attribution methods. Failure or delay on the part of Issuing Bank or any Lender to demand compensation pursuant to this Section shall not constitute a waiver of Issuing Bank's or such Lender's right to demand such compensation; provided that Borrowers shall not be required to compensate Issuing Bank or a Lender pursuant to this Section for any reductions in return incurred more than one hundred eighty (180) days prior to the date that Issuing Bank or such Lender notifies Borrowers of such Change in Law giving rise to such reductions and of such Lender's intention to claim compensation therefor; provided, further, that if such claim arises by reason of the Change in Law that is retroactive, then the one hundred eighty (180)- day period referred to above shall be extended to include the period of retroactive effect thereof.

(b) If Issuing Bank or any Lender requests additional or increased costs referred to in Section 2.11(j) or Section 2.12(d)(i) or amounts under Section 2.13(a) or sends a notice under Section 2.12(d)(ii) relative to changed circumstances (such Issuing Bank or Lender, an "Affected Lender"), then, at the request of any Borrower, such Affected Lender shall use reasonable efforts to promptly designate a different one of its lending offices or to assign its rights and obligations hereunder to another of its offices or branches, if (i) in the reasonable judgment of such Affected Lender, such designation or assignment would eliminate or reduce amounts payable pursuant to Section 2.11(j), Section 2.12(d)(i) or Section 2.13(a), as applicable, or would eliminate the illegality or impracticality of funding or maintaining LIBOR Rate Loans and (ii) in the reasonable judgment of such Affected Lender, such designation or assignment would not subject it to any material unreimbursed cost or expense and would not otherwise be materially disadvantageous to it. Borrowers agree to pay all reasonable and documented out-of-pocket costs and expenses incurred by such Affected Lender in connection with any such designation or assignment. If, after such reasonable efforts, such Affected Lender does not so designate a different one of its lending offices or assign its rights to another of its offices or branches so as to eliminate Borrowers' obligation to pay any future amounts to such Affected Lender pursuant to
Section 2.11(j), Section 2.12(d)(i) or Section 2.13(a), as applicable, or to enable Borrowers to obtain LIBOR Rate Loans, then Borrowers (without prejudice to any amounts then due to such Affected Lender under Section 2.11(j), Section 2.12(d)(i) or Section 2.13(a), as applicable) may, unless prior to the effective date of any such assignment the Affected Lender withdraws its request for such additional amounts under Section 2.11(j), Section 2.12(d)(i) or Section 2.13(a), as applicable, or indicates that it is no longer unlawful or impractical to fund or maintain LIBOR Rate Loans, designate a different Issuing Bank or substitute a Lender or prospective Lender, in each case, reasonably acceptable to Agent to purchase the Obligations owed to such Affected Lender and such Affected Lender's commitments hereunder (a "Replacement Lender"), and if such Replacement Lender agrees to such purchase, such Affected Lender shall assign to the Replacement Lender its Obligations and commitments, and upon such purchase by the Replacement Lender, which such Replacement Lender shall be deemed to be "Issuing Bank" or a "Lender" (as the case may be) for purposes of this Agreement and such Affected Lender shall cease to be "Issuing Bank" or a "Lender" (as the case may be) for purposes of this Agreement.

(c) Notwithstanding anything herein to the contrary, the protection of Sections 2.11(j), 2.12(d) and 2.13 shall be available to Issuing Bank and each Lender (as applicable) regardless of any possible contention of the invalidity or inapplicability of the law, rule, regulation, judicial ruling,

judgment, guideline, treaty or other change or condition which shall have occurred or been imposed, so long as it shall be customary for issuing banks or lenders affected thereby to comply therewith.
Notwithstanding any other provision herein, neither Issuing Bank nor any Lender shall demand compensation pursuant to this Section 2.13 if it shall not at the time be the general policy or practice of Issuing Bank or such Lender (as the case may be) to demand such compensation in similar circumstances under comparable provisions of other credit agreements, if any.

2.14 **Joint and Several Liability of Borrowers**.

(a) Each Borrower is accepting joint and several liability hereunder and under the other Loan Documents in consideration of the financial accommodations to be provided by the Lender Group under this Agreement, for the mutual benefit, directly and indirectly, of each Borrower and in consideration of the undertakings of the other Borrowers to accept joint and several liability for the Obligations.

(b) Each Borrower, jointly and severally, hereby irrevocably and unconditionally accepts, not merely as a surety but also as a co-debtor, joint and several liability with the other Borrowers, with respect to the payment and performance of all of the Obligations (including any Obligations arising under this Section 2.14), it being the intention of the parties hereto that all the Obligations shall be the joint and several obligations of each Borrower without preferences or distinction among them. Accordingly, each Borrower hereby waives any and all suretyship defenses that would otherwise be available to such Borrower under applicable law.

(c) If and to the extent that any Borrower shall fail to make any payment with respect to any of the Obligations as and when due, whether upon maturity, acceleration, or otherwise, or to perform any of the Obligations in accordance with the terms thereof, then in each such event the other Borrowers will make such payment with respect to, or perform, such Obligations until such time as all of the Obligations are paid in full, and without the need for demand, protest, or any other notice or formality.

(d) The Obligations of each Borrower under the provisions of this Section 2.14 constitute the absolute and unconditional, full recourse Obligations of each Borrower enforceable against each Borrower to the full extent of its properties and assets, irrespective of the validity, regularity or enforceability of the provisions of this Agreement (other than this Section 2.14(d)) or any other circumstances whatsoever.

(e) Without limiting the generality of the foregoing and except as otherwise expressly provided in this Agreement, each Borrower hereby waives presentments, demands for performance, protests and notices, including notices of acceptance of its joint and several liability, notice of any Revolving Loans or any Letters of Credit issued under or pursuant to this Agreement, notice of the occurrence of any Default, Event of Default, notices of nonperformance, notices of protest, notices of dishonor, notices of acceptance of this Agreement, notices of the existence, creation, or incurrence of new or additional Obligations or other financial accommodations pursuant to the Loan Documents or of any demand for any payment under this Agreement, notice of any action at any time taken or omitted by Agent or Lenders under or in respect of any of the Obligations, any right to require any member of the Lender Group or any Bank Product Provider to proceed against any other Borrower or any other Person, to proceed against or exhaust any security held from any other Borrower or any other Person, to protect, secure, perfect, or insure any security interest or Lien on any property subject thereto or exhaust any right to take any action against any other Borrower, any other Person, or any collateral, to pursue any other remedy in any member of the Lender Group's or any Bank Product Provider's power whatsoever, any requirement of diligence or to mitigate damages and, generally, to the extent permitted by applicable law, all demands, notices and other formalities of every kind in connection with this Agreement (except as

otherwise provided in this Agreement), any right to assert against any member of the Lender Group or any Bank Product Provider, any defense (legal or equitable), set-off, counterclaim, or claim which each Borrower may now or at any time hereafter have against any other Borrower or any other party liable to any member of the Lender Group or any Bank Product Provider, any defense, set-off, counterclaim, or claim, of any kind or nature, arising directly or indirectly from the present or future lack of perfection, sufficiency, validity, or enforceability of the Obligations or any security therefor, and any right or defense arising by reason of any claim or defense based upon an election of remedies by any member of the Lender Group or any Bank Product Provider, including any defense based upon an impairment or elimination of such Borrower's rights of subrogation, reimbursement, contribution, or indemnity of such Borrower against any other Borrower. Without limiting the generality of the foregoing, each Borrower hereby assents to, and waives notice of, any extension or postponement of the time for the payment of any of the Obligations, the acceptance of any payment of any of the Obligations, the acceptance of any partial payment thereon, any waiver, consent or other action or acquiescence by Agent or Lenders at any time or times in respect of any default by any Borrower in the performance or satisfaction of any term, covenant, condition or provision of this Agreement, any and all other indulgences whatsoever by Agent or Lenders in respect of any of the Obligations, and the taking, addition, substitution or release, in whole or in part, at any time or times, of any security for any of the Obligations or the addition, substitution or release, in whole or in part, of any Borrower. Without limiting the generality of the foregoing, each Borrower assents to any other action or delay in acting or failure to act on the part of any Agent or Lender with respect to the failure by any Borrower to comply with any of its respective Obligations, including any failure strictly or diligently to assert any right or to pursue any remedy or to comply fully with applicable laws or regulations thereunder, which might, but for the provisions of this Section 2.14 afford grounds for terminating, discharging or relieving any Borrower, in whole or in part, from any of its Obligations under this Section 2.14, it being the intention of each Borrower that, so long as any of the Obligations hereunder remain unsatisfied, the Obligations of each Borrower under this Section 2.14 shall not be discharged except by performance and then only to the extent of such performance. The Obligations of each Borrower under this Section 2.14 shall not be diminished or rendered unenforceable by any winding up, reorganization, arrangement, liquidation, reconstruction or similar proceeding with respect to any other Borrower or any Agent or Lender. Each of the Borrowers waives, to the fullest extent permitted by law, the benefit of any statute of limitations affecting its liability hereunder or the enforcement hereof. Any payment by any Borrower or other circumstance which operates to toll any statute of limitations as to any Borrower shall operate to toll the statute of limitations as to each of the Borrowers. Each of the Borrowers waives any defense based on or arising out of any defense of any other Borrower or any other Person, other than payment of the Obligations to the extent of such payment, based on or arising out of the disability of any other Borrower or any other Person, or the validity, legality, or unenforceability of the Obligations or any part thereof from any cause, or the cessation from any cause of the liability of any Borrower other than payment of the Obligations to the extent of such payment. Agent may, at the election of the Required Lenders, foreclose upon any Collateral held by Agent by one or more judicial or nonjudicial sales or other dispositions, whether or not every aspect of any such sale is commercially reasonable or otherwise fails to comply with applicable law or may exercise any other right or remedy Agent, any other member of the Lender Group, or any Bank Product Provider may have against any Borrower or any other Person, or any security, in each case, without affecting or impairing in any way the liability of any of the Borrowers hereunder except to the extent the Obligations have been paid.

(f) Each Borrower represents and warrants to Agent and Lenders that such Borrower is currently informed of the financial condition of Borrowers and of all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment of the Obligations. Each Borrower further represents and warrants to Agent and Lenders that such Borrower has read and understands the terms and conditions of the Loan Documents. Each Borrower hereby covenants that such Borrower will continue to keep informed of Borrowers' financial condition and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Obligations.

(g) The provisions of this Section 2.14 are made for the benefit of Agent, each member of the Lender Group, each Bank Product Provider, and their respective successors and assigns, and may be enforced by it or them from time to time against any or all Borrowers as often as occasion therefor may arise and without requirement on the part of Agent, any member of the Lender Group, any Bank Product Provider, or any of their successors or assigns first to marshal any of its or their claims or to exercise any of its or their rights against any Borrower or to exhaust any remedies available to it or them against any Borrower or to resort to any other source or means of obtaining payment of any of the Obligations hereunder or to elect any other remedy. The provisions of this Section 2.14 shall remain in effect until all of the Obligations shall have been paid in full or otherwise fully satisfied. If at any time, any payment, or any part thereof, made in respect of any of the Obligations, is rescinded or must otherwise be restored or returned by Agent or any Lender upon the insolvency, bankruptcy or reorganization of any Borrower, or otherwise, the provisions of this Section 2.14 will forthwith be reinstated in effect, as though such payment had not been made.

(h) Each Borrower hereby agrees that it will not enforce any of its rights that arise from the existence, payment, performance or enforcement of the provisions of this Section 2.14, including rights of subrogation, reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Agent, any other member of the Lender Group, or any Bank Product Provider against any Borrower, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including the right to take or receive from any Borrower, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or security solely on account of such claim, remedy or right, unless and until such time as all of the Obligations have been paid in full. Any claim which any Borrower may have against any other Borrower with respect to any payments to any Agent or any member of the Lender Group hereunder or under any of the Bank Product Agreements are hereby expressly made subordinate and junior in right of payment, without limitation as to any increases in the Obligations arising hereunder or thereunder, to the prior payment in full of the Obligations and, in the event of any insolvency, bankruptcy, receivership, liquidation, reorganization or other similar proceeding under the laws of any jurisdiction relating to any Borrower, its debts or its assets, whether voluntary or involuntary, all such Obligations shall be paid in full before any payment or distribution of any character, whether in cash, securities or other property, shall be made to any other Borrower therefor. If any amount shall be paid to any Borrower in violation of the immediately preceding sentence, such amount shall be held in trust for the benefit of Agent, for the benefit of the Lender Group and the Bank Product Providers, and shall forthwith be paid to Agent to be credited and applied to the Obligations and all other amounts payable under this Agreement, whether matured or unmatured, in accordance with the terms of this Agreement, or to be held as Collateral for any Obligations or other amounts payable under this Agreement thereafter arising. Notwithstanding anything to the contrary contained in this Agreement, no Borrower may exercise any rights of subrogation, contribution, indemnity, reimbursement or other similar rights against, and may not proceed or seek recourse against or with respect to any property or asset of, any other Borrower (the "Foreclosed Borrower"), including after payment in full of the Obligations, if all or any portion of the Obligations have been satisfied in connection with an exercise of remedies in respect of the Equity Interests of such Foreclosed Borrower whether pursuant to this Agreement or otherwise.

(i) Each Borrower hereby agrees that after the occurrence and during the continuance of any Default or Event of Default, such Borrower will not demand, sue for, or otherwise attempt to collect any indebtedness of any other Borrower owing to such Borrower until the Obligations shall have been paid in full. If, notwithstanding the foregoing sentence, such Borrower shall collect, enforce or receive any amounts in respect of such indebtedness, such amounts shall be collected, enforced and received by such Borrower as trustee for Agent, and such Borrower shall deliver any such amounts to Agent for application to the Obligations in accordance with Section 2.4(b).

3. **CONDITIONS; TERM OF AGREEMENT.**

3.1 **Conditions Precedent to the Initial Extension of Credit.** The obligation of each Lender to continue the financing arrangements under the Existing Credit Agreement and to make the initial extensions of credit provided for hereunder was subject to the fulfillment, to the satisfaction of Agent and each Lender, of each of the conditions precedent set forth on Schedule 3.1. Such conditions precedent were fulfilled to the satisfaction of Agent on the Restatement Effective Date.

3.2 **Conditions Precedent to all Extensions of Credit.** The obligation of the Lender Group (or any member thereof) to make any Revolving Loans hereunder (or to extend any other credit hereunder) at any time shall be subject to the following conditions precedent:

(a) the representations and warranties of each Loan Party or its Subsidiaries contained in this Agreement or in the other Loan Documents shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) on and as of the date of such extension of credit, as though made on and as of such date (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of such earlier date); and

(b) no Default or Event of Default shall have occurred and be continuing on the date of such extension of credit, nor shall either result from the making thereof.

3.3 **Maturity.** This Agreement shall continue in full force and effect for a term ending on the Maturity Date (unless terminated earlier in accordance with the terms hereof).

3.4 **Effect of Maturity.** On the Maturity Date, all commitments of the Lender Group to provide additional credit hereunder shall automatically be terminated and all of the Obligations immediately shall become due and payable without notice or demand and Borrowers shall be required to repay all of the Obligations in full. No termination of the obligations of the Lender Group (other than payment in full of the Obligations and termination of the Revolver Commitments) shall relieve or discharge any Loan Party of its duties, obligations, or covenants hereunder or under any other Loan Document and Agent's Liens in the Collateral shall continue to secure the Obligations and shall remain in effect until all Obligations have been paid in full and the Revolver Commitments have been terminated. When all of the Obligations have been paid in full and the Lender Group's obligations to provide additional credit under the Loan Documents have been terminated irrevocably, Agent will, at Borrowers' sole expense, execute and deliver any termination statements, lien releases, discharges of security interests, and other similar discharge or release documents (if applicable, in recordable form) as are reasonably necessary to release, as of record, Agent's Liens and all notices of security interests and liens previously filed by Agent.

3.5 **Early Termination by Borrowers.** Borrowers have the option, at any time upon five (5) Business Days prior written notice to Agent, to terminate this Agreement and terminate the Revolver Commitment hereunder by repaying to Agent all of the Obligations in full. The foregoing notwithstanding, (a) Borrowers may rescind termination notices relative to proposed payments in full of the Obligations with the proceeds of third party Indebtedness if the closing for such issuance or incurrence does not happen on or before the date of the proposed termination (in which case, a new notice shall be required to be sent in connection with any subsequent termination), and (b) Borrowers may extend the date of termination at any time with the consent of Agent (which consent shall not be unreasonably withheld or delayed).

3.6 **Conditions Subsequent.** The obligation of Agent to continue to make Revolving Loans (or otherwise extend credit hereunder) is subject to the fulfillment, on or before the date applicable thereto, of the conditions subsequent set forth on Schedule 3.6 (the failure by Borrowers to so perform or cause to be performed such conditions subsequent as and when required by the terms thereof (unless such date is extended, in writing, by Agent), shall constitute an Event of Default). Such conditions precedent were fulfilled to the satisfaction of Agent on or prior to February 28, 2015.

4. REPRESENTATIONS AND WARRANTIES.

In order to induce the Lender Group to enter into this Agreement, each Borrower makes the following representations and warranties to the Lender Group, which shall be true, correct, and complete, in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof), as of the Amendment No. 4 Effective Date, and shall be true, correct, and complete, in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof), as of the date of the making of each Revolving Loan (or other extension of credit) made thereafter, as though made on and as of the date of such Revolving Loan (or other extension of credit) (except to the extent that such representations and warranties relate solely to an earlier date, in which case such representations and warranties shall be true and correct in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of such earlier date) and such representations and warranties shall survive the execution and delivery of this Agreement:

4.1 **Due Organization and Qualification; Subsidiaries**.

(a) Each Loan Party (i) is duly organized and existing and in good standing under the laws of the jurisdiction of its organization, (ii) is qualified to do business in any state where the failure to be so qualified could reasonably be expected to result in a Material Adverse Effect, and (iii) has all requisite corporate, limited liability company, or other company power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents to which it is a party, and to carry out the transactions contemplated thereby.

(b) Set forth on Schedule 4.1(b) (as such Schedule may be updated from time to time to reflect changes resulting from transactions permitted under this Agreement) is a complete and accurate description of the authorized Equity Interests of each Borrower, by class, and, as of the Amendment No. 4 Effective Date, a description of the number of shares of each such class that are issued and outstanding.

(c) Set forth on Schedule 4.1(c) (as such Schedule may be updated from time to time to reflect changes resulting from transactions permitted under this Agreement) is a complete and accurate list of the Loan Parties' direct and indirect Subsidiaries, showing: (i) the number of shares of each class of common and preferred Equity Interests authorized for each of such Subsidiaries and (ii) the number and the percentage of the outstanding shares of each such class owned directly or indirectly by the Loan Parties or their Subsidiaries, as applicable. All of the outstanding Equity Interests of each such Subsidiary has been validly issued and is fully paid and non-assessable.

(d) Except as set forth on Schedule 4.1(d), as of the Amendment No. 4 Effective Date, there are no subscriptions, options, warrants, or calls relating to any shares of any Borrower's or any of its Subsidiaries' Equity Interests, including any right of conversion or exchange under any outstanding security or other instrument. No Loan Party is subject to any obligation (contingent or otherwise) to

repurchase or otherwise acquire or retire any shares of its Equity Interests or any security convertible into or exchangeable for any of its Equity Interests.

4.2 **Due Authorization; No Conflict**.

(a) As to each Loan Party, the execution, delivery, and performance by such Loan Party of the Loan Documents to which it is a party have been duly authorized by all necessary corporate, limited liability company or other company action on the part of such Loan Party.

(b) As to each Loan Party, the execution, delivery, and performance by such Loan Party of the Loan Documents to which it is a party do not and will not (i) violate any material provision of federal, state, or local law or regulation applicable to any Loan Party or its Subsidiaries, the Governing Documents of any Loan Party or its Subsidiaries, or any order, judgment, or decree of any court or other Governmental Authority binding on any Loan Party or its Subsidiaries, (ii) conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under any material agreement of any Loan Party or its Subsidiaries where any such conflict, breach or default could individually or in the aggregate reasonably be expected to have a Material Adverse Effect, (iii) result in or require the creation or imposition of any Lien of any nature whatsoever upon any assets of any Loan Party, other than Permitted Liens, or (iv) require any approval of any holder of Equity Interests of a Loan Party or any approval or consent of any Person under any material agreement of any Loan Party, other than consents or approvals that have been obtained and that are still in force and effect and except, in the case of material agreements, for consents or approvals, the failure to obtain could not individually or in the aggregate reasonably be expected to cause a Material Adverse Effect.

4.3 **Governmental Consents.** The execution, delivery, and performance by each Loan Party of the Loan Documents to which such Loan Party is a party and the consummation of the transactions contemplated by the Loan Documents do not and will not require any registration with, consent, or approval of, or notice to, or other action with or by, any Governmental Authority, other than registrations, consents, approvals, notices, or other actions that have been obtained and that are still in force and effect and except for filings and recordings with respect to the Collateral to be made, or otherwise delivered to Agent for filing or recordation, as of the Amendment No. 4 Effective Date.

4.4 **Binding Obligations; Perfected Liens**.

(a) Each Loan Document has been duly executed and delivered by each Loan Party that is a party thereto and is the legally valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights generally.

(b) Agent's Liens are validly created, perfected (other than (i) in respect of motor vehicles that are subject to a certificate of title, (ii) money, (iii) letter-of-credit rights (other than supporting obligations), (iv) commercial tort claims (other than those that, by the terms of the Guaranty and Security Agreement, are required to be perfected), and (v) any Deposit Accounts and Securities Accounts not subject to a Control Agreement as permitted by Section 7(k)(iv) of the Guaranty and Security Agreement, and subject only to the filing of financing statements (and in the case of registered intellectual property, federal or other similar filings) and the recordation of the Mortgages, in each case, in the appropriate filing offices), and first priority Liens, subject only to Permitted Liens.

4.5 **Title to Assets; No Encumbrances.** Each of the Loan Parties and its Subsidiaries has (a) good, sufficient and legal title to (in the case of fee interests in Real Property), (b) valid leasehold

interests in (in the case of leasehold interests in real or personal property), and (c) good and marketable title to (in the case of all other personal property) all of their respective assets reflected in their most recent financial statements delivered pursuant to Section 5.1, in each case except for assets disposed of since the date of such financial statements to the extent permitted hereby. All of such assets are free and clear of Liens except for Permitted Liens.

4.6 **Litigation**.

(a) As of the Amendment No. 4 Effective Date, except as set forth or otherwise disclosed on Schedule 4.6 hereto, there are no actions, suits, or proceedings pending or, to the knowledge of any Borrower, after due inquiry, threatened in writing against a Loan Party or any of its Subsidiaries that either individually or in the aggregate could reasonably be expected to result in a Material Adverse Effect.

(b) Schedule 4.6(b) to this Agreement sets forth a complete and accurate description, with respect to each of the actions, suits, or proceedings with asserted liabilities in excess of, or that could reasonably be expected to result in liabilities in excess of, $500,000 for any Loan Party that, as of the Amendment No. 4 Effective Date, is pending or, to the knowledge of any Borrower, after due inquiry, threatened against a Loan Party or any of its Subsidiaries, of (i) the parties to such actions, suits, or proceedings, (ii) the nature of the dispute that is the subject of such actions, suits, or proceedings, (iii) the procedural status, as of the Amendment No. 4 Effective Date, with respect to such actions, suits, or proceedings, and (iv) whether any liability of the Loan Parties' and their Subsidiaries in connection with such actions, suits, or proceedings is covered by insurance.

4.7 **Compliance with Laws.** No Loan Party nor any of its Subsidiaries (a) is in violation of any applicable laws, rules, regulations, executive orders, or codes (including Environmental Laws) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect, or
(b) is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

4.8 **No Material Adverse Effect.** (i) The financial statements relating to Parent and its Subsidiaries for the fiscal year ended December 31, 2020 and (ii) the historical financial statements relating to Parent and its Subsidiaries prepared pursuant to Section 5.1(c) after the Amendment No. 4 Effective Date, in each case, that have been delivered by Borrowers to Agent have been prepared in accordance with GAAP (except, in the case of unaudited financial statements, for the lack of footnotes and being subject to year-end audit adjustments) and present fairly, in all material respects, the consolidated financial condition of Parent and its Subsidiaries as of the date thereof and their consolidated results of operations for the period then ended. Since December 31, 2020, no event, circumstance, or change has occurred that has or could reasonably be expected to result in a Material Adverse Effect with respect to the Loan Parties and their Subsidiaries.

4.9 **Solvency**.

(a) Borrowers, taken as whole with their Subsidiaries on a consolidated combined basis, are Solvent.

(b) No transfer of property is being made by any Loan Party and no obligation is being incurred by any Loan Party in connection with the transactions contemplated by this Agreement or the other Loan Documents with the intent to hinder, delay, or defraud either present or future creditors of such Loan Party.

4.10 **Employee Benefits.**

(a) Except as set forth on Schedule 4.10, as of the Amendment No. 4 Effective Date, no Loan Party, none of their Subsidiaries, nor Liggett Vector Brands LLC maintains or contributes to any Benefit Plan.

(b) Except as could not reasonably be expected to result in a Material Adverse Effect, each Loan Party and each of the ERISA Affiliates has complied with ERISA, the IRC, and all applicable laws regarding each Benefit Plan.

(c) Except as could not reasonably be expected to result in a Material Adverse Effect, each Employee Benefit Plan other than a Multiemployer Plan is, and has been, maintained in substantial compliance with ERISA, the IRC, all applicable laws and the terms of each such Employee Benefit Plan.

(d) Except as could not reasonably be expected to result in a Material Adverse Effect, each Employee Benefit Plan other than a Multiemployer Plan that is intended to qualify under Section 401(a) of the IRC has received a favorable determination letter from the Internal Revenue Service or an application for such letter is currently being processed by the Internal Revenue Service. To the best knowledge of each Loan Party and the ERISA Affiliates after due inquiry, nothing has occurred which would prevent, or cause the loss of, such qualification.

(e) Except as could not reasonably be expected to result in a Material Adverse Effect, no liability to the PBGC (other than for the payment of current premiums which are not past due) by any Loan Party or ERISA Affiliate has been incurred or is expected by any Loan Party or ERISA Affiliate to be incurred with respect to any Pension Plan.

(f) Except as could not reasonably be expected to result in a Material Adverse Effect, no Notification Event exists or has occurred in the past six (6) years.

(g) Except as could not reasonably be expected to result in a Material Adverse Effect, no Loan Party or ERISA Affiliate has provided any security under Section 436 of the IRC.

4.11 **Environmental Condition.** Except as set forth on Schedule 4.11, (a) to each Borrower's knowledge, no Loan Party's nor any of its Subsidiaries' properties or assets has ever been used by a Loan Party, its Subsidiaries, or by previous owners or operators in the disposal of, or to produce, store, handle, treat, release, or transport, any Hazardous Materials, where such disposal, production, storage, handling, treatment, release or transport was in violation of any applicable Environmental Law except as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (b) to each Borrower's knowledge, after due inquiry, as of the Amendment No. 4 Effective Date no Loan Party's nor any of its Subsidiaries' material properties or assets has ever been designated or identified in any manner pursuant to any environmental protection statute as a Hazardous Materials disposal site, (c) as of the Amendment No. 4 Effective Date, no Loan Party nor any of its Subsidiaries has received written notice that a Lien arising under any outstanding Environmental Law that could reasonably be expected to have a Material Adverse Effect has attached to any revenues or to any Real Property owned or operated by a Loan Party or its Subsidiaries, and (d) no Loan Party nor any of its Subsidiaries nor any of their respective facilities or operations is subject to any outstanding written order, consent decree, or settlement agreement with any Person relating to any Environmental Law or Environmental Liability that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

4.12 **Complete Disclosure.** All factual information taken as a whole (other than forward-looking information and projections (including Projections) and information of a general economic nature and

general information about Borrowers' industry) furnished by or on behalf of a Loan Party or its Subsidiaries in writing to Agent or any Lender (including all information contained in the Schedules hereto or in the other Loan Documents) for purposes of or in connection with this Agreement or the other Loan Documents, and all other such factual information taken as a whole (other than forward-looking information and projections (including Projections) and information of a general economic nature and general information about Borrowers' industry) hereafter furnished by or on behalf of a Loan Party or its Subsidiaries in writing to Agent or any Lender will be, true and accurate, in all material respects, on the date as of which such information is dated or certified and not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not misleading in any material respect at such time in light of the circumstances under which such information was provided. The Projections delivered to Agent on February 9, 2021 represent, and as of the date on which any other Projections are delivered to Agent after the Amendment No. 4 Effective Date, such additional Projections represent, Borrowers' good faith estimate, on the date such Projections are delivered, of the Loan Parties' and their Subsidiaries' future performance for the periods covered thereby based upon assumptions believed by Borrowers to be reasonable at the time of the delivery thereof to Agent (it being understood that such Projections are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties and their Subsidiaries, and no assurances can be given that such Projections will be realized, and although reflecting Borrowers' good faith estimate, projections or forecasts based on methods and assumptions which Borrowers believed to be reasonable at the time such Projections were prepared, are not to be viewed as facts, and that actual results during the period or periods covered by the Projections may differ materially from projected or estimated results).

4.13 **Patriot Act.** To the extent applicable, each Loan Party is in compliance, in all material respects, with the (a) Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto, and (b) Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act of 2001, as amended) (the "Patriot Act").

4.14 **Indebtedness.** Set forth on Schedule 4.14 is a true and complete list of all Indebtedness of each Loan Party and each of its Subsidiaries outstanding immediately prior to the Amendment No. 4 Effective Date that is to remain outstanding immediately after the Amendment No. 4 Effective Date and such Schedule accurately sets forth the aggregate principal amount of such Indebtedness as of the Amendment No. 4 Effective Date.

4.15 **Payment of Taxes.** Except as otherwise permitted under Section 5.5, all material tax returns and reports of each Loan Party and its Subsidiaries required to be filed by any of them have been timely filed, and all material taxes shown on such tax returns to be due and payable and all other material assessments, fees and other governmental charges upon a Loan Party and its Subsidiaries and upon their respective assets, income, businesses and franchises that are due and payable have been paid when due and payable. Each Loan Party and each of its Subsidiaries have made adequate provision in accordance with GAAP for all taxes not yet due and payable except as could not reasonably be expected to have a Material Adverse Effect. No Borrower knows of any proposed tax assessment against a Loan Party or any of its Subsidiaries that is not being or will not be actively contested by such Loan Party or such Subsidiary diligently, in good faith, and by appropriate proceedings; provided that such reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor.

4.16 **Margin Stock.** No Loan Party nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No part of the proceeds of the loans made to Borrowers will be used to purchase or carry

any Margin Stock or to extend credit to others for the purpose of purchasing or carrying any Margin Stock or for any purpose that violates the provisions of Regulation T, U or X of the Board of Governors.

4.17 **Governmental Regulation.** No Loan Party nor any of its Subsidiaries is subject to regulation under the Federal Power Act or the Investment Company Act of 1940 or under any other federal or state statute or regulation which may limit its ability to incur Indebtedness or which may otherwise render all or any portion of the Obligations unenforceable. No Loan Party nor any of its Subsidiaries is a "registered investment company" or a company "controlled" by a "registered investment company" or a "principal underwriter" of a "registered investment company" as such terms are defined in the Investment Company Act of 1940.

4.18 **OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws.** No Loan Party nor any of its Subsidiaries nor, to the knowledge of such Loan Party, any director, officer, employee, authorized agent or Affiliate of such Loan Party or such Subsidiary is a Sanctioned Person or a Sanctioned Entity. No Loan Party nor any of its Subsidiaries has any assets located in Sanctioned Entities, or derives revenues from investments in, or transactions with Sanctioned Persons or Sanctioned Entities. Each of the Loan Parties and its Subsidiaries has implemented and maintains in effect policies and procedures reasonably designed to promote and achieve compliance with all Sanctions, Anti- Corruption Laws and Anti-Money Laundering Laws applicable to the Loan Parties and their Subsidiaries.

4.19 **Employee and Labor Matters.** There is (i) no unfair labor practice complaint pending or, to the knowledge of any Borrower, threatened against any Borrower or its Subsidiaries before the National Labor Relations Board that could reasonably be expected to result in a Material Adverse Effect and no grievance or arbitration proceeding pending or to the knowledge of Borrowers, threatened against any Borrower or its Subsidiaries which arises out of or under any collective bargaining agreement and that could reasonably be expected to result in a Material Adverse Effect, and (ii) no strike, labor dispute, slowdown, stoppage or similar action or grievance pending or threatened in writing against any Borrower or its Subsidiaries that could reasonably be expected to result in a Material Adverse Effect, in each case, on the Amendment No. 4 Effective Date. None of any Borrower or its Subsidiaries has incurred any liability or obligation under the Worker Adjustment and Retraining Notification Act or similar state law, which remains unpaid or unsatisfied except as could not reasonably be expected to result in a Material Adverse Effect. The hours worked and payments made to employees of each Borrower and its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable legal requirements, except to the extent such violations could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. All material payments due from any Borrower or its Subsidiaries on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of Borrowers, except where the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

4.20 **Reserved.**

4.21 **Leases.** Each Loan Party and its Subsidiaries enjoy peaceful and undisturbed possession under all leases material to their business and to which they are parties or under which they are operating, and, subject to Permitted Protests, all of such material leases are valid and subsisting and no material default by the applicable Loan Party or its Subsidiaries exists under any of them.

4.22 **Eligible Accounts.** As to each Account that is identified by Borrowers as an Eligible Account in a Borrowing Base Certificate submitted to Agent, such Account is, as of the date thereof, (a) a bona fide existing payment obligation of the applicable Account Debtor created by the sale and delivery of Inventory or the rendition of services to such Account Debtor in the ordinary course of the Borrowers' business, (b) owed to a Borrower without any known defenses, disputes, offsets, counterclaims, or rights

of return or cancellation, and (c) not excluded as ineligible by virtue of one or more of the excluding criteria (other than any Agent-discretionary criteria) set forth in the definition of Eligible Accounts.

4.23 **Eligible Inventory.** As to each item of Inventory that is identified by Borrowers as Eligible Inventory in a Borrowing Base Certificate submitted to Agent, such Inventory is, as of the date thereof,
(a) of good and merchantable quality, free from known defects, and (b) not excluded as ineligible by virtue of one or more of the excluding criteria (other than any Agent-discretionary criteria) set forth in the definition of Eligible Inventory.

4.24 **Location of Inventory.** The Inventory of each Borrower with a value in excess of $500,000 in the aggregate for such Borrower (as to all locations for such Borrower) is not stored with a bailee, warehouseman, or similar party unless such bailee, warehouseman, or similar party has executed a Collateral Access Agreement (except to the extent otherwise consented to by Agent) and is located only at, or in-transit between, the locations identified on Schedule 4.24 (as such Schedule may be updated pursuant to Section 5.15).

4.25 **Inventory Records.** Each Loan Party keeps materially correct and accurate records itemizing and describing the type, quality, and quantity of its and its Subsidiaries' Inventory and the book value thereof.

4.26 **Hedge Agreements**. On each date that any Hedge Agreement is executed by any Hedge Provider, Borrower and each other Loan Party that is eligible shall satisfy all eligibility, suitability and other requirements under the Commodity Exchange Act (7 U.S.C. § 1, et seq., as in effect from time to time) and the Commodity Futures Trading Commission regulations.

5. AFFIRMATIVE COVENANTS.

Each Loan Party that is a party hereto covenants and agrees that, until termination of all of the Revolver Commitments and payment in full of the Obligations:

5.1 **Financial Statements, Reports, Certificates.** Borrowers (a) shall deliver to Agent each of the financial statements, reports, and other items set forth on Schedule 5.1 no later than the times specified therein, (b) agree that no Subsidiary of a Loan Party will have a fiscal year different from that of Parent (c) agree to maintain a system of accounting that enables Borrowers to produce financial statements in accordance with GAAP, and (d) agree that they will, and will cause each other Loan Party to, (i) keep a reporting system that shows all additions, sales, claims, returns, and allowances with respect to their and their Subsidiaries' sales, and (ii) maintain their billing systems and practices substantially as in effect as of the Amendment No. 4 Effective Date and shall only make material modifications thereto with notice to, and with the consent of, Agent (such consent not to be unreasonably withheld or delayed).

5.2 **Reporting.** Borrowers (a) shall deliver to Agent each of the reports set forth on Schedule 5.2 at the times specified therein, and (b) agree to use commercially reasonable efforts in cooperation with Agent to facilitate and implement a system of electronic collateral reporting in order to provide electronic reporting of each of the items set forth on such Schedule; provided that electronic collateral reporting as to any Accounts shall be implemented no later than thirty (30) days after a Borrower has requested that Agent and Lenders include such Accounts in the calculation of the Borrowing Base.

5.3 **Existence.** Except as otherwise permitted under Section 6.3 or Section 6.4, each Borrower shall, and shall cause each Loan Party to, at all times preserve and keep in full force and effect such Person's valid existence and good standing in its jurisdiction of organization and, except as could not reasonably be expected to result in a Material Adverse Effect, good standing with respect to all other

jurisdictions in which it is qualified to do business and any rights, franchises, permits, licenses, accreditations, authorizations, or other approvals which the failure to maintain could reasonably be expected to result in a Material Adverse Effect.

5.4 **Maintenance of Properties.** Each Borrower shall, and shall cause each of its Subsidiaries to, maintain and preserve all of its assets that are necessary or useful in the proper conduct of its business in good working order and condition, ordinary wear, tear, casualty, and condemnation and Permitted Dispositions excepted (and except where the failure to so maintain and preserve assets could not reasonably be expected to result in a Material Adverse Effect).

5.5 **Taxes.** Each Borrower shall, and shall cause each of its Subsidiaries to, pay in full before delinquency or before the expiration of any extension period all material governmental assessments and taxes imposed, levied, or assessed against it, or any of its assets or in respect of any of its income, businesses, or franchises, except to the extent that the validity of such governmental assessment or tax is the subject of a Permitted Protest.

5.6 **Insurance.**

(a) Each Borrower shall, and shall cause each of its Subsidiaries to, maintain insurance respecting each of such Borrower's and its Subsidiaries' assets wherever located, covering liabilities, losses or damages as are customarily insured against by other Persons engaged in the same or similar businesses and similarly situated and located. All such policies of insurance shall be with financially sound and reputable insurance companies reasonably acceptable to Agent (it being agreed that, as of the Amendment No. 4 Effective Date, Factory Mutual Insurance Company is acceptable to Agent) and in such amounts as is carried generally in accordance with sound business practice by companies in similar businesses similarly situated and located and, in any event, in amount, adequacy, and scope reasonably satisfactory to Agent (it being agreed that the amount, adequacy, and scope of the policies of insurance of Borrowers in effect as of the Amendment No. 4 Effective Date are acceptable to Agent). All property insurance policies covering the Collateral are to be made payable to Agent for the benefit of Agent and the Lenders, as their interests may appear, in case of loss, pursuant to a standard lender's loss payable endorsement with a standard non-contributory "lender" or "secured party" clause and are to contain such other provisions as Agent may reasonably require to fully protect the Lenders' interest in the Collateral and to any payments to be made under such policies. All certificates of property and general liability insurance of each Loan Party and its Subsidiaries and its Subsidiaries are to be delivered to Agent, with the lender's loss payable (but only in respect of Collateral) and additional insured endorsements in favor of Agent and shall provide for not less than thirty (30) days (ten (10) days in the case of non-payment) prior written notice to Agent of the exercise of any right of cancellation. If any Loan Party or its Subsidiaries fails to maintain such insurance, Agent may arrange for such insurance, but at Borrowers' expense and without any responsibility on Agent's part for obtaining the insurance, the solvency of the insurance companies, the adequacy of the coverage, or the collection of claims. Borrowers shall give Agent prompt notice of any loss exceeding $1,000,000 covered by their or their Subsidiaries' casualty or business interruption insurance. Upon the occurrence and during the continuance of an Event of Default, Agent shall have the right to file claims under any property and general liability insurance policies in respect of the Collateral, to receive, receipt and give acquittance for any payments that may be payable thereunder, and to execute any and all endorsements, receipts, releases, assignments, reassignments or other documents that may be necessary to effect the collection, compromise or settlement of any claims under any such insurance policies.

(b) If, at any time, the area in which any Real Property that is subject to a Mortgage is located is designated a "flood hazard area" in any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or any successor agency), the Borrower that owns such Real Property

shall obtain flood insurance in such total amount and on terms that are satisfactory to Agent and all Lenders from time to time, and otherwise comply with the Flood Laws or as is otherwise satisfactory to Agent and all Lenders.

5.7 **Inspection**.

(a) Each Loan Party shall, and shall cause each of its Subsidiaries to, permit Agent, any Lender and each of their respective duly authorized representatives to visit any of its properties and inspect any of its assets or books and records, to examine and make copies of its books and records, and to discuss its affairs, finances, and accounts with, and to be advised as to the same by, its officers and employees (provided an authorized representative of a Borrower shall be allowed to be present) at such reasonable times and intervals as Agent or any Lender, as applicable, may designate and, so long as no Event of Default has occurred and is continuing, with reasonable prior notice to Borrowers and during regular business hours; provided that, for the avoidance of doubt, appraisals and field examinations shall be subject to Section 2.10(d) hereof.

(b) Each Loan Party shall, and shall cause each of its Subsidiaries to, permit Agent and each of its duly authorized representatives to conduct field examinations, appraisals and valuations at such reasonable times and intervals as Agent may designate, at Borrowers' expense, subject to Section 2.10(c).

5.8 **Compliance with Laws.** Each Loan Party shall, and shall cause each of its Subsidiaries to, comply with the requirements of all applicable laws, rules, regulations, and orders of any Governmental Authority, other than laws, rules, regulations, and orders the non-compliance with which, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

5.9 **Environmental.** Each Loan Party shall, and shall cause each of its Subsidiaries to:

(a) keep any property either owned or operated by such Loan Party or its Subsidiaries free of any Environmental Liens or post bonds or other financial assurances sufficient to satisfy the obligations or liability evidenced by such Environmental Liens;

(b) comply with Environmental Laws, except to the extent that could not reasonably be expected to have a Material Adverse Effect, and provide to Agent documentation of such compliance which Lender reasonably requests;

(c) promptly notify Lender of any release of which such Loan Party has knowledge of a Hazardous Material in any reportable quantity from or onto property owned or operated by such Loan Party or its Subsidiaries and take any Remedial Actions required to abate said release or otherwise to come into compliance with applicable Environmental Law, except to the extent that could not reasonably be expected to have a Material Adverse Effect; and

(d) promptly, but in any event within five (5) Business Days of its receipt thereof, provide Agent with written notice of any of the following: (i) notice that an Environmental Lien has been filed against any material portion of the real or personal property of such Loan Party or its Subsidiaries, (ii) commencement of any material Environmental Action or written notice that an material Environmental Action will be filed against such Loan Party or any of its Subsidiaries, and (iii) written notice of a material violation, citation, or other administrative order from a Governmental Authority in respect of any Environmental Laws.

5.10 **Disclosure Updates.** Each Loan Party shall, promptly and in no event later than five (5) Business Days after obtaining knowledge thereof, notify Agent if any written information, exhibit, or report furnished to Agent or the Lenders contained, at the time it was furnished, any untrue statement of a material fact or omitted to state any material fact necessary to make the statements contained therein, taken as a whole, not misleading in light of the circumstances in which made. The foregoing to the contrary notwithstanding, any notification pursuant to the foregoing provision will not cure or remedy the effect of the prior untrue statement of a material fact or omission of any material fact nor shall any such notification have the effect of amending or modifying this Agreement or any of the Schedules hereto.

5.11 **Formation of Subsidiaries.** Each Loan Party shall, at the time that such Loan Party forms any direct or indirect Subsidiary or acquires any direct or indirect Subsidiary after the Restatement Effective Date, within ten (10) Business Days of such formation or acquisition (or such later date as is necessary to permit compliance with Section 5.13 or otherwise permitted by Agent in its sole discretion): (a) cause such new Subsidiary to provide to Agent a joinder to the Guaranty and Security Agreement, together with such other security agreements, as well as appropriate financing statements (and with respect to all property subject to a mortgage, fixture filings), all in form and substance reasonably satisfactory to Agent (including being sufficient to grant Agent a first priority Lien (subject to Permitted Liens) in and to the Collateral owned by such newly formed or acquired Subsidiary); provided that the joinder to the Guaranty and Security Agreement and such other security agreements shall not be required to be provided to Agent with respect to any Subsidiary of any Loan Party that is a CFC or a direct or indirect Subsidiary of a CFC if providing such agreements would result in adverse tax consequences or the costs to the Loan Parties of providing such guaranty or such security agreements are unreasonably excessive (as determined by Agent in its Permitted Discretion in consultation with Borrowers) in relation to the benefits to Agent of the security or guarantee afforded thereby, (b) if such new Subsidiary is not a corporation, provide, or cause the applicable Loan Party to provide, to Agent a pledge agreement (or an addendum to the Guaranty and Security Agreement) and appropriate certificates and powers or financing statements, pledging all of the direct or beneficial ownership interest in such new Subsidiary in form and substance reasonably satisfactory to Agent; provided that only 65% of the total outstanding voting Equity Interests of any Subsidiary of a Loan Party that is a CFC or a CFC Holding Company (and none of the Equity Interests of any direct or indirect Subsidiary of such CFC or CFC Holding Company) shall be required to be pledged if pledging a greater amount would result in adverse tax consequences or the costs to the Loan Parties of providing such pledge are unreasonably excessive (as determined by Agent in consultation with Borrowers) in relation to the benefits to Agent of the security afforded thereby (which pledge, if reasonably requested by Agent, shall be governed by the laws of the jurisdiction of such Subsidiary), and (c) provide to Agent all other documentation, including one or more opinions of counsel reasonably satisfactory to Agent, which, in its opinion, is appropriate with respect to the execution and delivery of the applicable documentation referred to above (including policies of title insurance, flood certification documentation or other documentation with respect to all Real Property owned in fee and subject to a mortgage); it being understood that notwithstanding anything in the Loan Documents to the contrary, no Real Property other than the Mebane Premises shall be part of the Collateral unless such Real Property has a fair market value in excess of $5,000,000. Any document, agreement, or instrument executed or issued pursuant to this Section 5.11 shall constitute a Loan Document.

5.12 **Further Assurances.** Each Loan Party shall, and shall cause each of the other Loan Parties to, at any time upon the reasonable request of Agent, execute or deliver to Agent any and all financing statements, fixture filings, security agreements, pledges, assignments, mortgages, deeds of trust, opinions of counsel, and all other documents (the "Additional Documents") that Agent may reasonably request in form and substance reasonably satisfactory to Agent, to create, perfect, and continue perfected or to better perfect Agent's Liens in all of the Collateral owned by each Borrower and each other Loan Party (whether now owned or hereafter arising or acquired, tangible or intangible, real or personal), to create and perfect Liens in favor of Agent in any Real Property acquired by any Borrower or any other Loan

Party with a fair market value in excess of $5,000,000, and in order to fully consummate all of the transactions contemplated hereby and under the other Loan Documents; provided that the foregoing shall not apply to any Subsidiary of a Borrower that is a CFC, a CFC Holding Company or any direct or indirect Subsidiary of a CFC or CFC Holding Company if providing such documents would result in adverse tax consequences or the costs to the Loan Parties of providing such documents are unreasonably excessive (as determined by Agent in its Permitted Discretion in consultation with Borrowers) in relation to the benefits to Agent and the Lenders of the security afforded thereby. To the maximum extent permitted by applicable law, if any Borrower or any other Loan Party refuses or fails to execute or deliver any reasonably requested Additional Documents within a reasonable period of time following the request to do so, each Borrower and each other Loan Party hereby authorizes Agent to execute any such Additional Documents in the applicable Loan Party's name and authorizes Agent to file such executed Additional Documents in any appropriate filing office. In furtherance of, and not in limitation of, the foregoing, each Loan Party shall take such actions as Agent may reasonably request from time to time to ensure that the Obligations are guaranteed by the Guarantors, if any, and are secured by substantially all of the assets of each Loan Party (other than Excluded Property (as defined in the Guaranty and Security Agreement)).

5.13 **Mortgages.** Notwithstanding anything to the contrary contained herein (including Section 5.12 hereof and this Section 5.13) or in any other Loan Document, (x) Agent shall not accept delivery of any Mortgage from any Loan Party unless each of the Lenders has received forty-five (45) days prior written notice thereof and Agent has received confirmation from each Lender that such Lender has completed its flood insurance diligence, has received copies of all required flood insurance documentation and has confirmed that flood insurance compliance has been completed as required by the Flood Laws or as otherwise satisfactory to such Lender and (y) Agent shall not accept delivery of any joinder to any Loan Document with respect to any Subsidiary of any Loan Party that is not a Loan Party, unless Agent has completed its Patriot Act searches, OFAC/PEP searches and customary individual background checks for such Subsidiary, the results of which shall be satisfactory to Agent, and, if such Subsidiary qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, such Subsidiary has delivered a Beneficial Ownership Certification in relation to such Subsidiary.

5.14 **Compliance with ERISA and the IRC**. In addition to and without limiting the generality of Section 5.8, except as, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, each Borrower shall, and shall cause each of the other Loan Parties to, (a) comply with applicable provisions of ERISA and the IRC with respect to all Benefit Plans, (b) without the prior written consent of Agent, not take any action or fail to take action the result of which could result in a Loan Party or ERISA Affiliate incurring a material liability to the PBGC or to a Multiemployer Plan (other than to pay contributions or premiums payable in the ordinary course), (c) not participate in any prohibited transaction that could result in other than a de minimis civil penalty, excise tax, fiduciary liability or correction obligation under ERISA or the IRC, and (d) operate each Employee Benefit Plan other than a Multiemployer Plan in such a manner that will not incur any tax liability under the IRC (including Section 4980B of the IRC). Each Loan Party agrees to furnish to Agent upon Agent's written request such additional information about any Employee Benefit Plan for which any Loan Party or ERISA Affiliate could reasonably expect to incur any material liability. With respect to each Pension Plan (other than a Multiemployer Plan) except as could not reasonably be expected to result in a Material Adverse Effect, the Loan Parties and the ERISA Affiliates shall (i) satisfy in full and in a timely manner, without incurring any late payment or underpayment charge or penalty and without giving rise to any Lien, all of the contribution and funding requirements of the IRC and of ERISA, and (ii) pay, or cause to be paid, to the PBGC in a timely manner, without incurring any late payment or underpayment charge or penalty, all premiums required pursuant to ERISA.

5.15 **Location of Inventory; Chief Executive Office.** Each Borrower shall, and shall cause each of its Subsidiaries to, keep (a) its Inventory other than Inventory with a value of less than $500,000 in the aggregate for such Borrower (as to all locations for such Borrower) and Inventory in-transit only at the locations identified on Schedule 4.24; provided that Borrowers may amend Schedule 4.24 so long as such amendment occurs by written notice to Agent not less than ten (10) days prior to the date on which such Inventory is moved to such new location and (b) their chief executive offices only at the locations identified on Schedule 5.15; provided that Borrowers may amend Schedule 5.15 if any such chief executive office is relocated, so long as such new location is within the continental United States and Borrower uses commercially reasonable efforts to notify Agent as soon as reasonably practicable following such relocation (it being understood that Schedule 7 of the Guaranty and Security Agreement shall be deemed automatically updated in the event of any such relocation).

5.16 **Bank Products**. Loan Parties have established their primary depository and treasury management relationships with Wells Fargo or one or more of its Affiliates and shall continue to maintain such depository and treasury management relationships at all times during the term of the Agreement.

5.17 **OFAC; Sanctions; Anti-Corruption Laws; Anti-Money Laundering Laws.** Each Loan Party shall, and shall cause each of its Subsidiaries to comply with all applicable Sanctions, Anti- Corruption Laws and Anti-Money Laundering Laws in all material respects.

6. **NEGATIVE COVENANTS.**

Each Loan Party that is a party hereto covenants and agrees that, until termination of all of the Revolver Commitment and payment in full of the Obligations:

6.1 **Indebtedness.** Each Loan Party shall not, and shall not permit any of its Subsidiaries to create, incur, assume, suffer to exist, guarantee, or otherwise become or remain, directly or indirectly, liable with respect to any Indebtedness, except for Permitted Indebtedness.

6.2 **Liens.** Each Loan Party shall not, and shall not permit any of its Subsidiaries to, create, incur, assume, or suffer to exist, directly or indirectly, any Lien on or with respect to any of its assets, of any kind, whether now owned or hereafter acquired, or any income or profits therefrom, except for Permitted Liens.

6.3 **Restrictions on Fundamental Changes.** Each Borrower shall not, and shall not permit any of its Subsidiaries to:

(a) enter into any merger, consolidation, reorganization, or recapitalization, or reclassify its Equity Interests, except for (i) any merger between Loan Parties; provided that a Borrower must be the surviving entity of any such merger to which it is a party and no merger may occur between Parent and any Borrower, (ii) any merger between a Loan Party and a Subsidiary of such Loan Party that is not a Loan Party so long as such Loan Party is the surviving entity of any such merger, and (iii) any merger between Subsidiaries of any Borrower that are not Loan Parties;

(b) liquidate, wind up, or dissolve itself (or suffer any liquidation or dissolution), except for (i) the liquidation or dissolution of non-operating Subsidiaries of any Borrower with nominal assets and nominal liabilities, (ii) the liquidation or dissolution of a Loan Party (other than any Borrower) or any of its wholly-owned Subsidiaries so long as all of the assets (including any interest in any Equity Interests) of such liquidating or dissolving Loan Party or Subsidiary are transferred to a Loan Party that is not liquidating or dissolving, or (iii) the liquidation or dissolution of a Subsidiary of any Borrower that is not a Loan Party so long as all of the assets of such liquidating or dissolving Subsidiary are transferred to

a Subsidiary of a Borrower that is not liquidating or dissolving or to a Borrower and so long as if the Equity Interests of such Subsidiary were subject to a Lien in favor of Agent the assets are transferred to a Loan Party; or

(c) suspend or cease operating a substantial portion of its or their business, except as permitted pursuant to clauses (a) or (b) above or in connection with a transaction permitted under Section 6.4.

6.4 **Disposal of Assets.** Other than Permitted Dispositions or transactions expressly permitted by Sections 6.3 or 6.9, each Borrower shall not, and shall not permit any of its Subsidiaries to convey, sell, lease, license, assign, transfer, or otherwise dispose of any of its or their assets (including by an allocation of assets among newly divided limited liability companies pursuant to a "plan of division").

6.5 **Nature of Business.** Each Borrower shall not, and shall not permit any of its Subsidiaries to make any material change in the nature of its or their business as described in Schedule 6.5 or acquire any properties or assets that are not reasonably related to the conduct of such business activities or business activities that are reasonably related or ancillary thereto; provided that the foregoing shall not prevent any Borrower and its Subsidiaries from engaging in any business that is reasonably related or ancillary to its or their business.

6.6 **Prepayments and Amendments.** Each Borrower shall not, and shall not permit any of its Subsidiaries to:

(a) Except in connection with Refinancing Indebtedness permitted by Section 6.1:

(i) optionally prepay, redeem, defease, purchase, or otherwise acquire any Indebtedness of any Borrower or its Subsidiaries, other than (A) the Obligations in accordance with this Agreement and (B) optional prepayments, redemptions, defeasances, purchases, or other acquisitions of any of the Noteholder Debt (as such term is defined in the 2029 Notes Intercreditor Agreement) in accordance and pursuant to the guaranties referred to in clause (m) of the definition of Permitted Indebtedness; or

(ii) make any payment on account of Indebtedness that has been contractually subordinated in right of payment to the Obligations if such payment is not permitted at such time under the subordination terms and conditions; or

(b) directly or indirectly amend, modify, or change any of the terms or provisions of:

(i) any agreement, instrument, document, indenture, or other writing evidencing or concerning Permitted Indebtedness other than (A) the Obligations in accordance with this Agreement, and
(B) any agreement, instrument, document, indenture, or other writing evidencing or concerning any Permitted Indebtedness (other than the Permitted Indebtedness referred to in clause (A)), but only so long as such amendments, modifications, or changes to the terms of such Permitted Indebtedness shall not be, in the case of clause (B) hereof, either individually or in the aggregate, reasonably expected to be materially adverse to the interests of Agent and the Lender Group (for the avoidance of doubt, and by way of example, in the case of amendments, modifications and changes to Permitted Indebtedness permitted under clauses (m) and (n) of the definition of Permitted Indebtedness, any amendment, modification or change to documents relating to such Indebtedness that results in a shortening of the average weighted maturity (measured as of the date of the amendment, modification or change) of such Indebtedness, any increase in the interest rate applicable to such Indebtedness, any shortening of the maturity date thereof, or any increase in the frequency or amount of amortization of such Indebtedness during the term of this

Agreement, are understood to be changes materially adverse to the interests of Agent and the Lender Group); or

(ii) the Governing Documents of (A) 100 Maple or (B) of any other Loan Party or any of its Subsidiaries if the effect thereof, either individually or in the aggregate, could reasonably be expected to be materially adverse to the interests of Agent and the Lender Group;

provided that, in addition to payments of Indebtedness permitted pursuant to clause (a) above, so long as no Event of Default shall have occurred and be continuing or would result therefrom:

(A) any Borrower or any of its Subsidiaries may optionally prepay, redeem, defease, or otherwise acquire any Indebtedness of any Borrower or its Subsidiaries which is Permitted Indebtedness (other than Subordinated Indebtedness), so long as (1) as of the date of any such payment, Excess Availability at any time during the immediately preceding ten (10) consecutive day period shall have been not less than $7,500,000, (2) average Excess Availability for the thirty (30) consecutive day period ending on the date of such payment shall have been not less than $7,500,000, and (3) after giving effect to the transaction or payment, on a pro forma basis using the most recent calculation of the Borrowing Base immediately prior to any such payment or transaction, the Excess Availability shall be not less than $7,500,000; and

(B) any Borrower may optionally prepay, redeem, defease, or otherwise acquire any Indebtedness of any Borrower or its Subsidiaries which is Permitted Indebtedness consisting of Subordinated Indebtedness so long as such payments are expressly permitted by the terms of any subordination terms and conditions governing such Subordinated Indebtedness.

6.7 **Restricted Payments.** Each Borrower shall not, and shall not permit any of its Subsidiaries to make any Restricted Payment; provided that:

(a) each Borrower and its Subsidiaries may declare and make dividend payments or other distributions payable solely in the Equity Interests of such Person (other than Disqualified Equity Interests);

(b) any Borrower or any Subsidiary of any Borrower may make Restricted Payments to any Loan Party;

(c) so long as no Event of Default shall have occurred and be continuing or would result therefrom, Borrowers may make Restricted Payments to VGRH; provided that, (i) as of the date of any such payment, Excess Availability at any time during the immediately preceding ten (10) consecutive day period shall have been not less than $7,500,000, (ii) average Excess Availability for the thirty (30) consecutive day period ending on the date of such payment shall have been not less than $7,500,000, and
(iii) after giving effect to the transaction or payment, on a pro forma basis using the most recent calculation of the Borrowing Base immediately prior to any such payment or transaction, the Excess Availability shall be not less than $7,500,000; and

(d) Borrowers and their Subsidiaries may make Restricted Payments in order to make payments in respect of Subordinated Indebtedness in respect of which Borrowers and their Subsidiaries are liable to the extent expressly permitted under the subordination agreement governing such Subordinated Indebtedness by and between the holder of such Subordinated Indebtedness and Agent.

6.8 **Accounting Methods.** Each Borrower shall not, and shall not permit any of its Subsidiaries to modify or change its fiscal year or its method of accounting (other than as may be required to conform to GAAP).

6.9 **Investments.** Each Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, make or acquire any Investment or incur any liabilities (including contingent obligations) for or in connection with any Investment except for Permitted Investments.

6.10 **Transactions with Affiliates.** Each Borrower shall not, and shall not permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction with any Affiliate of any Borrower or any of its Subsidiaries except for:

(a) transactions among Borrowers and their respective Affiliates otherwise permitted in Section 6 of this Agreement;

(b) to the extent permitted by the 2029 Notes Indenture and the 2026 Notes Indenture, Liggett may make payments and engage in the transactions pursuant to (i) the Corporate Services Agreement, dated as of January 1, 1992, as amended from time to time, between Liggett and VGRH; provided that such payments do not exceed $6,898,572 in the aggregate during any consecutive twelve month (12) period, *plus* the five percent (5%) per annum increase on such fees contemplated by such agreement to the extent paid in any such twelve (12) month period by Borrower to VGRH and (ii) the Services Agreement, dated February 26, 1991, as amended from time to time, between Parent (successor- in-interest to Brooke Group Ltd., successor by assignment to Brooke Management Inc.) and Liggett; provided that such payments do not exceed $1,764,000 in the aggregate during any consecutive twelve month (12) period;

(c) each Borrower and each of its Subsidiaries may make payments and engage in the transactions permitted under Section 4.11(a) of the 2029 Notes Indenture and Section 4.11(a) of the 2026 Notes Indenture; provided that (i) each such transaction is in such Person's ordinary course of business on prices and terms no less favorable than would have been obtained in an arm's length transaction with a Person not an Affiliate, (ii) Borrowers shall provide Agent with written reports, on the tenth (10th) day of each month setting forth the nature and amount of each such transaction for the immediately prior month, including all payments with respect thereto and outstanding indebtedness owed thereunder, (iii) the aggregate indebtedness owed to Borrowers and their Subsidiaries in connection with all such transactions outstanding at any time does not exceed $500,000 for Liggett and its Subsidiaries, taken as a whole, and $500,000 for Vector Tobacco and its Subsidiaries, taken as a whole, and (iv) such transaction or series of related transactions does not involve payments or delivery of goods or services by Borrowers and their Subsidiaries having a value in excess of $500,000 for Liggett and its Subsidiaries, taken as a whole, and $500,000 for Vector Tobacco and its Subsidiaries, taken as a whole, in each case;

(d) the Mebane Lease, so long as (i) the term of the Mebane Lease (after giving effect to any extension thereof) shall not expire prior to the date that is one (1) month after the Maturity Date, and (ii) the Mebane Lease shall not be amended, modified or terminated in any manner materially adverse to Agent and Lender without the prior written consent of Agent, such consent not to be unreasonably withheld or delayed;

(e) the Liggett Agreement;

(f) the Vector Agreements;

(g) payments required pursuant to the Tax Sharing Agreement, dated June 29, 1990, as amended by the Agreement, dated May 24, 1999, by and between VGRH and Liggett (formerly known as Liggett & Myers Tobacco Company and successor-in-interest to Brooke Group Holding Inc., Eve Holdings Inc. and Chesterfield Assets Inc.), as may be amended from time to time or any other tax sharing agreement or arrangement with Parent or VGRH (each a "Tax Sharing Agreement");

(h) the guaranty by any Borrower and their respective Subsidiaries of the Indebtedness owing with respect to, and the related grants of Liens contemplated by the 2029 Notes Intercreditor Agreement in respect of, the 2029 Notes and the 2029 Notes Indenture and any refinancing, refunding, extensions, renewals, issuances, replacements, amendments or modifications thereof to the extent permitted by the 2029 Notes Intercreditor Agreement, it being understood that the Borrowers shall furnish to Agent all notices or demands relating to an event of default under or acceleration of the maturity of such Indebtedness either received by any Borrower or on its behalf, promptly after the receipt thereof, or sent by any Borrower or on its behalf, concurrently with the sending thereof, as the case may be;

(i) the guaranty by any Borrower and their respective Subsidiaries of the Indebtedness owing with respect to the 2026 Notes and the 2026 Notes Indenture and any refinancing, refunding, extensions, renewals, issuances, replacements, amendments or modifications thereof, it being understood that Borrowers shall furnish to Agent all notices or demands relating to an event of default under or acceleration of the maturity of such indebtedness either received by any Borrower or on its behalf, promptly after the receipt thereof, or sent by any Borrower or on its behalf, concurrently with the sending thereof, as the case may be; and

(j) transactions permitted by Section 6.3, Section 6.7 or Section 6.9.

6.11 **Use of Proceeds.** Each Loan Party shall not, and shall not permit any of its Subsidiaries to, use the proceeds of any Loan made hereunder for any purpose other than (a) to pay the fees, costs, and expenses incurred in connection with this Agreement, the other Loan Documents, and the transactions contemplated hereby and thereby, and (b) consistent with the terms and conditions hereof, for their lawful and permitted purposes, including working capital, capital expenditures, and general corporate purposes; provided that (i) no part of the proceeds of the Loans will be used to purchase or carry any such Margin Stock or to extend credit to others for the purpose of purchasing or carrying any such Margin Stock or for any purpose that violates the provisions of Regulation T, U or X of the Board of Governors, (ii) no part of the proceeds of any Loan or Letter of Credit will be used to make any payments to a Sanctioned Entity or a Sanctioned Person, to fund any investments, loans or contributions in, or otherwise make such proceeds available to, a Sanctioned Entity or a Sanctioned Person, to fund any operations, activities or business of a Sanctioned Entity or a Sanctioned Person, or in any other manner that would result in a violation of any applicable Sanctions by any Person, and (iii) no part of the proceeds of any Loan or Letter of Credit will be used in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws or Anti-Money Laundering Laws applicable to the Loan Parties and their Subsidiaries.

6.12 **Inventory with Bailees.** Each Borrower shall not, and shall not permit any of its respective Subsidiaries to, store its Inventory with a value in excess of $500,000 in the aggregate for such Borrower (as to all locations for such Borrower) at any time with a bailee, warehouseman, or similar party unless such bailee, warehouseman or similar party has executed a Collateral Access Agreement (except to the extent otherwise consented to by Agent).

6.13 **Employee Benefits**.

(a) Each Borrower shall not, and shall not permit any of its Subsidiaries to, terminate, or permit any ERISA Affiliate to terminate, any Pension Plan in a manner, or take any other action with respect to any Pension Plan, which could reasonably be expected to result in any liability of any Loan Party or ERISA Affiliate to the PBGC that could reasonably be expected to have a Material Adverse Effect.

(b) Each Borrower shall not, and shall not permit any of its Subsidiaries to, fail to make, or permit any ERISA Affiliate to fail to make, full payment when due of all amounts which, under the provisions of any Benefit Plan, agreement relating thereto or applicable Law, any Loan Party or ERISA Affiliate is required to pay if such failure could reasonably be expected to have a Material Adverse Effect.

(c) Except as could not reasonably be expected to have a Material Adverse Effect, each Borrower shall not, and shall not permit any of its Subsidiaries to, amend, or permit any ERISA Affiliate to amend, a Pension Plan resulting in a material increase in current liability such that a Loan Party or ERISA Affiliate is required to provide security to such Plan under the IRC.

6.14 **Immaterial Subsidiaries.** Eve Holdings Inc. shall not engage in any business other than its ownership of international trademarks and related intellectual property and Liggett & Myers Holding Inc. shall not engage in any business other than its management of pension related assets and liabilities, in each case, as engaged in as of the Amendment No. 4 Effective Date.

7. FINANCIAL COVENANTS.

Each Borrower covenants and agrees that, until termination of the Revolver Commitment and payment in full of the Obligations:

(a) **Minimum EBITDA.** If, at any time, Excess Availability is less than $30,000,000, Borrowers and their Subsidiaries, on a consolidated combined basis, shall have minimum EBITDA, determined for each of the most recently ended twelve (12) consecutive fiscal months of Borrowers for which Agent has received financial statements, of not less than $150,000,000; provided that the foregoing shall only be applicable during a Compliance Period.

(b) **Capital Expenditures.** Borrowers, on a consolidated combined basis, shall not make Capital Expenditures (excluding the amount, if any, of Capital Expenditures made with Net Cash Proceeds reinvested pursuant to the proviso in Section 2.4(e)(ii)) in any fiscal year in an aggregate amount greater than $20,000,000; provided that, if the amount of the Capital Expenditures permitted to be made in any fiscal year is greater than the actual amount of the Capital Expenditures (excluding the amount, if any, of Capital Expenditures made with Net Cash Proceeds reinvested pursuant to the proviso in Section 2.4(e)(ii)) actually made in such fiscal year (the amount by which such permitted Capital Expenditures for such fiscal year exceeds the actual amount of Capital Expenditures for such fiscal year, the "Excess Amount"), then the lesser of (i) such Excess Amount and (ii) $10,000,000 (such lesser amount referred to as the "Carry-Over Amount") may be carried forward to the next succeeding Fiscal Year (the "Succeeding Fiscal Year"); provided, further, that the Carry-Over Amount applicable to a particular Succeeding Fiscal Year may not be used in that fiscal year until the amount permitted above to be expended in such fiscal year has first been used in full and the Carry-Over Amount applicable to a particular Succeeding Fiscal Year may not be carried forward to another fiscal year.

8. EVENTS OF DEFAULT.

Any one or more of the following events shall constitute an event of default (each, an "Event of Default") under this Agreement:

8.1 **Payments.** If Borrowers fail to pay when due and payable, or when declared due and payable in accordance with the Loan Documents, (a) all or any portion of the Obligations consisting of interest, fees, or charges due to the Lender Group, reimbursement of Lender Group Expenses, or other amounts (other than any portion thereof constituting principal) constituting Obligations (including any portion thereof that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), and such failure continues for a period of three (3) Business Days, (b) all or any portion of the principal of the Loans, or
(c) any amount payable to Issuing Bank in reimbursement of any drawing under a Letter of Credit;

8.2 **Covenants.** If any Loan Party or any of its Subsidiaries:

(a) fails to perform or observe any covenant or other agreement contained in any of (i) Sections 5.1(a), 5.2(a), 5.3 (solely if any Borrower is not in good standing in its jurisdiction of organization), 5.6, 5.7 (solely if any Borrower refuses to allow Agent or its representatives or agents to visit any Borrower's properties, inspect its assets or books or records, examine and make copies of its books and records, or discuss Borrowers' affairs, finances, and accounts with officers and employees of any Borrower), 5.10, 5.11 or 5.14, of this Agreement, (ii) Section 6 of this Agreement, (iii) Section 7 of this Agreement, or (iv) Section 7 of the Guaranty and Security Agreement;

(b) fails to perform or observe any covenant or other agreement contained in any of Sections 5.1 (other than clause (a)) 5.2 (other than clause (a)), 5.3 (other than as set forth in Section 8.2(a) above), 5.4, 5.5, 5.8 and 5.12 of this Agreement and such failure continues for a period of ten (10) days after the earlier of (i) the date on which such failure shall first become known to any officer of any Borrower or (ii) the date on which written notice thereof is given to Borrowers by Agent; or

(c) fails to perform or observe any covenant or other agreement contained in this Agreement, or in any of the other Loan Documents, in each case, other than any such covenant or agreement that is the subject of another provision of this Section 8 (in which event such other provision of this Section 8 shall govern), and such failure continues for a period of thirty (30) days after the earlier of (i) the date on which such failure shall first become known to any officer of any Borrower or (ii) the date on which written notice thereof is given to Borrowers by Agent;

8.3 **Judgments.** If one or more judgments, orders, or awards for the payment of money involving an amount in excess of $1,000,000 in any one case or $5,000,000 in the aggregate (except to the extent fully covered (other than to the extent of customary deductibles) by insurance pursuant to which the insurer has not denied coverage) is entered or filed against a Loan Party or any of its Subsidiaries, or with respect to any of their respective assets, and either (a) there is a period of thirty (30) consecutive days at any time after the entry of any such judgment, order, or award during which (i) the same is not discharged, satisfied, vacated, or bonded pending appeal, or (ii) a stay of enforcement thereof is not in effect, or (b) enforcement proceedings are commenced upon such judgment, order, or award;

8.4 **Voluntary Bankruptcy, etc.** If an Insolvency Proceeding is commenced by a Loan Party or any of its Subsidiaries;

8.5 **Involuntary Bankruptcy, etc.** If an Insolvency Proceeding is commenced against a Loan Party or any of its Subsidiaries and any of the following events occur: (a) such Loan Party or such Subsidiary consents to the institution of such Insolvency Proceeding against it, (b) the petition commencing the Insolvency Proceeding is not timely controverted, (c) the petition commencing the Insolvency Proceeding is not dismissed within sixty (60) calendar days of the date of the filing thereof, (d) an interim trustee is appointed to take possession of all or any substantial portion of the properties

or assets of, or to operate all or any substantial portion of the business of, such Loan Party or its Subsidiary, or (e) an order for relief shall have been issued or entered therein;

8.6 **Default Under Other Agreements.** If there is (a) a default in one or more agreements to which a Loan Party or any of its Subsidiaries is a party with one or more third Persons relative to a Loan Party's or any of its Subsidiaries' Indebtedness involving an aggregate amount of $1,000,000 or more, and such default (i) occurs at the final maturity of the obligations thereunder, or (ii) results in a right by such third Person, irrespective of whether exercised, to accelerate the maturity of such Loan Party's or its Subsidiary's obligations thereunder, or (b) a default by any Loan Party or any of its Subsidiaries in or an involuntary early termination (where a Loan Party or any of its Subsidiaries is the affected party) of one or more Hedge Agreements to which a Loan Party or any of its Subsidiaries is a party involving an aggregate amount owed by a Loan Party or any of its Subsidiaries of $5,000,000 or more;

8.7 **Representations, etc.** If any warranty, representation, certificate, statement, or Record made herein or in any other Loan Document or delivered in writing to Agent or any Lender in connection with this Agreement or any other Loan Document proves to be untrue in any material respect (except that such materiality qualifier shall not be applicable to any representations and warranties that already are qualified or modified by materiality in the text thereof) as of the date of issuance or making or deemed making thereof;

8.8 **Guaranty.** If the obligation of any Guarantor under the guaranty contained in the Guaranty and Security Agreement is limited or terminated by operation of law or by such Guarantor (other than in accordance with the terms of this Agreement);

8.9 **Security Documents.** If the Guaranty and Security Agreement or any other Loan Document that purports to create a Lien, shall, for any reason, fail or cease to create a valid and perfected, and except for Permitted Liens, first priority Lien on the Collateral covered thereby, except (a) as a result of a disposition of the applicable Collateral in a transaction permitted under this Agreement, (b) with respect to Collateral of a Borrower the aggregate value of which, for all such Collateral of such Borrower, does not exceed at any time, $500,000 for such Borrower, (c) as the result of an action or failure to act on the part of Agent, or (d) as expressly provided in the 2029 Notes Intercreditor Agreement or any intercreditor agreement entered into in connection with 2029 Equivalent Note Indebtedness;

8.10 **Loan Documents.** The validity or enforceability of any Loan Document shall at any time for any reason (other than solely as the result of an action or failure to act on the part of Agent) be declared to be null and void, or a proceeding shall be commenced by a Loan Party or its Subsidiaries, or by any Governmental Authority having jurisdiction over a Loan Party or its Subsidiaries, seeking to establish the invalidity or unenforceability thereof, or a Loan Party or its Subsidiaries shall deny that such Loan Party or its Subsidiaries has any liability or obligation purported to be created under any Loan Document;

8.11 **Change of Control.** A Change of Control shall occur, whether directly or indirectly; or

8.12 **ERISA**. The occurrence of any of the following events: (a) any Loan Party or ERISA Affiliate fails to make full payment when due of all amounts which any Loan Party or ERISA Affiliate is required to pay as contributions, installments, or otherwise to or with respect to any Loan Party Pension Plan or Multiemployer Plan, and such failure could reasonably be expected to result in a Material Adverse Effect, (b) a Notification Event, which could reasonably be expected to result in a Material Adverse Effect, or (c) any Loan Party or ERISA Affiliate completely or partially withdraws from one or more Multiemployer Plans and any Loan Party incurs Withdrawal Liability which could reasonably be expected to have a Material Adverse Effect, or fails to make any Withdrawal Liability payment when due.

9. **RIGHTS AND REMEDIES.**

9.1 **Rights and Remedies.** Upon the occurrence and during the continuation of an Event of Default, Agent may, and, at the instruction of the Required Lenders, shall (in each case under clauses (a) or (b) by written notice to Borrowers), in addition to any other rights or remedies provided for hereunder or under any other Loan Document or by applicable law, do any one or more of the following:

(a) (i) declare the principal of, and any and all accrued and unpaid interest and fees in respect of, the Loans and all other Obligations (other than the Bank Product Obligations), whether evidenced by this Agreement or by any of the other Loan Documents to be immediately due and payable, whereupon the same shall become and be immediately due and payable and Borrowers shall be obligated to repay all of such Obligations in full, without presentment, demand, protest, or further notice or other requirements of any kind, all of which are hereby expressly waived by each Borrower and (ii) direct Borrowers to provide (and Borrowers agree that upon receipt of such notice Borrowers will provide) Letter of Credit Collateralization to Agent to be held as security for Borrowers' reimbursement obligations for drawings that may subsequently occur under issued and outstanding Letters of Credit;

(b) declare the Revolver Commitments terminated, whereupon the Revolver Commitments shall immediately be terminated together with (i) any obligation of Agent to make Revolving Loans, and (ii) the obligation of Issuing Bank to issue Letters of Credit; and

(c) exercise all other rights and remedies available to Agent under the Loan Documents, under applicable law, or in equity.

The foregoing to the contrary notwithstanding, upon the occurrence of any Event of Default described in Section 8.4 or Section 8.5, in addition to the remedies set forth above, without any notice to Borrowers or any other Person or any act by the Lender Group, the Revolver Commitments shall automatically terminate and the Obligations (other than the Bank Product Obligations), inclusive of the principal of, and any and all accrued and unpaid interest and fees in respect of, the Loans and all other Obligations (other than the Bank Product Obligations), whether evidenced by this Agreement or by any of the other Loan Documents, shall automatically become and be immediately due and payable and Borrowers shall automatically be obligated to repay all of such Obligations in full (including Borrowers being obligated to provide (and Borrowers agree that they will provide) (1) Letter of Credit Collateralization to Agent to be held as security for Borrowers' reimbursement obligations in respect of drawings that may subsequently occur under issued and outstanding Letters of Credit and (2) Bank Product Collateralization to be held as security for Borrowers' or their Subsidiaries' obligations in respect of outstanding Bank Products), without presentment, demand, protest, or notice or other requirements of any kind, all of which are expressly waived by Borrowers.

9.2 **Remedies Cumulative.** The rights and remedies of the Lender Group under this Agreement, the other Loan Documents, and all other agreements shall be cumulative. The Lender Group shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by the Lender Group of one right or remedy shall be deemed an election, and no waiver by the Lender Group of any Event of Default shall be deemed a continuing waiver. No delay by the Lender Group shall constitute a waiver, election, or acquiescence by it.

10. **WAIVERS; INDEMNIFICATION.**

10.1 **Demand; Protest; etc.** Each Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, nonpayment at maturity, release, compromise,

settlement, extension, or renewal of documents, instruments, chattel paper, and guarantees at any time held by the Lender Group on which any Borrower may in any way be liable.

10.2 **The Lender Group's Liability for Collateral.** Each Borrower hereby agrees that: (a) so long as Agent complies with its obligations, if any, under the Code, the Lender Group shall not in any way or manner be liable or responsible for: (i) the safekeeping of the Collateral, (ii) any loss or damage thereto occurring or arising in any manner or fashion from any cause, (iii) any diminution in the value thereof, or (iv) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other Person, and (b) all risk of loss, damage, or destruction of the Collateral shall be borne by Borrowers.

10.3 **Indemnification.** Each Borrower shall pay, indemnify, defend, and hold the Agent-Related Persons, the Lender-Related Persons, and each Participant (each, an "Indemnified Person") harmless (to the fullest extent permitted by law) from and against any and all claims, demands, suits, actions, investigations, proceedings, liabilities, fines, costs, penalties, and damages, and all reasonable and documented fees and disbursements of attorneys, experts, or consultants and all other reasonable and documented out-of-pocket costs and expenses actually incurred in connection therewith or in connection with the enforcement of this indemnification (as and when they are incurred and irrespective of whether suit is brought), at any time asserted against, imposed upon, or incurred by any of them (a) in connection with or as a result of or related to the execution and delivery (provided that Borrowers shall not be liable for costs and expenses (including attorneys' fees) of any Lender (other than Wells Fargo) incurred in advising, structuring, drafting, reviewing, administering or syndicating the Loan Documents), enforcement, performance, or administration (including any restructuring or workout with respect hereto) of this Agreement, any of the other Loan Documents, or the transactions contemplated hereby or thereby or the monitoring of Borrowers' and their Subsidiaries' compliance with the terms of the Loan Documents (provided that the indemnification in this clause (a) or clause (b) shall not extend to (i) disputes solely between or among the Lenders that do not involve any acts or omissions of any Loan Party, or (ii) disputes solely between or among the Lenders and their respective Affiliates that do not involve any acts or omissions of any Loan Party; it being understood and agreed that the indemnification in this clause (a) shall extend to Agent (but not the Lenders) relative to disputes between or among Agent on the one hand, and one or more Lenders, or one or more of their Affiliates, on the other hand), (b) with respect to any actual or prospective investigation, litigation, or proceeding related to this Agreement, any other Loan Document, the making of any Loans or issuance of any Letters of Credit hereunder, or the use of the proceeds of the Loans or the Letters of Credit provided hereunder (irrespective of whether any Indemnified Person is a party thereto), or any act, omission, event, or circumstance in any manner related thereto, and (c) in connection with or arising out of any presence or release of Hazardous Materials at, on, under, to or from any assets or properties owned, leased or operated by any Loan Party or any of its Subsidiaries or any Environmental Actions, Environmental Liabilities or Remedial Actions related in any way to any such assets or properties of any Loan Party or any of its Subsidiaries (each and all of the foregoing, the "Indemnified Liabilities"). The foregoing to the contrary notwithstanding, no Borrower shall have any obligation to any Indemnified Person under this Section 10.3 with respect to any Indemnified Liability that a court of competent jurisdiction finally determines to have resulted from the gross negligence or willful misconduct of such Indemnified Person or its officers, directors, employees, attorneys, or agents. This provision shall survive the termination of this Agreement and the repayment in full of the Obligations. If any Indemnified Person makes any payment to any other Indemnified Person with respect to an Indemnified Liability as to which Borrowers were required to indemnify the Indemnified Person receiving such payment, the Indemnified Person making such payment is entitled to be indemnified and reimbursed by Borrowers with respect thereto. **WITHOUT LIMITATION, THE FOREGOING INDEMNITY SHALL APPLY TO EACH INDEMNIFIED PERSON WITH RESPECT TO INDEMNIFIED LIABILITIES WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF ANY NEGLIGENT ACT OR OMISSION OF SUCH INDEMNIFIED**

PERSON OR OF ANY OTHER PERSON. This Section 10.3 shall not apply with respect to any Taxes or any costs attributable to Taxes, which shall be governed by Section 17.

11. **NOTICES.**

Unless otherwise provided in this Agreement, all notices or demands relating to this Agreement or any other Loan Document shall be in writing and (except for financial statements and other informational documents which may be sent by first-class mail, postage prepaid) shall be personally delivered or sent by registered or certified mail (postage prepaid, return receipt requested), overnight courier, electronic mail (at such email addresses as a party may designate in accordance herewith), or telefacsimile. In the case of notices or demands to any Loan Party or Agent, as the case may be, they shall be sent to the respective address set forth below:

If to Liggett,
100 Maple or any Subsidiary
of either thereof: Liggett Group LLC
c/o Liggett Vector Brands LLC 3800 Paramount Parkway, Suite 250
Morrisville, North Carolina 27560
Attn: Vicky SpierEvans, Nick Anson Tel No.: 919-990-3590
Tel No.: 919-990-3562
Email: vspier@lvbrands.com Email: nanson@lvbrands.com

with copies to: Vector Group Ltd.
4400 Biscayne Boulevard, 10th Floor Miami, Florida 33137-3212
Attn: Marc Bell
Telephone No.: 305-579-8018
Telecopy No.: 305-579-8016 Email: mbell@vectorgroupltd.com
Email: finance@vectorgroupltd.com

If to Vector Tobacco
or any Subsidiary thereof:
Vector Tobacco Inc.
3800 Paramount Parkway, Suite 250 Morrisville, North Carolina 27560
Attn: Vicky Spier Evans, Robert Plunket Tel No.: 919-990-3590
Tel No.: 919-990-3582
Email: vspier@lvbrands.com Email: rplunket@lvbrands.com

with copies to: Vector Group Ltd.
4400 Biscayne Boulevard, 10th Floor Miami, Florida 33137-3212
Attn: Marc Bell
Telephone No.: 305-579-8018
Telecopy No.: 305-579-8016

Email: mbell@vectorgroupltd.com Email: finance@vectorgroupltd.com

If to Agent: Wells Fargo Bank, National Association 100 Park Avenue, 14th Floor
New York, New York 10017 MAC J0149-030
Attn: Portfolio Manager – Liggett Tel No.: 212-545-4491
Telecopy No.: (212) 545-4283
Email: andrew.rogow@wellsfargo.com Email: laurence.forte@wellsfargo.com

Any party hereto may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other party. All notices or demands sent in accordance with this Section 11 shall be deemed received on the earlier of the date of actual receipt or three (3) Business Days after the deposit thereof in the mail; provided that (a) notices sent by overnight courier service shall be deemed to have been given when received, (b) notices by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient), and (c) notices by electronic mail shall be deemed received upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgment).

12. **CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; JUDICIAL REFERENCE PROVISION.**

(a) **THE VALIDITY OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED TO THE CONTRARY IN ANOTHER LOAN DOCUMENT IN RESPECT OF SUCH OTHER LOAN DOCUMENT), THE CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT HEREOF AND THEREOF, THE RIGHTS OF THE PARTIES HERETO AND THERETO WITH RESPECT TO ALL MATTERS ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO, AND ANY CLAIMS, CONTROVERSIES OR DISPUTES ARISING HEREUNDER OR THEREUNDER OR RELATED HERETO OR THERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

(b) **THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK, STATE OF NEW YORK; PROVIDED THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT AGENT'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE AGENT ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND. EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 12(b).**

(c) **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP HEREBY WAIVE THEIR RESPECTIVE RIGHTS, IF ANY, TO A JURY TRIAL OF ANY CLAIM, CONTROVERSY, DISPUTE OR CAUSE OF ACTION DIRECTLY OR INDIRECTLY BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS (EACH A "CLAIM"). EACH BORROWER AND EACH MEMBER OF THE LENDER GROUP REPRESENTS THAT IT HAS REVIEWED THIS WAIVER AND EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. IN THE EVENT OF LITIGATION, A COPY OF THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.**

(d) **EACH BORROWER HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF NEW YORK AND THE STATE OF NEW YORK, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS, OR FOR RECOGNITION OR ENFORCEMENT OF ANY JUDGMENT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT AGENT MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.**

(e) **NO CLAIM MAY BE MADE BY (I) ANY LOAN PARTY AGAINST AGENT, ANY OTHER LENDER, OR ISSUING BANK, OR ANY AFFILIATE, DIRECTOR, OFFICER, EMPLOYEE, COUNSEL, REPRESENTATIVE, AGENT, OR ATTORNEY-IN-FACT OF ANY OF THEM OR (II) AGENT, ANY OTHER LENDER OR ISSUING BANK AGAINST ANY LOAN PARTY OR ANY AFFILIATE, DIRECTOR, OFFICER, EMPLOYEE, COUNSEL, REPRESENTATIVE, AGENT, OR ATTORNEY-IN-FACT OF ANY OF THEM, IN EACH CASE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES IN RESPECT OF ANY CLAIM FOR BREACH OF CONTRACT OR ANY OTHER THEORY OF LIABILITY ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR ANY ACT, OMISSION, OR EVENT OCCURRING IN CONNECTION THEREWITH, AND AGENT, EACH OTHER LENDER, ISSUING BANK AND EACH LOAN PARTY HEREBY WAIVES, RELEASES, AND AGREES NOT TO SUE UPON ANY CLAIM FOR SUCH DAMAGES, WHETHER OR NOT ACCRUED AND WHETHER OR NOT KNOWN OR SUSPECTED TO EXIST IN ITS FAVOR.**

13. **ASSIGNMENTS AND PARTICIPATIONS.**

13.1 **Assignments and Participations**.

(a) (i) Subject to the conditions set forth in clause (a)(ii) below, any Lender may assign and delegate all or any portion of its rights and duties under the Loan Documents (including its Revolver Commitment) to one or more assignees so long as such prospective assignee is an Eligible Transferee

(each, an "Assignee"), with the prior written consent (such consent not be unreasonably withheld or delayed) of:

(A) Borrowers; provided that no consent of Borrowers shall be required (1) if an Event of Default has occurred and is continuing, or (2) in connection with an assignment to a Person that is a Lender or an Affiliate (other than natural persons) of a Lender; provided, further, that Borrowers shall be deemed to have consented to a proposed assignment unless it objects thereto by written notice to Agent within five (5) Business Days after having received notice thereof; and

(B) Agent, Swing Lender, and Issuing Bank.

(ii) Assignments shall be subject to the following additional conditions:

(A) no assignment may be made to (i) a natural person, (ii) a Loan Party, an Affiliate of a Loan Party, or (iii) any holder of any Subordinated Indebtedness;

(B) the amount of the Revolver Commitment and the other rights and obligations of the assigning Lender hereunder and under the other Loan Documents subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to Agent) shall be in a minimum amount (unless waived by Agent) of $5,000,000 (except such minimum amount shall not apply to (I) an assignment or delegation by any Lender to any other Lender, an Affiliate of any Lender, or a Related Fund of such Lender or (II) a group of new Lenders, each of which is an Affiliate of each other or a Related Fund of such new Lender to the extent that the aggregate amount to be assigned to all such new Lenders is at least $5,000,000);

(C) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(D) the parties to each assignment shall execute and deliver to Agent an Assignment and Acceptance; provided that Borrowers and Agent may continue to deal solely and directly with the assigning Lender in connection with the interest so assigned to an Assignee until written notice of such assignment, together with payment instructions, addresses, and related information with respect to the Assignee, have been given to Borrowers and Agent by such Lender and the Assignee, and the Assignment and Acceptance shall include a representation and warranty (which shall be expressly for the benefit of the Lender Group) that, as of the date of the assignment, such Lender and the Assignee do not have any material non-public information with respect to any Borrower or its Subsidiaries that (I) has not been disclosed to the Lenders (other than Lenders that do not wish to receive material non-public information with respect to any Borrower or its Subsidiaries) prior to such time and (II) could not reasonably be expected to have a material effect upon, or otherwise be material to, a Lender's decision to participate in any assignment pursuant to this Section 13.1;

(E) unless waived by Agent, the assigning Lender or Assignee has paid to Agent, for Agent's separate account, a processing fee in the amount of $3,500; and

(F) the assignee, if it is not a Lender, shall deliver to Agent an Administrative Questionnaire in a form approved by Agent (the "Administrative Questionnaire").

(b) From and after the date that Agent receives the executed Assignment and Acceptance and has recorded the applicable assignment in the Register, if applicable, payment of the required processing fee, (i) the Assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment and Acceptance, shall be a

"Lender" and shall have the rights and obligations of a Lender under the Loan Documents, and (ii) the assigning Lender shall, to the extent that rights and obligations hereunder and under the other Loan Documents have been assigned by it pursuant to such Assignment and Acceptance, relinquish its rights (except with respect to Section 10.3) and be released from any future obligations under this Agreement (and in the case of an Assignment and Acceptance covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement and the other Loan Documents, such Lender shall cease to be a party hereto and thereto); provided that nothing contained herein shall release any assigning Lender from obligations that survive the termination of this Agreement, including such assigning Lender's obligations under Section 16 and Section 19.9(a).

(c) By executing and delivering an Assignment and Acceptance, the assigning Lender thereunder and the Assignee thereunder confirm to and agree with each other and the other parties hereto as follows: (i) other than as provided in such Assignment and Acceptance, such assigning Lender makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with this Agreement or the execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or any other Loan Document furnished pursuant hereto, (ii) such assigning Lender makes no representation or warranty and assumes no responsibility with respect to the financial condition of any Borrower or the performance or observance by any Borrower of any of its obligations under this Agreement or any other Loan Document furnished pursuant hereto, (iii) such Assignee confirms that it has received a copy of this Agreement, together with such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into such Assignment and Acceptance, (iv) such Assignee will, independently and without reliance upon Agent, such assigning Lender or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement, (v) such Assignee appoints and authorizes Agent to take such actions and to exercise such powers under this Agreement and the other Loan Documents as are delegated to Agent, by the terms hereof and thereof, together with such powers as are reasonably incidental thereto, and (vi) such Assignee agrees that it will perform all of the obligations which by the terms of this Agreement are required to be performed by it as a Lender.

(d) Immediately upon Agent's receipt of the required processing fee, if applicable, and delivery of notice to the assigning Lender pursuant to Section 13.1(b), this Agreement shall be deemed to be amended to the extent, but only to the extent, necessary to reflect the addition of the Assignee and the resulting adjustment of the Revolver Commitments arising therefrom. The Revolver Commitment allocated to each Assignee shall reduce such Revolver Commitments of and Obligations owed to the assigning Lender *pro tanto*.

(e) Any Lender may at any time sell to one or more commercial banks, financial institutions, or other Persons (a "Participant") participating interests in all or any portion of its Obligations, its Revolver Commitment, and the other rights and interests of that Lender (the "Originating Lender") hereunder and under the other Loan Documents; provided that (i) the Originating Lender shall remain a "Lender" for all purposes of this Agreement and the other Loan Documents and the Participant receiving the participating interest in the Obligations, the Revolver Commitments, and the other rights and interests of the Originating Lender hereunder shall not constitute a "Lender" hereunder or under the other Loan Documents and the Originating Lender's obligations under this Agreement shall remain unchanged, (ii) the Originating Lender shall remain solely responsible for the performance of such obligations, (iii) Borrowers, Agent, and the Lenders shall continue to deal solely and directly with the Originating Lender in connection with the Originating Lender's rights and obligations under this Agreement and the other Loan Documents, (iv) no Lender shall transfer or grant any participating interest under which the Participant has the right to approve any amendment to, or any consent or waiver with respect to, this Agreement or any other Loan Document, except to the extent such amendment to, or

consent or waiver with respect to this Agreement or of any other Loan Document would (A) extend the final maturity date of the Obligations hereunder in which such Participant is participating, (B) reduce the interest rate applicable to the Obligations hereunder in which such Participant is participating (other than a waiver of default interest), (C) release all or substantially all of the Collateral or guaranties (except to the extent expressly provided herein or in any of the Loan Documents) supporting the Obligations hereunder in which such Participant is participating, (D) postpone the payment of, or reduce the amount of, the interest or fees payable to such Participant through such Lender (other than a waiver of default interest), or (E) decreases the amount or postpones the due dates of scheduled principal payable to such Participant through such Lender, (v) no participation shall be sold to a natural person, (vi) no participation shall be sold to a Loan Party, an Affiliate of a Loan Party or any holder of Subordinated Indebtedness.
The rights of any Participant only shall be derivative through the Originating Lender with whom such Participant participates and no Participant shall have any rights under this Agreement or the other Loan Documents or any direct rights as to the other Lenders, Agent, Borrowers, the Collateral, or otherwise in respect of the Obligations. No Participant shall have the right to participate directly in the making of decisions by the Lenders among themselves.

(f) In connection with any such assignment or participation or proposed assignment or participation or any grant of a security interest in, or pledge of, its rights under and interest in this Agreement, a Lender may, subject to the provisions of Section 19.9, disclose all documents and information which it now or hereafter may have relating to any Borrower and its Subsidiaries and their respective businesses.

(g) Any other provision in this Agreement notwithstanding, any Lender may at any time create a security interest in, or pledge, all or any portion of its rights under and interest in this Agreement to secure obligations of such Lender, including any pledge in favor of any Federal Reserve Bank in accordance with Regulation A of the Federal Reserve Bank or U.S. Treasury Regulation 31 CFR §203.24, and such Federal Reserve Bank may enforce such pledge or security interest in any manner permitted under applicable law; provided that no such pledge shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(h) Agent (as a non-fiduciary agent on behalf of Borrowers) shall maintain, or cause to be maintained, a register (the "Register") on which it enters the name and address of each Lender as the registered owner of each Revolving Loan (and the principal amount thereof and stated interest thereon) held by such Lender (each, a "Registered Loan"). A Registered Loan (and the registered note, if any, evidencing the same) may be assigned or sold in whole or in part only by registration of such assignment or sale on the Register (and each registered note shall expressly so provide) and any assignment or sale of all or part of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by registration of such assignment or sale on the Register, together with the surrender of the registered note, if any, evidencing the same duly endorsed by (or accompanied by a written instrument of assignment or sale duly executed by) the holder of such registered note, whereupon, at the request of the designated assignee(s) or transferee(s), one or more new registered notes in the same aggregate principal amount shall be issued to the designated assignee(s) or transferee(s). Prior to the registration of assignment or sale of any Registered Loan (and the registered note, if any evidencing the same), Borrowers shall treat the Person in whose name such Registered Loan (and the registered note, if any, evidencing the same) is registered as the owner thereof for the purpose of receiving all payments thereon and for all other purposes, notwithstanding notice to the contrary.

(i) In the event that a Lender sells participations in any Registered Loan, such Lender, as a non-fiduciary agent on behalf of Borrowers, shall maintain (or cause to be maintained) a register on which it enters the name of all participants in the Registered Loans held by it (and the principal amount of and stated interest on the portion of such Registered Loans that is subject to such participations) (the

"Participant Register"). A Registered Loan (and the Registered Note, if any, evidencing the same) may be participated in whole or in part only by registration of such participation on the Participant Register (and each registered note shall expressly so provide). Any participation of such Registered Loan (and the registered note, if any, evidencing the same) may be effected only by the registration of such participation on the Participant Register.

(j) Notwithstanding anything herein or any other Loan Document to the contrary, nothing herein shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in clause (e) of this Section 13.1 and Bank Product Providers to the extent provided in Section 19.5) any legal or equitable right, remedy or claim under or by reason of this Agreement.

14. **SUCCESSORS.**

14.1 **Successors.** This Agreement and the other Loan Documents shall bind and inure to the benefit of the respective successors and assigns of each of the parties; provided that no Borrower may assign this Agreement or any rights or duties hereunder without the Lenders' prior written consent and any prohibited assignment shall be absolutely void *ab initio*. No consent to assignment by the Lenders shall release any Borrower from its Obligations. A Lender may assign this Agreement and the other Loan Documents and its rights and duties hereunder and thereunder pursuant to Section 13.1 and, except as expressly required pursuant to Section 13.1, no consent or approval by any Borrower is required in connection with any such assignment.

15. **AMENDMENTS; WAIVERS.**

15.1 **Amendments and Waivers**.

(a) No amendment, waiver or other modification of any provision of this Agreement or any other Loan Document (other than Bank Product Agreements or any Fee Letter), and no consent with respect to any departure by any Borrower therefrom, shall be effective unless the same shall be in writing and signed by the Required Lenders (or by Agent at the written request of the Required Lenders) and the Loan Parties that are party thereto and then any such waiver or consent shall be effective, but only in the specific instance and for the specific purpose for which given; provided that no such waiver, amendment, or consent to any Loan Document shall, unless in writing and signed by all of the Lenders directly affected thereby and all of the Loan Parties that are party thereto, do any of the following:

(i) increase the amount of or extend the expiration date of any Revolver Commitment of any Lender;

(ii) postpone or delay any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees, or other amounts due hereunder or under any other Loan Document;

(iii) reduce the principal of, or the rate of interest on, any loan or other extension of credit hereunder, or reduce any fees or other amounts payable hereunder or under any other Loan Document (except (y) in connection with the waiver of applicability of Section 2.6(c) (which waiver shall be effective with the written consent of the Required Lenders) and (z) for the avoidance of doubt, that any amendment or modification of defined terms used in the financial covenants in this Agreement shall not constitute a reduction in the rate of interest or a reduction of fees for purposes of this clause (iii));

(iv) amend or modify this Section or any provision of this Agreement providing for consent or other action by all Lenders;

(v) amend or modify Section 3.1;

(vi) amend or modify Section 16.11;

(vii) other than as permitted by Section 16.11, release Agent's Lien in and to any of the Collateral;

(viii) amend, modify, or eliminate the definitions of "Required Lenders" or "Pro Rata Share";

(ix) contractually subordinate any of Agent's Liens;

(x) other than in connection with a merger, liquidation, dissolution or sale of such Person expressly permitted by the terms hereof or the other Loan Documents, release any Borrower or any Guarantor from any obligation for the payment of money under this Agreement or the other Loan Documents or consent to the assignment or transfer by any Borrower or any Guarantor of any of its rights or duties under this Agreement or the other Loan Documents; or

(xi) amend, modify, or eliminate any of the provisions of Section 2.4(b)(i), (ii) or (iii).

(b) No amendment, waiver, modification, or consent shall amend, modify or waive:

(i) the definition of, or any of the terms or provisions of, any Fee Letter, without the written consent of Agent and Borrowers (and shall not require the written consent of any of the Lenders);

(ii) any provision of Section 16 pertaining to Agent, or any other rights or duties of Agent under this Agreement or the other Loan Documents, without the written consent of Agent, Borrowers, and the Required Lenders;

(c) No amendment, waiver, modification, elimination, or consent shall, without written consent of Agent, Borrowers and the Supermajority Lenders, amend, modify, or eliminate the definition of Borrowing Base or any of the defined terms (including the definitions of Eligible Accounts, Eligible Inventory or Eligible Real Property) that are used in such definition to the extent that any such change results in more credit being made available to Borrowers based upon the Borrowing Base, but not otherwise;

(d) No amendment, waiver, modification, elimination, or consent shall amend, modify, or waive any provision of this Agreement or the other Loan Documents pertaining to Issuing Bank, or any other rights or duties of Issuing Bank under this Agreement or the other Loan Documents, without the written consent of Issuing Bank, Agent, Borrowers, and the Required Lenders;

(e) No amendment, waiver, modification, elimination, or consent shall amend, modify, or waive any provision of this Agreement or the other Loan Documents pertaining to Swing Lender, or any other rights or duties of Swing Lender under this Agreement or the other Loan Documents, without the written consent of Swing Lender, Agent, Borrowers, and the Required Lenders; and

(f) Anything in this Section 15.1 to the contrary notwithstanding, (i) any amendment, modification, waiver, consent, termination or release of, or with respect to any provision of this Agreement or any other Loan Document that relates only to the relationship of the Lender Group among themselves and does not affect the rights or obligations of any Borrower or other Loan Party shall not require the consent of any Loan Party, (ii) any amendment, waiver, modification, elimination, or consent of or with respect to any provision of this Agreement or any other Loan Document may be entered into without the consent of, or over the objection of, any Defaulting Lender, (iii) Agent may, with the consent of Borrowers only, amend, modify or supplement this Agreement to cure any ambiguity, omission, defect or inconsistency, so long as such amendment, modification or supplement does not adversely affect the rights of Agent, any Lender or Issuing Bank, and (iv) any amendment contemplated by
Section 2.12(d)(iii) of this Agreement in connection with a Benchmark Transition Event or an Early Opt- in Election shall be effective as contemplated by such Section 2.12(d)(iii) hereof.

15.2 **Replacement of Certain Lenders**.

(a) If (i) any action to be taken by the Lender Group or Agent hereunder requires the consent, authorization, or agreement of all Lenders or all Lenders affected thereby and if such action has received the consent, authorization, or agreement of the Required Lenders but not of all Lenders or all Lenders affected thereby, or (ii) any Lender makes a claim for compensation under Section 17, then Borrowers or Agent, upon at least five (5) Business Days prior irrevocable notice, may permanently replace any Lender that failed to give its consent, authorization, or agreement (a "Non-Consenting Lender") or any Lender that made a claim for compensation (a "Tax Lender") with one or more Replacement Lenders, and the Non-Consenting Lender or Tax Lender, as applicable, shall have no right to refuse to be replaced hereunder. Such notice to replace the Non-Consenting Lender or Tax Lender, as applicable, shall specify an effective date for such replacement, which date shall not be later than fifteen
(15) Business Days after the date such notice is given.

(b) Prior to the effective date of such replacement, the Non-Consenting Lender or Tax Lender, as applicable, and each Replacement Lender shall execute and deliver an Assignment and Acceptance, subject only to the Non-Consenting Lender or Tax Lender, as applicable, being repaid in full its share of the outstanding Obligations (without any premium or penalty of any kind whatsoever, but including (i) all interest, fees and other amounts that may be due in payable in respect thereof, and (ii) an assumption of its Pro Rata Share of participations in the Letters of Credit, and (iii) Funding Losses). If the Non-Consenting Lender or Tax Lender, as applicable, shall refuse or fail to execute and deliver any such Assignment and Acceptance prior to the effective date of such replacement, Agent may, but shall not be required to, execute and deliver such Assignment and Acceptance in the name or and on behalf of the Non-Consenting Lender or Tax Lender, as applicable, and irrespective of whether Agent executes and delivers such Assignment and Acceptance, the Non-Consenting Lender or Tax Lender, as applicable, shall be deemed to have executed and delivered such Assignment and Acceptance. The replacement of any Non-Consenting Lender or Tax Lender, as applicable, shall be made in accordance with the terms of Section 13.1.

(c) Until such time as one or more Replacement Lenders shall have acquired all of the Obligations, the Revolver Commitments, and the other rights and obligations of the Non-Consenting Lender or Tax Lender, as applicable, hereunder and under the other Loan Documents, the Non- Consenting Lender or Tax Lender, as applicable, shall remain obligated to make the Non-Consenting Lender's or Tax Lender's, as applicable, Pro Rata Share of Revolving Loans and to purchase a participation in each Letter of Credit, in an amount equal to its Pro Rata Share of participations in such Letters of Credit.

15.3 **No Waivers; Cumulative Remedies.** No failure by Agent or any Lender to exercise any right, remedy, or option under this Agreement or any other Loan Document, or delay by Agent or any Lender in exercising the same, will operate as a waiver thereof. No waiver by Agent or any Lender will be effective unless it is in writing, and then only to the extent specifically stated. No waiver by Agent or any Lender on any occasion shall affect or diminish Agent's and each Lender's rights thereafter to require strict performance by Borrowers of any provision of this Agreement. Agent's and each Lender's rights under this Agreement and the other Loan Documents will be cumulative and not exclusive of any other right or remedy that Agent or any Lender may have.

16. **AGENT; THE LENDER GROUP.**

16.1 **Appointment and Authorization of Agent.** Each Lender hereby designates and appoints Wells Fargo as its agent under this Agreement and the other Loan Documents and each Lender hereby irrevocably authorizes (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to designate, appoint, and authorize) Agent to execute and deliver each of the other Loan Documents on its behalf and to take such other action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to Agent by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Agent agrees to act as agent for and on behalf of the Lenders (and the Bank Product Providers) on the conditions contained in this Section 16. Any provision to the contrary contained elsewhere in this Agreement or in any other Loan Document notwithstanding, Agent shall not have any duties or responsibilities, except those expressly set forth herein or in the other Loan Documents, nor shall Agent have or be deemed to have any fiduciary relationship with any Lender (or Bank Product Provider), 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 Agent. Without limiting the generality of the foregoing, the use of the term "agent" in this Agreement or the other Loan Documents with reference to Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only a representative relationship between independent contracting parties. Each Lender hereby further authorizes (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent to act as the secured party under each of the Loan Documents that create a Lien on any item of Collateral. Except as expressly otherwise provided in this Agreement, Agent shall have and may use its sole discretion with respect to exercising or refraining from exercising any discretionary rights or taking or refraining from taking any actions that Agent expressly is entitled to take or assert under or pursuant to this Agreement and the other Loan Documents. Without limiting the generality of the foregoing, or of any other provision of the Loan Documents that provides rights or powers to Agent, Lenders agree that Agent shall have the right to exercise the following powers as long as this Agreement remains in effect: (a) maintain, in accordance with its customary business practices, ledgers and records reflecting the status of the Obligations, the Collateral, payments and proceeds of Collateral, and related matters, (b) execute or file any and all financing or similar statements or notices, amendments, renewals, supplements, documents, instruments, proofs of claim, notices and other written agreements with respect to the Loan Documents, or to take any other action with respect to any Collateral or Loan Documents which may be necessary to perfect, and maintain perfected, the security interests and Liens upon Collateral pursuant to the Loan Documents, (c) make Revolving Loans, for itself or on behalf of Lenders, as provided in the Loan Documents, (d) exclusively receive, apply, and distribute payments and proceeds of the Collateral as provided in the Loan Documents, (e) open and maintain such bank accounts and cash management arrangements as Agent deems necessary and appropriate in accordance with the Loan Documents for the foregoing purposes, (f) perform, exercise, and enforce any and all other rights and remedies of the Lender Group with respect to any Borrower or its Subsidiaries, the Obligations, the Collateral, or otherwise related to any of same as provided in the Loan Documents, and (g) incur and pay such Lender Group

Expenses as Agent may deem necessary or appropriate for the performance and fulfillment of its functions and powers pursuant to the Loan Documents.

16.2 **Delegation of Duties.** Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys in fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. Agent shall not be responsible for the negligence or misconduct of any agent or attorney in fact that it selects as long as such selection was made without gross negligence or willful misconduct.

16.3 **Liability of Agent.** None of the Agent-Related Persons shall (a) be liable for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct), or (b) be responsible in any manner to any of the Lenders (or Bank Product Providers) for any recital, statement, representation or warranty made by any Borrower or any of its Subsidiaries or Affiliates, or any officer or director thereof, contained in this Agreement or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or for any failure of any Borrower or its Subsidiaries or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lenders (or Bank Product Providers) to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the books and records or properties of any Loan Party or its Subsidiaries. No Agent-Related Person shall have any liability to any Lender, and Loan Party or any of their respective Affiliates if any request for a Loan, Letter of Credit or other extension of credit was not authorized by the applicable Borrower. Agent shall not be required to take any action that, in its reasonable opinion or in the opinion of its counsel, may expose it to liability or that is contrary to any Loan Document or applicable law or regulation.

16.4 **Reliance by Agent.** Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, telefacsimile or other electronic method of transmission, telex or telephone message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent, or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to Borrowers or counsel to any Lender), independent accountants and other experts selected by Agent. Agent shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless Agent shall first receive such advice or concurrence of the Lenders as it deems appropriate and until such instructions are received, Agent shall act, or refrain from acting, as it deems advisable. If Agent so requests, it shall first be indemnified to its reasonable satisfaction by the Lenders (and, if it so elects, the Bank Product Providers) against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Lenders (and Bank Product Providers).

16.5 **Notice of Default or Event of Default.** Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, except with respect to defaults in the payment of principal, interest, fees, and expenses required to be paid to Agent for the account of the Lenders and except with respect to Events of Default of which Agent has actual knowledge, unless Agent shall have received written notice from a Lender or Borrowers referring to this Agreement, describing such Default or Event of Default, and stating that such notice is a “notice of default.” Agent promptly will notify the

Lenders of its receipt of any such notice or of any Event of Default of which Agent has actual knowledge. If any Lender obtains actual knowledge of any Event of Default, such Lender promptly shall notify the other Lenders and Agent of such Event of Default. Each Lender shall be solely responsible for giving any notices to its Participants, if any. Subject to Section 16.4, Agent shall take such action with respect to such Default or Event of Default as may be requested by the Required Lenders in accordance with Section 9; provided that, unless and until Agent has received any such request, Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable.

16.6 **Credit Decision.** Each Lender (and Bank Product Provider) acknowledges that none of the Agent-Related Persons has made any representation or warranty to it, and that no act by Agent hereinafter taken, including any review of the affairs of any Loan Party and its Subsidiaries or Affiliates, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender (or Bank Product Provider). Each Lender represents (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to represent) to Agent that it has, independently and without reliance upon any Agent-Related Person and based on such due diligence, documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of each Borrower or any other Person party to a Loan Document, and all applicable bank regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to Borrowers. Each Lender also represents (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to represent) that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of each Borrower or any other Person party to a Loan Document. Except for notices, reports, and other documents expressly herein required to be furnished to the Lenders by Agent, Agent shall not have any duty or responsibility to provide any Lender (or Bank Product Provider) with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any Borrower or any other Person party to a Loan Document that may come into the possession of any of the Agent-Related Persons. Each Lender acknowledges (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that Agent does not have any duty or responsibility, either initially or on a continuing basis (except to the extent, if any, that is expressly specified herein) to provide such Lender (or Bank Product Provider) with any credit or other information with respect to any Borrower, its Affiliates or any of their respective business, legal, financial or other affairs, and irrespective of whether such information came into Agent's or its Affiliates' or representatives' possession before or after the date on which such Lender became a party to this Agreement (or such Bank Product Provider entered into a Bank Product Agreement).

16.7 **Costs and Expenses; Indemnification.** Agent may incur and pay Lender Group Expenses to the extent Agent reasonably deems necessary or appropriate for the performance and fulfillment of its functions, powers, and obligations pursuant to the Loan Documents, including court costs, attorneys' fees and expenses, fees and expenses of financial accountants, advisors, consultants, and appraisers, costs of collection by outside collection agencies, auctioneer fees and expenses, and costs of security guards or insurance premiums paid to maintain the Collateral, whether or not Borrowers are obligated to reimburse Agent or Lenders for such expenses pursuant to this Agreement or otherwise. Agent is authorized and directed to deduct and retain sufficient amounts from payments or proceeds of the Collateral received by Agent to reimburse Agent for such out-of-pocket costs and expenses prior to the distribution of any amounts to Lenders (or Bank Product Providers). In the event Agent is not reimbursed for such costs and expenses by Borrowers or their Subsidiaries, each Lender hereby agrees that it is and shall be obligated to

pay to Agent such Lender's ratable thereof. Whether or not the transactions contemplated hereby are consummated, each of the Lenders, on a ratable basis, shall indemnify and defend the Agent-Related Persons (to the extent not reimbursed by or on behalf of Borrowers and without limiting the obligation of Borrowers to do so) from and against any and all Indemnified Liabilities; provided that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting solely from such Person's gross negligence or willful misconduct nor shall any Lender be liable for the obligations of any Defaulting Lender in failing to make a Revolving Loan or other extension of credit hereunder. Without limitation of the foregoing, each Lender shall reimburse Agent upon demand for such Lender's ratable share of any costs or out-of-pocket expenses (including attorneys, accountants, advisors, and consultants fees and expenses) incurred by Agent in connection with the preparation, execution, delivery, administration, modification, amendment, or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement or any other Loan Document to the extent that Agent is not reimbursed for such expenses by or on behalf of Borrowers. The undertaking in this Section shall survive the payment of all Obligations hereunder and the resignation or replacement of Agent.

16.8 **Agent in Individual Capacity.** Wells Fargo and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, provide Bank Products to, acquire Equity Interests in, and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with any Loan Party and its Subsidiaries and Affiliates and any other Person party to any Loan Document as though Wells Fargo were not Agent hereunder, and, in each case, without notice to or consent of the other members of the Lender Group. The other members of the Lender Group acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, pursuant to such activities, Wells Fargo or its Affiliates may receive information regarding a Loan Party or its Affiliates or any other Person party to any Loan Documents that is subject to confidentiality obligations in favor of such Loan Party or such other Person and that prohibit the disclosure of such information to the Lenders (or Bank Product Providers), and the Lenders acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, in such circumstances (and in the absence of a waiver of such confidentiality obligations, which waiver Agent will use its reasonable best efforts to obtain), Agent shall not be under any obligation to provide such information to them. The terms "Lender" and "Lenders" include Wells Fargo in its individual capacity.

16.9 **Successor Agent.** Agent may resign as Agent upon thirty (30) days' (ten (10) days' if an Event of Default has occurred and is continuing) prior written notice to the Lenders (unless such notice is waived by the Required Lenders) and Borrowers (unless such notice is waived by Borrowers or a Default or Event of Default has occurred and is continuing) and without any notice to the Bank Product Providers. If Agent resigns under this Agreement, the Required Lenders shall be entitled, with (so long as no Event of Default has occurred and is continuing) the consent of Borrowers (such consent not to be unreasonably withheld, delayed or conditioned), to appoint a successor Agent for the Lenders (and the Bank Product Providers). If, at the time that Agent's resignation is effective, it is acting as Issuing Bank or Swing Lender, such resignation shall also operate to effectuate its resignation as Issuing Bank or Swing Lender, as applicable, and it shall automatically be relieved of any further obligation to issue Letters of Credit, or to make Swing Loans. If no successor Agent is appointed prior to the effective date of the resignation of Agent, Agent may appoint, after consulting with the Lenders and Borrowers, a successor Agent. If Agent has materially breached or failed to perform any material provision of this Agreement or of applicable law, the Required Lenders may agree in writing to remove and replace Agent with a successor Agent from among the Lenders with (so long as no Event of Default has occurred and is continuing) the consent of Borrowers (such consent not to be unreasonably withheld, delayed or conditioned). In any such event, upon the acceptance of its appointment as successor Agent hereunder, such successor Agent shall succeed to all the rights, powers, and duties of the retiring Agent and the term "Agent" shall mean such successor

Agent and the retiring Agent's appointment, powers, and duties as Agent shall be terminated. After any retiring Agent's resignation hereunder as Agent, the provisions of this Section 16 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Agent under this Agreement. If no successor Agent has accepted appointment as Agent by the date which is thirty (30) days following a retiring Agent's notice of resignation, the retiring Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of Agent hereunder until such time, if any, as the Lenders appoint a successor Agent as provided for above.

16.10 **Lender in Individual Capacity.** Any Lender and its respective Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, provide Bank Products to, acquire Equity Interests in and generally engage in any kind of banking, trust, financial advisory, underwriting, or other business with any Loan Party and its Subsidiaries and Affiliates and any other Person party to any Loan Documents as though such Lender were not a Lender hereunder without notice to or consent of the other members of the Lender Group (or the Bank Product Providers). The other members of the Lender Group acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, pursuant to such activities, such Lender and its respective Affiliates may receive information regarding a Loan Party or its Affiliates or any other Person party to any Loan Documents that is subject to confidentiality obligations in favor of such Loan Party or such other Person and that prohibit the disclosure of such information to the Lenders, and the Lenders acknowledge (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to acknowledge) that, in such circumstances (and in the absence of a waiver of such confidentiality obligations, which waiver such Lender will use its reasonable best efforts to obtain), such Lender shall not be under any obligation to provide such information to them.

16.11 **Collateral Matters**.

(a) The Lenders hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent to release any Lien on any Collateral (i) upon the termination of the Revolver Commitments and payment and satisfaction in full by Borrowers of all of the Obligations, (ii) constituting property being sold or disposed of if a release is required or desirable in connection therewith and if the applicable Borrower certifies to Agent that the sale or disposition is permitted under Section 6.4 as amended or modified from time to time (and Agent may rely conclusively on any such certificate, without further inquiry), (iii) constituting property in which no Borrower or its Subsidiaries owned any material interest at the time Agent's Lien was granted nor at any time thereafter, (iv) constituting property leased or licensed to a Borrower or its Subsidiaries under a lease or license that has expired or is terminated in a transaction permitted under this Agreement as amended or modified from time to time, (v) in connection with a credit bid or purchase authorized under this Section 16.11, or (vi) as provided in clause (b) below with the consent of (y) if the release is of all or substantially all of the Collateral, all of the Lenders (without requiring the authorization of the Bank Product Providers), or (z) otherwise, the Required Lenders (without requiring the authorization of the Bank Product Providers).

(b) The Loan Parties and the Lenders hereby irrevocably authorize (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to authorize) Agent, based upon the instruction of the Required Lenders, to (i) consent to the sale of, credit bid, or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any sale thereof conducted under the provisions of the Bankruptcy Code, including Section 363 of the Bankruptcy Code,
(ii) credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any sale or other disposition thereof conducted under the provisions of the Code, including pursuant to Sections 9-610 or 9-620 of the Code, or (iii) credit bid or purchase (either directly or indirectly through one or more entities) all or any portion of the Collateral at any other sale or

foreclosure conducted or consented to by Agent in accordance with applicable law in any judicial action or proceeding or by the exercise of any legal or equitable remedy. In connection with any such credit bid or purchase, (A) the Obligations owed to the Lenders and the Bank Product Providers shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims being estimated for such purpose if the fixing or liquidation thereof would not impair or unduly delay the ability of Agent to credit bid or purchase at such sale or other disposition of the Collateral and, if such contingent or unliquidated claims cannot be estimated without impairing or unduly delaying the ability of Agent to credit bid at such sale or other disposition, then such claims shall be disregarded, not credit bid, and not entitled to any interest in the Collateral that is the subject of such credit bid or purchase) and the Lenders and the Bank Product Providers whose Obligations are credit bid shall be entitled to receive interests (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) in the Collateral that is the subject of such credit bid or purchase (or in the Equity Interests of the any entities that are used to consummate such credit bid or purchase), and (B) Agent, based upon the instruction of the Required Lenders, may accept non-cash consideration, including debt and equity securities issued by any entities used to consummate such credit bid or purchase and in connection therewith Agent may reduce the Obligations owed to the Lenders and the Bank Product Providers (ratably based upon the proportion of their Obligations credit bid in relation to the aggregate amount of Obligations so credit bid) based upon the value of such non-cash consideration; provided that Bank Product Obligations not entitled to the application set forth in Section 2.4(b)(iii)(J) shall not be entitled to be, and shall not be, credit bid, or used in the calculation of the ratable interest of the Lenders and Bank Product Providers in the Obligations which are credit bid.

(c) Except as provided in clauses (i) through (v) of clause (a) above, Agent will not execute and deliver a release of any Lien on any Collateral without the prior written authorization of (i) if the release is of all or substantially all of the Collateral, all of the Lenders (without requiring the authorization of the Bank Product Providers), or (ii) otherwise, the Required Lenders (without requiring the authorization of the Bank Product Providers). Upon request by Agent or any Borrower at any time, the Lenders will (and if so requested, the Bank Product Providers will) confirm in writing Agent's authority to release any such Liens on particular types or items of Collateral pursuant to this
Section 16.11; provided that (A) anything to the contrary contained in any of the Loan Documents notwithstanding, Agent shall not be required to execute any document or take any action necessary to evidence such release on terms that, in Agent's opinion, could expose Agent to liability or create any obligation or entail any consequence other than the release of such Lien without recourse, representation, or warranty, and (B) such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those expressly released) upon (or obligations of Borrowers in respect of) any and all interests retained by any Borrower, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral. Each Lender further hereby irrevocably authorizes (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to irrevocably authorize) Agent, at its option and in its sole discretion, to subordinate any Lien granted to or held by Agent under any Loan Document to the holder of any Permitted Lien on such property if such Permitted Lien secures Permitted Purchase Money Indebtedness.

(d) Agent shall have no obligation whatsoever to any of the Lenders (or the Bank Product Providers) (i) to verify or assure that the Collateral exists or is owned by a Borrower or its Subsidiaries or is cared for, protected, or insured or has been encumbered, (ii) to verify or assure that Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, or enforced or are entitled to any particular priority, (iii) to verify or assure that any particular items of Collateral meet the eligibility criteria applicable in respect thereof, (iv) to impose, maintain, increase, reduce, implement, or eliminate any particular reserve hereunder or to determine whether the amount of any reserve is appropriate or not, or (v) to exercise at all or in any particular manner or under any duty of care, disclosure or fidelity, or to continue exercising, any of the rights, authorities and powers granted or available to Agent pursuant to

any of the Loan Documents, it being understood and agreed that in respect of the Collateral, or any act, omission, or event related thereto, subject to the terms and conditions contained herein, Agent may act in any manner it may deem appropriate, in its sole discretion given Agent's own interest in the Collateral in its capacity as one of the Lenders and that Agent shall have no other duty or liability whatsoever to any Lender (or Bank Product Provider) as to any of the foregoing, except as otherwise expressly provided herein.

16.12 **Restrictions on Actions by Lenders; Sharing of Payments**.

(a) Each of the Lenders agrees that it shall not, without the express written consent of Agent, and that it shall, to the extent it is lawfully entitled to do so, upon the written request of Agent, set off against the Obligations, any amounts owing by such Lender to any Loan Party or its Subsidiaries or any deposit accounts of any Loan Party or its Subsidiaries now or hereafter maintained with such Lender. Each of the Lenders further agrees that it shall not, unless specifically requested to do so in writing by Agent, take or cause to be taken any action, including the commencement of any legal or equitable proceedings to enforce any Loan Document against any Borrower or any Guarantor or to foreclose any Lien on, or otherwise enforce any security interest in, any of the Collateral.

(b) If, at any time or times any Lender shall receive (i) by payment, foreclosure, setoff, or otherwise, any proceeds of Collateral or any payments with respect to the Obligations, except for any such proceeds or payments received by such Lender from Agent pursuant to the terms of this Agreement, or (ii) payments from Agent in excess of such Lender's Pro Rata Share of all such distributions by Agent, such Lender promptly shall (A) turn the same over to Agent, in kind, and with such endorsements as may be required to negotiate the same to Agent, or in immediately available funds, as applicable, for the account of all of the Lenders and for application to the Obligations in accordance with the applicable provisions of this Agreement, or (B) purchase, without recourse or warranty, an undivided interest and participation in the Obligations owed to the other Lenders so that such excess payment received shall be applied ratably as among the Lenders in accordance with their Pro Rata Shares; provided that, to the extent that such excess payment received by the purchasing party is thereafter recovered from it, those purchases of participations shall be rescinded in whole or in part, as applicable, and the applicable portion of the purchase price paid therefor shall be returned to such purchasing party, but without interest except to the extent that such purchasing party is required to pay interest in connection with the recovery of the excess payment.

16.13 **Agency for Perfection.** Agent hereby appoints each other Lender (and each Bank Product Provider) as its agent (and each Lender hereby accepts (and by entering into a Bank Product Agreement, each Bank Product Provider shall be deemed to accept) such appointment) for the purpose of perfecting Agent's Liens in assets which, in accordance with Article 8 or Article 9, as applicable, of the Code can be perfected by possession or control. Should any Lender obtain possession or control of any such Collateral, such Lender shall notify Agent thereof, and, promptly upon Agent's request therefor shall deliver possession or control of such Collateral to Agent or in accordance with Agent's instructions.

16.14 **Payments by Agent to the Lenders.** All payments to be made by Agent to the Lenders (or Bank Product Providers) shall be made by bank wire transfer of immediately available funds pursuant to such wire transfer instructions as each party may designate for itself by written notice to Agent. Concurrently with each such payment, Agent shall identify whether such payment (or any portion thereof) represents principal, premium, fees, or interest of the Obligations.

16.15 **Concerning the Collateral and Related Loan Documents.** Each member of the Lender Group authorizes and directs Agent to enter into this Agreement and the other Loan Documents. Each member of the Lender Group agrees (and by entering into a Bank Product Agreement, each Bank Product

Provider shall be deemed to agree) that any action taken by Agent in accordance with the terms of this Agreement or the other Loan Documents relating to the Collateral and the exercise by Agent of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Lenders (and such Bank Product Provider). In the event of any conflict between the terms of this Agreement and the provisions of any other Loan Document (other than the 2029 Notes Intercreditor Agreement), the term of this Agreement shall govern and control.

16.16 **Field Examination Reports; Confidentiality; Disclaimers by Lenders; Other Reports and Information.**

(a) By becoming a party to this Agreement, each Lender:

(i) is deemed to have requested that Agent furnish such Lender, promptly after it becomes available, a copy of each field examination report respecting any Borrower or its Subsidiaries (each, a "Report") prepared by or at the request of Agent, and Agent shall so furnish each Lender with such Reports;

(ii) expressly agrees and acknowledges that Agent does not (A) make any representation or warranty as to the accuracy of any Report, and (B) shall not be liable for any information contained in any Report;

(iii) expressly agrees and acknowledges that the Reports are not comprehensive audits or examinations, that Agent or the other party performing any field examination will inspect only specific information regarding Borrowers and their Subsidiaries and will rely significantly upon Borrowers' and their Subsidiaries' books and records, as well as on representations of Borrowers' personnel;

(iv) agrees to keep all Reports and other material, non-public information regarding Borrowers and their Subsidiaries and their operations, assets, and existing and contemplated business plans in a confidential manner in accordance with Section 19.9; and

(v) without limiting the generality of any other indemnification provision contained in this Agreement, agrees: (A) to hold Agent and any other Lender preparing a Report harmless from any action the indemnifying Lender may take or fail to take or any conclusion the indemnifying Lender may reach or draw from any Report in connection with any loans or other credit accommodations that the indemnifying Lender has made or may make to Borrowers, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a loan or loans of Borrowers, and (B) to pay and protect, and indemnify, defend and hold Agent, and any such other Lender preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including attorneys' fees and costs) incurred by Agent and any such other Lender preparing a Report as the direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

(b) In addition to the foregoing, (i) any Lender may from time to time request of Agent in writing that Agent provide to such Lender a copy of any report or document provided by any Loan Party or its Subsidiaries to Agent that has not been contemporaneously provided by such Loan Party or such Subsidiary to such Lender, and, upon receipt of such request, Agent promptly shall provide a copy of same to such Lender, (ii) to the extent that Agent is entitled, under any provision of the Loan Documents, to request additional reports or information from any Loan Party or its Subsidiaries, any Lender may, from time to time, reasonably request Agent to exercise such right as specified in such Lender's notice to Agent, whereupon Agent promptly shall request of Borrowers the additional reports or information

reasonably specified by such Lender, and, upon receipt thereof from such Loan Party or such Subsidiary, Agent promptly shall provide a copy of same to such Lender, and (iii) any time that Agent renders to Borrowers a statement regarding the Loan Account, Agent shall send a copy of such statement to each Lender.

16.17 **Several Obligations; No Liability.** Notwithstanding that certain of the Loan Documents now or hereafter may have been or will be executed only by or in favor of Agent in its capacity as such, and not by or in favor of the Lenders, any and all obligations on the part of Agent (if any) to make any credit available hereunder shall constitute the several (and not joint) obligations of the respective Lenders on a ratable basis, according to their respective Revolver Commitments, to make an amount of such credit not to exceed, in principal amount, at any one time outstanding, the amount of their respective Revolver Commitments. Nothing contained herein shall confer upon any Lender any interest in, or subject any Lender to any liability for, or in respect of, the business, assets, profits, losses, or liabilities of any other Lender. Each Lender shall be solely responsible for notifying its Participants of any matters relating to the Loan Documents to the extent any such notice may be required, and no Lender shall have any obligation, duty, or liability to any Participant of any other Lender. Except as provided in Section 16.7, no member of the Lender Group shall have any liability for the acts of any other member of the Lender Group. No Lender shall be responsible to any Borrower or any other Person for any failure by any other Lender (or Bank Product Provider) to fulfill its obligations to make credit available hereunder, nor to advance for such Lender (or Bank Product Provider) or on its behalf, nor to take any other action on behalf of such Lender (or Bank Product Provider) hereunder or in connection with the financing contemplated herein.

16.18 **Intercreditor Agreement**.

(a) Each member of the Lender Group authorizes and directs Agent to enter into this Agreement and the other Loan Documents to which it is a party, including the 2029 Notes Intercreditor Agreement. Each Lender agrees that any action taken by Agent or Required Lenders in accordance with the terms of this Agreement or the other Loan Documents and the exercise by Agent or Required Lenders of their respective powers set forth herein or therein, together with such other powers as are reasonably incidental thereto, shall be binding upon all of the Lenders. In the event of any conflict between the terms of the 2029 Notes Intercreditor Agreement and the provisions of any Loan Document, the terms of the 2029 Notes Intercreditor Agreement shall govern and control.

(b) Each member of the Lender Group and any other holder of any Obligations acknowledges that the 2029 Notes are secured by Liens on the Collateral and that the exercise of certain of the rights and remedies of Agent under the Loan Documents may be subject to the provisions of the 2029 Notes Intercreditor Agreement. Each Lender and Issuing Bank irrevocably (i) consents to the subordination of Liens provided for under the 2029 Notes Intercreditor Agreement and the other terms and conditions therein, (ii) authorizes and directs Agent to execute and deliver the 2029 Notes Intercreditor Agreement and any documents relating thereto, in each case, on behalf of such Lender or such Issuing Bank and to take all actions (and execute all documents) required (or deemed advisable) by it in accordance with the terms of the 2029 Notes Intercreditor Agreement, in each case, and without any further consent, authorization or other action by such Lender or Issuing Bank, (iii) agrees that, upon the execution and delivery thereof, such Lender and Issuing Bank will be bound by the provisions of the 2029 Notes Intercreditor Agreement as if it were a signatory thereto and will take no actions contrary to the provisions of the 2029 Notes Intercreditor Agreement, (iv) agrees that no Lender or Issuing Bank shall have any right of action whatsoever against Agent as a result of any action taken by Agent pursuant to this Section or in accordance with the terms of the 2029 Notes Intercreditor Agreement and (v) acknowledges (or is deemed to acknowledge) that a copy of the 2029 Notes Intercreditor Agreement has been delivered, or made available, to such Lender and Issuing Bank. Each Lender and Issuing Bank

hereby further irrevocably authorizes and directs Agent to enter into such amendments, supplements or other modifications to the 2029 Notes Intercreditor Agreement as are approved by Agent and the Required Lenders, provided, that, Agent may execute and deliver such amendments, supplements and modifications thereto as are contemplated by the 2029 Notes Intercreditor Agreement in connection with any extension, renewal, refinancing or replacement of this Agreement or any refinancing of the Obligations, in each case, on behalf of such Lender and Issuing Bank and without any further consent, authorization or other action by any Lender or Issuing Bank. Agent shall have the benefit of the provisions of Section 16 with respect to all actions taken by it pursuant to this Section or in accordance with the terms of the 2029 Notes Intercreditor Agreement to the full extent thereof.

17. **WITHHOLDING TAXES.**

17.1 **Payments.** All payments made by Borrowers hereunder or under any note or other Loan Document will be made without setoff, counterclaim, or other defense. In addition, all such payments will be made free and clear of, and without deduction or withholding for, any present or future Indemnified Taxes, and in the event any deduction or withholding of Indemnified Taxes is required, Borrowers shall comply with the next sentence of this Section 17.1. If any Indemnified Taxes are required to be deducted or withheld from any payment made by Borrowers hereunder or under any note or other Loan Document, Borrowers shall be entitled to make such deduction or withholding, shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and agree to pay the full amount of such Indemnified Taxes and such additional amounts as may be necessary so that every payment of all amounts due under this Agreement, any note, or Loan Document, including any amount paid pursuant to this Section 17.1 after withholding or deduction for or on account of any Indemnified Taxes, will not be less than the amount provided for herein. Borrowers will furnish to Agent as promptly as possible after the date the payment of any Indemnified Tax is due pursuant to applicable law, certified copies of tax receipts evidencing such payment by Borrowers. Borrowers agree to pay any present or future stamp, value added or documentary taxes or any other excise or property taxes, charges, or similar levies that arise from any payment made hereunder or from the execution, delivery, performance, recordation, or filing of, or otherwise with respect to this Agreement or any other Loan Document.

17.2 **Status of Lenders**.

(a) 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 Borrowers and Agent, at the time or times prescribed by law or reasonably requested by either Borrower or Agent, such properly completed and duly executed documentation reasonably requested by such Borrower or 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 a Borrower or Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by such Borrower or Agent as will enable such Borrower or Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

(b) Without limiting the generality of the foregoing:

(i) any Lender that is a U.S. Person shall deliver to Borrowers and Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter at the time or times prescribed by law or upon the reasonable request of a Borrower or Agent), properly completed and duly executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(ii) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrowers and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter at the time or times prescribed by law or upon the reasonable request of a Borrower or Agent), whichever of the following is applicable:

(A) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, properly completed and duly executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, properly completed and duly executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits," "other income" or other applicable article of such tax treaty;

(B) executed copies of IRS Form W-8ECI;

(C) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the IRC, (x) a certificate substantially in the form of Exhibit D-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the IRC, a "10 percent shareholder" of any Borrower within the meaning of Section 871(h)(3)(B) of the IRC, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the IRC (a "U.S. Tax Compliance Certificate") and (y) properly completed and duly executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable; or

(D) to the extent a Foreign Lender is not the beneficial owner, properly completed and duly executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit D- 2 or Exhibit D-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit D-4 on behalf of each such direct and indirect partner;

(iii) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to Borrowers and Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of any Borrower or Agent), properly completed and duly executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Borrowers or Agent to determine the withholding or deduction required to be made; and

(iv) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the IRC, as applicable), such Lender shall deliver to Borrowers and Agent at the time or times prescribed by law and at such time or times reasonably requested by any Borrower or Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the IRC) and such additional documentation reasonably requested by any Borrower or Agent as may be necessary for any Borrower and Agent to comply with their obligations under FATCA and to determine that such Lender

has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Borrowers and Agent in writing of its legal inability to do so.

17.3 **Treatment of Certain Refunds**. If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 17 (including by the payment of additional amounts pursuant to this Section 17), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party related to the receipt of such refund and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this Section 17.3 (plus any penalties, interest or other charges imposed by the relevant Governmental Authority, other than such penalties, interest or other charges imposed as a result of the willful misconduct or gross negligence of Agent or Lender hereunder as finally determined by a court of competent jurisdiction) 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 17.3, in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this Section 17.3 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 paragraph 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.

17.4 **Survival**. Each party's obligations under this Section 17 shall survive the resignation or replacement of Agent or any assignment of rights by, or the replacement of, a Lender, and the repayment, satisfaction or discharge of all obligations under any Loan Document.

17.5 **Agent as Lender.** Agent shall be treated as a Lender for purposes of this Section 17.

18. AMENDMENT AND RESTATEMENT.

18.1 **Reserved**.

18.2 **Acknowledgment of Security Interests**.

(a) Each Borrower and Guarantor hereby acknowledges, confirms and agrees that Agent has had and shall on and after the date hereof continue to have, for itself and the benefit of Issuing Bank and the Bank Product Providers, a security interest in and lien upon the Collateral heretofore granted to Agent (or its predecessor in whatever capacity) pursuant to the Existing Loan Documents to secure the Obligations.

(b) The liens and security interests of Agent in the Collateral shall be deemed to be continuously granted and perfected from the earliest date of the granting and perfection of such liens and

security interests to Agent, whether under the Existing Credit Agreement, this Agreement or any of the other Existing Loan Documents.

18.3 **Existing Loan Documents**. Each Borrower and Guarantor hereby acknowledges, confirms and agrees that as of the Restatement Effective Date: (i) the Existing Credit Agreement and each of the other Existing Loan Documents were duly executed and delivered by the Borrowers and Guarantors party thereto and were in full force and effect, (ii) the agreements and obligations of each of the Borrowers and Guarantors party thereto contained in the Existing Credit Agreement and the other Existing Loan Documents constituted the legal, valid and binding obligations of such Borrowers and Guarantors enforceable against them in accordance with their respective terms, except as enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights generally, and the Borrowers and Guarantors party thereto have no valid defense to the enforcement of such obligations except to the extent enforcement may be limited by equitable principles or by bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or limiting creditors' rights generally and (iii) Agent is entitled to all of the rights and remedies provided for in the Existing Credit Agreement and the Existing Loan Documents.

18.4 **Restatement**. Except as otherwise stated in Section 18.3 and this Section 18.4, as of the Restatement Effective Date, the terms, conditions, agreements, covenants, representations and warranties set forth in the Existing Credit Agreement were hereby amended and restated in their entirety, and as so amended and restated, replaced and superseded, by the terms, conditions, agreements, covenants, representations and warranties set forth in this Agreement and the other Loan Documents, except that nothing herein or in the other Loan Documents shall impair or adversely affect the continuation of the liability of each Borrower party to the Existing Credit Agreement for the Obligations heretofore granted, pledged and/or assigned to Agent. The amendment and restatement contained herein shall not, in any manner, be construed to constitute payment of, or impair, limit, cancel or extinguish, or constitute a novation in respect of, the Indebtedness and other obligations and liabilities of each Borrower party to the Existing Credit Agreement evidenced by or arising under the Existing Loan Agreement, and the liens and security interests securing such Indebtedness and other obligations and liabilities, which shall not in any manner be impaired, limited, terminated, waived or released.

18.5 **Release**. Each Borrower and Guarantor for itself and its successors and assigns does hereby remise, release, discharge and hold Agent, its officers, directors, and employees and their respective predecessors, successors and assigns harmless from all claims, demands, debts, sums of money, accounts, damages, judgments, financial obligations, actions, causes of action, suits at law or in equity, of any kind or nature whatsoever, whether or not now existing or known, which such Borrower, Guarantor or their respective successors or assigns has had or may now or hereafter claim to have against Agent or its officers, directors, and employees and their respective predecessors, successors and assigns in any way arising from or connected with the Existing Credit Agreement and the other Existing Loan Documents or the arrangements set forth therein or transactions thereunder up to and including the Restatement Effective Date.

19. **GENERAL PROVISIONS**.

19.1 **Effectiveness.** This Agreement shall be binding and deemed effective when executed by each Borrower, Agent, and each Lender whose signature is provided for on the signature pages hereof.

19.2 **Section Headings.** Headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each Section applies equally to this entire Agreement.

19.3 **Interpretation.** Neither this Agreement nor any uncertainty or ambiguity herein shall be construed against the Lender Group or any Borrower, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by all parties and shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of all parties hereto.

19.4 **Severability of Provisions.** Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

19.5 **Bank Product Providers.** Each Bank Product Provider in its capacity as such shall be deemed a third party beneficiary hereof and of the provisions of the other Loan Documents for purposes of any reference in a Loan Document to the parties for whom Agent is acting. Agent hereby agrees to act as agent for such Bank Product Providers and, by virtue of entering into a Bank Product Agreement, the applicable Bank Product Provider shall be automatically deemed to have appointed Agent as its agent and to have accepted the benefits of the Loan Documents. It is understood and agreed that the rights and benefits of each Bank Product Provider under the Loan Documents consist exclusively of such Bank Product Provider's being a beneficiary of the Liens and security interests (and, if applicable, guarantees) granted to Agent and the right to share in payments and collections out of the Collateral as more fully set forth herein. In addition, each Bank Product Provider, by virtue of entering into a Bank Product Agreement, shall be automatically deemed to have agreed that Agent shall have the right, but shall have no obligation, to establish, maintain, relax, or release reserves in respect of the Bank Product Obligations and that if reserves are established there is no obligation on the part of Agent to determine or insure whether the amount of any such reserve is appropriate or not. In connection with any such distribution of payments or proceeds of Collateral, Agent shall be entitled to assume no amounts are due or owing to any Bank Product Provider unless such Bank Product Provider has provided a written certification (setting forth a reasonably detailed calculation) to Agent as to the amounts that are due and owing to it and such written certification is received by Agent a reasonable period of time prior to the making of such distribution. Agent shall have no obligation to calculate the amount due and payable with respect to any Bank Products, but may rely upon the written certification of the amount due and payable from the applicable Bank Product Provider. In the absence of an updated certification, Agent shall be entitled to assume that the amount due and payable to the applicable Bank Product Provider is the amount last certified to Agent by such Bank Product Provider as being due and payable (less any distributions made to such Bank Product Provider on account thereof). Borrowers may obtain Bank Products from any Bank Product Provider, although Borrowers are not required to do so. Each Borrower acknowledges and agrees that no Bank Product Provider has committed to provide any Bank Products and that the providing of Bank Products by any Bank Product Provider is in the sole and absolute discretion of such Bank Product Provider. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, no provider or holder of any Bank Product shall have any voting or approval rights hereunder (or be deemed a Lender) solely by virtue of its status as the provider or holder of such agreements or products or the Obligations owing thereunder, nor shall the consent of any such provider or holder be required (other than in their capacities as Lenders, to the extent applicable) for any matter hereunder or under any of the other Loan Documents, including as to any matter relating to the Collateral or the release of Collateral or Guarantors.

19.6 **Debtor-Creditor Relationship.** The relationship between the Lenders and Agent, on the one hand, and the Loan Parties, on the other hand, is solely that of creditor and debtor. No member of the Lender Group has (or shall be deemed to have) any fiduciary relationship or duty to any Loan Party arising out of or in connection with the Loan Documents or the transactions contemplated thereby, and there is no agency or joint venture relationship between the members of the Lender Group, on the one

hand, and the Loan Parties, on the other hand, by virtue of any Loan Document or any transaction contemplated therein.

19.7 **Counterparts; Electronic Execution.** This Agreement, any documents executed in connection herewith and any notices delivered under this Agreement, may be executed by means of (i) an electronic signature that complies with the federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act, or any other relevant and applicable electronic signatures law; (ii) an original manual signature; or (iii) a faxed, scanned, or photocopied manual signature. Each electronic signature or faxed, scanned, or photocopied manual signature shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Agent reserves the right, in its sole discretion, to accept, deny, or condition acceptance of any electronic signature on this Agreement or on any document or notice delivered to Agent in connection with this Agreement. This Agreement, any documents delivered in connection with this Agreement, and any notices delivered under this Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument. Delivery of an executed counterpart of a signature page of this Agreement by telefacsimile or other electronic method of transmission and any documents and notices as set forth herein will be as effective as delivery of a manually executed counterpart of the Agreement, document or notice. The foregoing shall apply to each other Loan Document mutatis mutandis.

19.8 **Revival and Reinstatement of Obligations; Certain Waivers.** If any member of the Lender Group or any Bank Product Provider repays, refunds, restores, or returns, in whole or in part, any payment or property (including any proceeds of Collateral) previously paid or transferred to such member of Lender Group or such Bank Product Provider in full or partial satisfaction of any Obligation or on account of any other obligation of any Loan Party under any Loan Document or any Bank Product Agreement, because the payment, transfer, or the incurrence of the obligation so satisfied is asserted or declared to be void, voidable, or otherwise recoverable under any law relating to creditors' rights, including provisions of the Bankruptcy Code relating to fraudulent transfers, preferences, or other voidable or recoverable obligations or transfers (each, a "Voidable Transfer"), or because such member of the Lender Group or Bank Product Provider elects to do so on the reasonable advice of its counsel in connection with a claim that the payment, transfer, or incurrence is or may be a Voidable Transfer, then, as to any such Voidable Transfer, or the amount thereof that such member of the Lender Group or Bank Product Provider elects to repay, restore, or return (including pursuant to a settlement of any claim in respect thereof), and as to all reasonable and documented out-of-pocket costs, expenses, and attorneys' fees of such member of the Lender Group or Bank Product Provider related thereto, (i) the liability of the Loan Parties with respect to the amount or property paid, refunded, restored, or returned will automatically and immediately be revived, reinstated, and restored and will exist and (ii) Agent's Liens securing such liability shall be effective, revived, and shall remain in full force and effect, in each case, as fully as if such Voidable Transfer had never been made. If, prior to any of the foregoing, (A) Agent's Liens shall have been released or terminated or (B) any provision of this Agreement shall have been terminated or cancelled, Agent's Liens, or such provision of this Agreement, shall be reinstated in full force and effect and such prior release, termination, cancellation or surrender shall not diminish, release, discharge, impair or otherwise affect the obligation of any Loan Party in respect of such liability or any Collateral securing such liability.

19.9 **Confidentiality**.

(a) Agent and Lenders each individually (and not jointly or jointly and severally) agree that material, non-public information regarding the Loan Parties and their Subsidiaries, their operations, assets, and existing and contemplated business plans ("Confidential Information") shall be treated by Agent and the Lenders in a confidential manner, and shall not be disclosed by Agent and the Lenders to

Persons who are not parties to this Agreement, except: (i) to attorneys for and other advisors, accountants, auditors, and consultants to any member of the Lender Group and to employees, directors and officers of any member of the Lender Group (the Persons in this clause (i), "Lender Group Representatives") on a "need to know" basis in connection with this Agreement and the transactions contemplated hereby and on a confidential basis, (ii) to Subsidiaries and Affiliates of any member of the Lender Group (including the Bank Product Providers); provided that any such Subsidiary or Affiliate shall have agreed to receive such information hereunder subject to the terms of this Section 19.9, (iii) as may be required by regulatory authorities so long as such authorities are informed of the confidential nature of such information, (iv) as may be required by statute, decision, or judicial or administrative order, rule, or regulation; provided that (A) prior to any disclosure under this clause (iv), the disclosing party agrees to provide Borrowers with prior written notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior notice to Borrowers pursuant to the terms of the applicable statute, decision, or judicial or administrative order, rule, or regulation and (B) any disclosure under this clause (iv) shall be limited to only that portion of the Confidential Information as may be required by such statute, decision, or judicial or administrative order, rule, or regulation, (v) as may be agreed to in advance in writing by Borrowers, (vi) as requested or required by any Governmental Authority pursuant to any subpoena or other legal process; provided that
(A) prior to any disclosure under this clause (vi) the disclosing party agrees to provide Borrowers with prior written notice thereof, to the extent that it is practicable to do so and to the extent that the disclosing party is permitted to provide such prior written notice to Borrowers pursuant to the terms of the subpoena or other legal process and (B) any disclosure under this clause (vi) shall be limited to only that portion of the Confidential Information as may be required by such Governmental Authority pursuant to such subpoena or other legal process, (vii) as to any such information that is or becomes generally available to the public (other than as a result of prohibited disclosure by Agent or the Lenders or the Lender Group Representatives), (viii) to any assignee, participant or pledgee in connection with any assignment, participation, or pledge of any Lender's interest under this Agreement; provided that, prior to receipt of Confidential Information, any such assignee, participant, or pledgee shall have agreed in writing to receive such Confidential Information either subject to the terms of this Section 19.9 or pursuant to confidentiality requirements substantially similar to those contained in this Section 19.9 (and such Person may disclose such Confidential Information to Persons employed or engaged by them as described in clause (i) above), (ix) in connection with any litigation or other adversary proceeding involving parties hereto which such litigation or adversary proceeding involves claims related to the rights or duties of such parties under this Agreement or the other Loan Documents; provided that, prior to any disclosure to any Person (other than any Loan Party, Agent, any Lender any of their respective Affiliates, or their respective counsel) under this clause (ix) with respect to litigation involving any Person (other than any Borrower, Agent, any Lender, any of their respective Affiliates, or their respective counsel), the disclosing party agrees to provide Borrowers with prior written notice thereof, and (x) in connection with, and to the extent reasonably necessary for, the exercise of any secured creditor remedy under this Agreement or under any other Loan Document.

(b) Anything in this Agreement to the contrary notwithstanding, Agent may disclose information concerning the terms and conditions of this Agreement and the other Loan Documents to loan syndication and pricing reporting services or in its marketing or promotional materials, with such information to consist of deal terms and other information customarily found in such publications or marketing or promotional materials and may otherwise use the name, logos, and other insignia of any Borrower or the other Loan Parties and the Revolver Commitments provided hereunder in any "tombstone" or other advertisements, on its website or in other marketing materials of Agent.

(c) The Loan Parties hereby acknowledge that Agent or its Affiliates may make available to the Lenders materials or information provided by or on behalf of Borrowers hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, SyndTrak or a substantially

similar secure electronic transmission system (the "Platform"). The Platform is provided "as is" and "as available." Agent does not warrant the accuracy or completeness of the Borrower Materials, or the adequacy of the Platform and expressly disclaims liability for errors or omissions in the communications on the Platform. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third party rights or freedom from viruses or other code defects, is made by Agent in connection with the Borrower Materials or the Platform. In no event shall Agent or any of the Agent-Related Persons have any liability to the Loan Parties, any Lender or any other person for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Loan Party's or Agent's transmission of communications through the Internet, except to the extent the liability of such person is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from such person's gross negligence or willful misconduct. Each Loan Party further agrees that certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive material non-public information with respect to the Loan Parties or their securities) (each, a "Public Lender"). The Loan Parties shall be deemed to have authorized Agent and its Affiliates and the Lenders to treat Borrower Materials marked "PUBLIC" or otherwise at any time filed with the SEC as not containing any material non-public information with respect to the Loan Parties or their securities for purposes of United States federal and state securities laws. All Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated as "Public Investor" (or another similar term). Agent and its Affiliates and the Lenders shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" or that are not at any time filed with the SEC as being suitable only for posting on a portion of the Platform not marked as "Public Investor" (or such other similar term).

19.10 **Survival.** All representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that Agent, Issuing Bank, or any Lender may have had notice or knowledge of any Default or Event of Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of, or any accrued interest on, any Loan or any fee or any other amount payable under this Agreement is outstanding or unpaid or any Letter of Credit is outstanding and so long as the Revolver Commitments have not expired or been terminated.

19.11 **Patriot Act.** Each Lender that is subject to the requirements of the Patriot Act hereby notifies Borrowers that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies each Borrower, which information includes the name and address of each Borrower and other information that will allow such Lender to identify each Borrower in accordance with the Patriot Act. In addition, if Agent is required by law or regulation or internal policies to do so, it shall have the right to periodically conduct (a) Patriot Act searches, OFAC/PEP searches, and customary individual background checks for the Loan Parties and (b) OFAC/PEP searches and customary individual background checks for the Loan Parties' senior management and key principals, and each Borrower agrees to cooperate in respect of the conduct of such searches and further agrees that the reasonable and documented out-of-pocket costs and charges for such searches shall constitute Lender Group Expenses hereunder and be for the account of Borrowers.

19.12 **Integration.** This Agreement, together with the other Loan Documents, reflects the entire understanding of the parties with respect to the transactions contemplated hereby and shall not be contradicted or qualified by any other agreement, oral or written, before the Restatement Effective Date. The foregoing to the contrary notwithstanding, all Bank Product Agreements, if any, are independent

agreements governed by the written provisions of such Bank Product Agreements, which will remain in full force and effect, unaffected by any repayment, prepayments, acceleration, reduction, increase, or change in the terms of any credit extended hereunder, except as otherwise expressly provided in such Bank Product Agreement.

19.13 **Liggett as Agent for Borrowers.** Each Borrower hereby irrevocably appoints Liggett as the borrowing agent and attorney-in-fact for all Borrowers on the terms set forth in this Section 19.13 (the "Administrative Borrower"), which appointment shall remain in full force and effect unless and until Agent shall have received prior written notice signed by the applicable Borrower that such appointment has been revoked and that another Borrower has been appointed Administrative Borrower. 100 Maple hereby irrevocably appoints and authorizes the Administrative Borrower (a) to provide Agent with all notices with respect to Revolving Loans and Letters of Credit obtained for the benefit of 100 Maple and all other notices and instructions under this Agreement and the other Loan Documents (and any notice or instruction provided by Administrative Borrower in such capacity shall be deemed to be given by 100 Maple hereunder and shall bind 100 Maple), (b) to receive notices and instructions from members of the Lender Group (and any notice or instruction provided by any member of the Lender Group to the Administrative Borrower in accordance with the terms hereof shall be deemed to have been given to 100 Maple), and (c) to take such action as the Administrative Borrower deems appropriate on its behalf to obtain Revolving Loans and Letters of Credit and to exercise such other powers as are reasonably incidental thereto to carry out the purposes of this Agreement. Each Borrower (including Vector Tobacco) hereby irrevocably appoints and authorizes the Administrative Borrower to execute and deliver Borrowing Base Certificates on behalf of all Borrowers (and any Borrowing Base Certificate delivered by Administrative Borrower in such capacity shall be deemed to be delivered by all Borrowers hereunder and shall bind each Borrower). It is understood that the handling of the Loan Account and Collateral for the Borrowers in a combined fashion, as more fully set forth herein, is done solely as an accommodation to the Borrowers in order to utilize the collective borrowing powers of the Borrowers in the most efficient and economical manner and at their request, and that Lender Group shall not incur liability to any Borrower as a result hereof. Each of Borrowers expects to derive benefit, directly or indirectly, from the handling of the Loan Account and the Collateral for the Borrowers in a combined fashion since the successful operation of each of the Borrowers is dependent on the continued successful performance of the integrated group. To induce the Lender Group to do so, and in consideration thereof, each of the Borrowers hereby jointly and severally agrees to indemnify each member of the Lender Group and hold each member of the Lender Group harmless against any and all liability, expense, loss or claim of damage or injury, made against the Lender Group by any Borrower or by any third party whosoever, arising from or incurred by reason of (i) the handling of the Loan Account and Collateral for the Borrowers as herein provided, or (ii) the Lender Group's relying on any instructions of the Administrative Borrower, except that no Borrower will have liability to the relevant Agent-Related Person or Lender-Related Person under this Section 19.13 with respect to any liability that has been finally determined by a court of competent jurisdiction to have resulted solely from the gross negligence or willful misconduct of such Agent-Related Person or Lender-Related Person, as the case may be.

19.14 **Acknowledgement Regarding Any Supported QFCs**. To the extent that the Loan Documents provide support, through a guarantee or otherwise for Hedge Agreements or any other agreement or instrument that is a QFC (such support "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated, to be governed by the laws of the State of New York and/or of the United States or any other state of the United States). In the event a Covered Entity that is party to a

Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

19.15 **Acknowledgement and Consent to Bail-In of EEA Financial Institutions.** Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

To the extent not prohibited by applicable law, rule or regulation, each Lender shall notify Borrowers and Agent if it has become the subject of a Bail-In Action (or any case or other proceeding in which a Bail-In Action may occur).

[Signature pages to follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the date first above written.

BORROWERS: LIGGETT GROUP LLC,
a Delaware Limited Liability Company, as Administrative Borrower and as a Borrower

By: /s/ Ronald J. Bernstein Name: Ronald J. Bernstein Title: Manager

100 MAPLE LLC,
a Delaware Limited Liability Company, as a Borrower

By: /s/ Ronald J. Bernstein Name: Ronald J. Bernstein Title: Manager

AGENT:

WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as Agent, a Lender and Issuing Bank

By: /s/ Andrew Rogow
Name: Andrew Rogow Title: Vice President

Schedule 1.1

DEFINITIONS

As used in the Agreement, the following terms shall have the following definitions: "100 Maple" has the meaning

specified therefor in the preamble to the Agreement.

"2026 Note Equivalent Indebtedness" means any Indebtedness of Parent (other than the 2026 Notes or the Additional Permitted 2026 Notes and the 2026 Notes Indenture) after the Amendment No. 4 Effective Date, (1) issued in lieu of Parent issuing any Additional Permitted 2026 Notes or (2) issued to refinance or in partial repayment of the 2026 Notes or any of the Additional Permitted 2026 Notes, as otherwise permitted hereunder; provided that:

(a) the sum of (i) the aggregate outstanding principal amount (or any other Indebtedness in connection with the relevant transactions, if applicable) of all 2026 Note Equivalent Indebtedness, and
(ii) the aggregate outstanding principal amount (or any other Indebtedness in connection with the relevant transactions, if applicable) of all Indebtedness outstanding under the Additional Permitted 2026 Notes does not cause Parent to breach the "Fixed Charge Coverage Ratio" covenant set forth in the 2026 Notes Indenture as in effect on November 2, 2018 (whether or not such 2026 Notes Indenture is in full force and effect at the time of the incurrence of the 2026 Note Equivalent Indebtedness) or any other covenant set forth in the 2026 Notes Indenture, if such 2026 Notes Indenture is still in effect;

(b) any such 2026 Note Equivalent Indebtedness shall not have a scheduled final maturity date earlier than the later of (i) the maturity date of the 2026 Notes or (ii) one hundred eighty (180) days after the Maturity Date;

(c) such 2026 Note Equivalent Indebtedness shall not be secured by any property or assets of any Borrower or any of their respective Subsidiaries;

(d) as of the date of incurring or issuing any of such 2026 Note Equivalent Indebtedness and after giving effect thereto, no Event of Default shall exist or have occurred and be continuing; and

(e) any mandatory payments shall be on terms substantially similar to, or (taken as a whole) no more favorable to the holder of such Indebtedness than (as reasonably determined by Borrowers) those in respect of the 2026 Notes except as Agent may otherwise agree.

"2026 Notes" shall mean, collectively, (a) the 10.500% Senior Notes due 2026, in the original principal amount of $555,000,000, and (b) any Additional Permitted 2026 Notes issued by Parent pursuant to the 2026 Notes Indenture, in each case, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated, refinanced or replaced (to the extent not prohibited by this Agreement).

"2026 Notes Indenture" shall mean the Indenture, dated as of November 2, 2018, by and among Parent, the subsidiary guarantors party thereto and the 2026 Notes Trustee, as trustee, with respect to the 2026 Notes, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated, refinanced or replaced (to the extent not prohibited by this Agreement).

"2026 Notes Trustee" shall mean U.S. Bank National Association, in its capacity as trustee under the 2026 Notes Indenture, and any successor, replacement or additional trustee under the 2026 Notes Indenture, and their respective successors and assigns.

"2029 Note Equivalent Indebtedness" means any Indebtedness of Parent (other than the 2029 Notes or the Additional Permitted 2029 Notes and the 2029 Notes Indenture) after the Amendment No. 4 Effective Date, (1) issued in lieu of Parent issuing any Additional Permitted 2029 Notes or (2) issued to refinance or in partial repayment of the 2029 Notes or any of the Additional Permitted 2029 Notes, as otherwise permitted hereunder; provided that:

(a) the sum of (i) the aggregate outstanding principal amount (or any other Indebtedness in connection with the relevant transactions, if applicable) of all 2029 Note Equivalent Indebtedness, and (ii) the aggregate outstanding principal amount (or any other Indebtedness in connection with the relevant transactions, if applicable) of all Indebtedness outstanding under the Additional Permitted 2029 Notes does not cause Parent to breach the "Secured Leverage Ratio" covenant set forth in the 2029 Notes Indenture as in effect on January 28, 2021 (whether or not such 2029 Notes Indenture is in full force and effect at the time of the incurrence of the 2029 Equivalent Indebtedness) or any other covenant set forth in the 2029 Notes Indenture, if such 2029 Notes Indenture is still in effect,

(b) any such 2029 Note Equivalent Indebtedness shall not have a scheduled final maturity date earlier than the later of (i) the maturity date of the 2029 Notes or (ii) one hundred eighty (180) days after the Maturity Date,

(c) such 2029 Note Equivalent Indebtedness shall not be secured by any property or assets of any Borrower or any of their respective Subsidiaries other than the Collateral securing the 2029 Notes,

(d) as of the date of incurring or issuing any of such 2029 Note Equivalent Indebtedness and after giving effect thereto, no Event of Default shall exist or have occurred and be continuing,

(e) any mandatory payments shall be on terms substantially similar to, or (taken as a whole) no more favorable to the holder of such Indebtedness than (as reasonably determined by Borrowers) those in respect of the 2029 Notes except as Agent may otherwise agree, and

(f) to the extent secured, such 2029 Note Equivalent Indebtedness shall be subject to the 2029 Notes Intercreditor Agreement or such other intercreditor agreement as is reasonably satisfactory to Agent.

"2029 Notes" shall mean, collectively, (a) the 5.75% Senior Secured Notes due 2029, in the original principal amount of $875,000,000, and (b) any Additional Permitted 2029 Notes issued by Parent pursuant to the 2029 Notes Indenture, in each case, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated, refinanced or replaced (to the extent not prohibited by this Agreement and the 2029 Notes Intercreditor Agreement).

"2029 Notes Indenture" shall mean the Indenture, dated as of January 28, 2021, by and among Parent, the subsidiary guarantors party thereto and the 2029 Notes Trustee, as trustee, with respect to the 2029 Notes, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated, refinanced or replaced (to the extent not prohibited by this Agreement and the 2029 Notes Intercreditor Agreement).

"2029 Notes Intercreditor Agreement" shall mean the Second Amended and Restated Intercreditor and Lien Subordination Agreement, dated as of January 28, 2021, executed by and among Agent, the 2029 Notes Trustee, Liggett, 100 Maple and the other persons party thereto from time to time, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed,

restated or replaced (to the extent not prohibited by this Agreement and the 2029 Notes Intercreditor Agreement).

"2029 Notes Trustee" shall mean U.S. Bank National Association, in its capacity as trustee under the 2029 Notes Indenture, and any successor, replacement or additional trustee under the 2029 Notes Indenture, and their respective successors and assigns.

"Acceptable Appraisal" means, with respect to an appraisal of Real Property, the most recent appraisal of such Real Property received by Agent (a) from an appraisal company satisfactory to Agent,
(b) the scope and methodology (including, to the extent relevant, any sampling procedure employed by such appraisal company) of which are reasonably satisfactory to Agent, and (c) the results of which are reasonably satisfactory to Agent, in each case, in Agent's Permitted Discretion.

"Account" means an account (as that term is defined in the Code).

"Account Debtor" means any Person who is obligated on an Account, chattel paper, or a general intangible.

"Account Party" has the meaning specified therefor in Section 2.11(g) of the Agreement.

"Accounting Change" means any change in accounting principles or in the application thereof required by the promulgation of any rule, regulation, pronouncement or opinion by the Financial Accounting Standards Board of the American Institute of Certified Public Accountants (or successor thereto or any agency with similar functions).

"Additional Documents" has the meaning specified therefor in Section 5.12 of the Agreement.

"Additional Permitted 2026 Notes" shall mean any and all notes issued under the 2026 Notes Indenture to the extent that the issuance of such notes does not cause Parent to breach the "Fixed Charge Coverage Ratio" covenant relating to the incurrence of indebtedness and described in the 2026 Notes Indenture as in effect on November 2, 2018.

"Additional Permitted 2029 Notes" shall mean any and all notes issued under the 2029 Notes Indenture to the extent that the issuance of such notes does not cause Parent to breach the "Secured Leverage Ratio" covenant relating to the incurrence of indebtedness and described in the 2029 Notes Indenture as in effect on January 28, 2021.

"Administrative Borrower" has the meaning specified therefor in Section 19.13 of the Agreement.

"Administrative Questionnaire" has the meaning specified therefor in Section 13.1(a) of the Agreement.

"Affected Financial Institution" means (a) any EEA Financial Institution or (b) any U.K. Financial Institution.

"Affected Lender" has the meaning specified therefor in Section 2.13(b) of the Agreement.

"Affiliate" means, as applied to any Person, any other Person who controls, is controlled by, or is under common control with, such Person. For purposes of this definition, "control" means the possession, directly or indirectly through one or more intermediaries, of the power to direct the management and policies of a Person, whether through the ownership of Equity Interests, by contract, or

otherwise; provided that, for purposes of the definition of Eligible Accounts and Section 6.10 of the Agreement: (a) any Person which owns, directly or indirectly, ten percent (10%) or more of the Equity Interests having ordinary voting power for the election of directors or other members of the governing body of a Person or 10% or more of the partnership or other ownership interests of a Person (other than as a limited partner of such Person) shall be deemed an Affiliate of such Person, (b) each director (or comparable manager) of a Person shall be deemed an Affiliate of such Person, and (c) each partnership in which a Person is a general partner shall be deemed an Affiliate of such Person.

"Agent" has the meaning specified therefor in the preamble to the Agreement.

"Agent-Related Persons" means Agent, together with its Affiliates, officers, directors, employees, attorneys, and agents.

"Agent's Account" means each of (a) the Deposit Account of Agent identified as the designated Agent's Account for Liggett on Schedule A-1 to this Agreement (or such other Deposit Account of Agent that has been designated as such, in writing, by Agent to Borrowers and the Lenders), and (b) the Deposit Account of Agent identified as the designated Agent's Account for Vector Tobacco on Schedule A-1 to this Agreement (or such other Deposit Account of Agent that has been designated as such, in writing, by Agent to Borrowers and the Lenders).

"Agent's Liens" means the Liens granted by each Loan Party to Agent under the Loan Documents and securing the Obligations.

"Agreement" means the Credit Agreement to which this Schedule 1.1 is attached.

"Amendment No. 4" shall mean that certain Amendment No. 4 and Joinder to the Third Amended and Restated Credit Agreement, dated as of March 22, 2021, among Borrowers, Agent and the Lenders.

"Amendment No. 4 Effective Date" shall have the meaning assigned to such term in Amendment No. 4.

"Anti-Corruption Laws" means the FCPA, the U.K. Bribery Act of 2010, as amended, and all other applicable laws and regulations or ordinances concerning or relating to bribery or corruption in any jurisdiction in which any Loan Party or any of its Subsidiaries or Affiliates is located or is doing business.

"Anti-Money Laundering Laws" means the applicable laws or regulations in any jurisdiction in which any Loan Party or any of its Subsidiaries or Affiliates is located or is doing business that relates to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto.

"Applicable Margin" means (a) in the case of a Base Rate Loan, zero (-0-) percentage points (the "Base Rate Margin"), (b) in the case of a LIBOR Rate Loan, 2.25 percentage points (the "LIBOR Rate Margin"), and (c) in the case of Daily LIBOR Rate Loans, 2.25 percentage points (the "Daily LIBOR Rate Margin").

"Applicable Unused Line Fee Percentage" means, as of any date of determination, the applicable percentage set forth in the following table that corresponds to the Average Revolver Usage of Borrowers for the most recently completed fiscal quarter as determined by Agent in its Permitted Discretion; provided, that for the period from the Amendment No. 4 Effective Date through and including June 30, 2021, the Applicable Unused Line Fee Percentage shall be set at the percentage in the row styled "Level 2":

Level	Average Revolver Usage	Applicable Unused Line Fee Percentage
1	Greater than thirty-five percent (35%) of the Maximum Revolver Amount	0.25%
2	Less than or equal to thirty-five percent (35%) of the Maximum Revolver Amount	0.30%

The Applicable Unused Line Fee Percentage shall be re-determined on the first date of each fiscal quarter by Agent.

"Application Event" means the occurrence of a failure by Borrowers to repay all of the Obligations in full on the Maturity Date, or (b) the occurrence and continuation of an Event of Default and the election by Agent or the Required Lenders to require that payments and proceeds of Collateral be applied pursuant to Section 2.4(b)(iii) of the Agreement.

"Assignee" has the meaning specified therefor in Section 13.1(a) of the Agreement.

"Assignment and Acceptance" means an Assignment and Acceptance Agreement substantially in the form of Exhibit A-1 to the Agreement.

"Authorized Person" means any one of the individuals identified on Schedule A-2 to the Agreement, as such schedule is updated from time to time by written notice from a Borrower to Agent.

"Availability" means, as of any date of determination, the amount that Borrowers are entitled to borrow as Revolving Loans under Section 2.1 of the Agreement (after giving effect to the then outstanding Revolver Usage).

"Average Availability" means, with respect to any period, the sum of the aggregate amount of Availability for each Business Day in such period (calculated as of the end of each respective Business Day) divided by the number of Business Days in such period.

"Average Excess Availability" means, with respect to any period, the sum of the aggregate amount of Excess Availability for each Business Day in such period (calculated as of the end of each respective Business Day) divided by the number of Business Days in such period.

"Average Revolver Usage" means, with respect to any period, the sum of the aggregate amount of Revolver Usage for each Business Day in such period (calculated as of the end of each respective Business Day) divided by the number of Business Days in such period.

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

"Bail-In Legislation" means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule; and (b) with respect to the United Kingdom,

Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their Affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bank Product" means any one or more of the following financial products or accommodations extended to a Borrower or its Subsidiaries by a Bank Product Provider or for which a Borrower has guaranteed the obligations of such Subsidiary or other Affiliate of Borrower (as approved by Agent): (a) credit cards (including commercial cards (including so-called "purchase cards," "procurement cards" or "p-cards")), (b) payment or credit card processing services, (c) debit cards, (d) stored value cards, (e) Cash Management Services, or (f) transactions under Hedge Agreements.

"Bank Product Agreements" means those agreements entered into from time to time by a Borrower or its Subsidiaries with a Bank Product Provider in connection with the obtaining of any of the Bank Products.

"Bank Product Collateralization" means providing cash collateral (pursuant to documentation reasonably satisfactory to Agent) to be held by Agent for the benefit of the Bank Product Providers (other than the Hedge Providers) in an amount determined by Agent as sufficient to satisfy the reasonably estimated credit exposure, operational risk or processing risk with respect to the then existing Bank Product Obligations (other than Hedge Obligations).

"Bank Product Obligations" means (a) all obligations, liabilities, reimbursement obligations, fees, or expenses owing by each Loan Party and its Subsidiaries to any Bank Product Provider pursuant to or evidenced by a Bank Product Agreement and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, (b) all Hedge Obligations, and (c) all amounts that Agent or any Lender is obligated to pay to a Bank Product Provider as a result of Agent or such Lender purchasing participations from, or executing guarantees or indemnities or reimbursement obligations to, a Bank Product Provider with respect to the Bank Products provided by such Bank Product Provider to a Borrower or one of its Subsidiaries.

"Bank Product Provider" means Wells Fargo or any of its Affiliates, including each of the foregoing in its capacity, if applicable, as a Hedge Provider.

"Bank Product Reserves" means, as of any date of determination, those reserves that Agent determines necessary or appropriate to establish in its Permitted Discretion, subject to Section 2.1(c) of the Agreement (based upon the Bank Product Providers' determination of the liabilities and obligations of each Borrower and its Subsidiaries in respect of Bank Product Obligations) in respect of Bank Products then provided or outstanding.

"Bankruptcy Code" means title 11 of the United States Code, as in effect from time to time.

"Base Rate" means the greatest of (a) the Federal Funds Rate, *plus* one half (½) of one percentage point, (b) the LIBOR Rate (which rate shall be calculated based upon an Interest Period of one (1) month and shall be determined on a daily basis), *plus* one (1) percentage point, and (c) the rate of interest announced from time to time within Wells Fargo at its principal office in San Francisco as its "prime rate," with the understanding that the "prime rate" is one of Wells Fargo's base rates (not necessarily the lowest of such rates) and serves as the basis upon which effective rates of interest are calculated for those loans making reference thereto and is evidenced by the recording thereof after its announcement in such internal publications as Wells Fargo may designate (and, if any such announced rate is below zero, then the rate determined pursuant to this clause (b) shall be deemed to be zero).

"Base Rate Loan" means each portion of the Revolving Loans that bears interest at a rate determined by reference to the Base Rate.

"Base Rate Margin" has the meaning set forth in the definition of Applicable Margin.

"Benchmark Replacement" means the sum of: (a) the alternate benchmark rate (which may include Term SOFR) that has been selected by Agent and Borrowers giving due consideration to (i) any selection or recommendation of a replacement 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 rate of interest as a replacement to the LIBOR Rate and/or Daily One Month LIBOR for Dollar- denominated syndicated credit facilities; and (b) the Benchmark Replacement Adjustment; provided that, if the Benchmark Replacement as so determined would be less than zero, the Benchmark Replacement shall be deemed to be zero for the purposes of this Agreement.

"Benchmark Replacement Adjustment" means, with respect to any replacement of the LIBOR Rate and/or Daily One Month LIBOR with an Unadjusted Benchmark Replacement for each applicable Interest Period, 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 Agent and Borrowers 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 the LIBOR Rate and/or Daily One Month LIBOR with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body 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 the LIBOR Rate and/or Daily One Month LIBOR with the applicable Unadjusted Benchmark Replacement, for Dollar-denominated syndicated credit facilities at such time.

"Benchmark Replacement Conforming Changes" means, with respect to any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Interest Period," timing and frequency of determining rates and making payments of interest and other administrative matters) that Agent decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by Agent in a manner substantially consistent with market practice (or, if Agent decides that adoption of any portion of such market practice is not administratively feasible or if Agent determines that no market practice for the administration of the Benchmark Replacement exists, in such other manner of administration as Agent decides is reasonably necessary in connection with the administration of this Agreement).

"Benchmark Replacement Date" means, in the case of either the LIBOR Rate or Daily One Month LIBOR, the earlier to occur of the following events with respect thereto:

(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 the LIBOR Rate or Daily One Month LIBOR, as applicable, permanently or indefinitely ceases to provide the LIBOR Rate or Daily One Month LIBOR, as applicable; or

(b) in the case of clause (c) of the definition of "Benchmark Transition Event," the date of the public statement or publication of information referenced therein.

"Benchmark Transition Event" means, in the case of either the LIBOR Rate or Daily One Month LIBOR, the occurrence of one or more of the following events with respect thereto:

(a) a public statement or publication of information by or on behalf of the administrator of the LIBOR Rate or Daily One Month LIBOR, as applicable announcing that such administrator has ceased or will cease to provide the LIBOR Rate or Daily One Month LIBOR, as applicable, permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the LIBOR Rate or Daily One Month LIBOR, as applicable;

(b) a public statement or publication of information by the regulatory supervisor for the administrator of the LIBOR Rate or Daily One Month LIBOR, as applicable, the Federal Reserve System of the United States (or any successor), an insolvency official with jurisdiction over the administrator for the LIBOR Rate or Daily One Month LIBOR, as applicable, a resolution authority with jurisdiction over the administrator for the LIBOR Rate or Daily One Month LIBOR, as applicable, or a court or an entity with similar insolvency or resolution authority over the administrator for the LIBOR Rate or Daily One Month LIBOR, as applicable, which states that the administrator of the LIBOR Rate or Daily One Month LIBOR, as applicable, has ceased or will cease to provide the LIBOR Rate or Daily One Month LIBOR, as applicable, permanently or indefinitely; provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide the LIBOR Rate or Daily One Month LIBOR, as applicable; or

(c) a public statement or publication of information by the regulatory supervisor for the administrator of the LIBOR Rate or Daily One Month LIBOR, as applicable, announcing that the LIBOR Rate or Daily One Month LIBOR, as applicable, is no longer representative.

"Benchmark Transition Start Date" means (a) in the case of a Benchmark Transition Event, the earlier of (i) the applicable Benchmark Replacement Date and (ii) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the ninetieth (90^{th}) day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than ninety (90) days after such statement or publication, the date of such statement or publication) and (b) in the case of an Early Opt-in Election, the date specified by Agent or the Required Lenders as applicable by notice to Borrowers, Agent (in the case of such notice by the Required Lenders) and the Lenders.

"Benchmark Unavailability Period" means, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to the LIBOR Rate or Daily One Month LIBOR, as applicable, and solely to the extent that the LIBOR Rate or Daily One Month LIBOR, as applicable, has not been replaced with a Benchmark Replacement, the period (x) beginning at the time that such Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the LIBOR Rate or Daily One Month LIBOR, as applicable, for all purposes hereunder in accordance with Section 2.12(d)(iii) and (y) ending at the time that a Benchmark Replacement has replaced the LIBOR Rate or Daily One Month LIBOR as applicable, for all purposes hereunder pursuant to Section 2.12(d)(iii).

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

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Benefit Plan" means a "defined benefit plan" (as defined in Section 3(35) of ERISA) for which any Borrower or any of its Subsidiaries or ERISA Affiliates has been an "employer" (as defined in Section 3(5) of ERISA) within the past six years.

"BHC Act Affiliate" of a Person means an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such Person.

"Board of Directors" means, as to any Person, the board of directors (or comparable managers) of such Person, or any committee thereof duly authorized to act on behalf of the board of directors (or comparable managers).

"Board of Governors" means the Board of Governors of the Federal Reserve System of the United States (or any successor).

"Borrower" and "Borrowers" have the respective meanings specified therefor in the preamble to the Agreement.

"Borrower Materials" has the meaning specified therefor in Section 19.9(c) of the Agreement.

"Borrowing" means a borrowing consisting of Revolving Loans made on the same day by the Lenders (or Agent on behalf thereof), or by Swing Lender in the case of a Swing Loan, or by Agent in the case of an Extraordinary Advance.

"Borrowing Base" means, as of any date of determination, the result of:

(a) the amount equal to the sum of:

(i) the lesser of: (A) eighty-five percent (85%) of the Net Amount of Eligible Accounts, *less* the amount, if any, of the Dilution Reserve, and (B) $15,000,000; *plus*

(ii) eighty percent (80%) of the Value of Eligible Inventory consisting of packaged cigarettes (whether reflected in the applicable Borrower's books and records, in accordance with its accounting practices in effect on the Amendment No. 4 Effective Date, as finished goods or manufactured stock); *plus*

(iii) the Designated Percentage of the Value of Eligible Inventory consisting of leaf tobacco at such time; *plus*

(iv) the lesser of: (A) the Real Property Subline Amount, and (B) the product of 60% multiplied by the FMV of Eligible Real Property, as such FMV is identified in the most recent Acceptable Appraisal of Eligible Real Property available at such time; *minus*

(b) the aggregate amount of reserves, if any, established by Agent under Section 2.1(c) of the Agreement.

"Borrowing Base Certificate" means a certificate substantially in the form of Exhibit B-1 executed by any Authorized Person who is a senior officer of Administrative Borrower, which form of Borrowing Base Certificate may be amended, restated, supplemented or otherwise modified from time to time (including changes to the format thereof), as approved by Agent in Agent's sole discretion.

"Business Day" means any day that is not a Saturday, Sunday, or other day on which banks are authorized or required to close in the state of New York, except that, if a determination of a Business Day shall relate to a LIBOR Rate Loan, the term "Business Day" also shall exclude any day on which banks are closed for dealings in Dollar deposits in the London interbank market.

"Capital Expenditures" means, with respect to any Person for any period, the amount of all expenditures by such Person and its Subsidiaries during such period that are capital expenditures as determined in accordance with GAAP, whether such expenditures are paid in cash or financed, but excluding, without duplication (a) expenditures made during such period in connection with the replacement, substitution, or restoration of assets or properties, (b) with respect to the purchase price of assets that are purchased substantially contemporaneously with the trade-in of existing assets during such period, the amount that the gross amount of such purchase price is reduced by the credit granted by the seller of such assets for the assets being traded in at such time, (c) capitalized software development costs to the extent such costs are deducted from net earnings under the definition of EBITDA for such period, and (d) expenditures during such period that, pursuant to a written agreement, are reimbursed by a third Person (excluding any Borrower or any of its Affiliates).

"Capital Lease" means a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP.

"Capitalized Lease Obligation" means that portion of the obligations under a Capital Lease that is required to be capitalized in accordance with GAAP.

"Carry-Over Amount" has the meaning specified therefor in Section 7(b) of the Agreement.

"Cash Dominion Event" means any of the following: (a) for any period of fifteen (15) consecutive Business Days, Excess Availability is less than $7,500,000, (b) at any time, Excess Availability is less $4,500,000, or (c) an Event of Default shall have occurred and be continuing and Agent or Required Lenders have elected that a Cash Dominion Event has occurred under this clause (c); provided that (i) to the extent that the Cash Dominion Event has occurred due to clauses (a) or (b) of this definition, if Excess Availability is equal to or greater than $7,500,000 for at least sixty (60) consecutive Business Days (or such shorter period agreed by Agent), the Cash Dominion Event shall no longer be deemed to exist or be continuing until such time as the Excess Availability may again be less than the applicable specified amount, (ii) to the extent that the Cash Dominion Event has occurred due to clause (c) of this definition, if no Event of Default exists for sixty (60) consecutive Business Days (or such shorter period agreed by Agent), the Cash Dominion Event shall no longer be deemed to exist or be continuing until such time as an Event of Default may thereafter occur again and (iii) unless otherwise agreed by Agent, a Cash Dominion Event may not be cured more than two (2) times in any twelve (12) month period or five (5) times during the term of the Agreement. In the event that a Cash Dominion Event would exist pursuant to clause (a), (b) or (c) of the immediately preceding sentence, as a direct result of a proposed Borrowing by a Borrower, the proceeds of which shall be used to pay excise Taxes and/or any payment required to be made under the Master Settlement Agreement, no Cash Dominion Event shall be deemed to exist; provided that Agent has received evidence that EBITDA of Borrowers and their Subsidiaries, on a consolidated combined basis, is equal to or greater than $120,000,000 for the most recent twelve (12) consecutive months ended for which Agent has received financial statements immediately prior to any such Borrowing (for purposes of this definition any Borrowing made on or about the date(s) that excise taxes are due and payable or a payment is required under the Master Settlement Agreement shall be deemed to be a Borrowing requested for such purpose).

"Cash Equivalents" means (a) marketable direct obligations issued by, or unconditionally guaranteed by, the United States or issued by any agency thereof and backed by the full faith and credit of the United States, in each case maturing within 1 year from the date of acquisition thereof, (b) marketable direct obligations issued or fully guaranteed by any state of the United States or any political subdivision of any such state or any public instrumentality thereof maturing within one (1) year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either Standard & Poor's Rating Group ("S&P") or Moody's Investors Service, Inc. ("Moody's"),

(c) commercial paper maturing no more than two hundred seventy (270) days from the date of creation thereof and, at the time of acquisition, having a rating of at least A-1 from S&P or at least P-1 from Moody's, (d) certificates of deposit, time deposits, overnight bank deposits or bankers' acceptances maturing within one (1) year from the date of acquisition thereof issued by any bank organized under the laws of the United States or any state thereof or the District of Columbia or any United States branch of a foreign bank having at the date of acquisition thereof combined capital and surplus of not less than
$1,000,000,000, (e) Deposit Accounts maintained with (i) any bank that satisfies the criteria described in clause (d) above, or (ii) any other bank organized under the laws of the United States or any state thereof so long as the full amount maintained with any such other bank is insured by the Federal Deposit Insurance Corporation, (f) repurchase obligations of any commercial bank satisfying the requirements of clause (d) of this definition or recognized securities dealer having combined capital and surplus of not less than $1,000,000,000, having a term of not more than seven (7) days, with respect to securities satisfying the criteria in clauses (a) or (d) above, (g) debt securities with maturities of six months or less from the date of acquisition backed by standby letters of credit issued by any commercial bank satisfying the criteria described in clause (d) above, and (h) Investments in money market funds substantially all of whose assets are invested in the types of assets described in clauses (a) through (g) above.

"Cash Management Services" means any cash management or related services, including treasury, depository, return items, overdraft, controlled disbursement, merchant store value cards, e- payables services, electronic funds transfer, interstate depository network, automatic clearing house transfer (including the Automated Clearing House processing of electronic funds transfers through the direct Federal Reserve Fedline system) and other cash management arrangements.

"CFC" means a controlled foreign corporation (as that term is defined in the IRC).

"CFC Holding Company" means a Subsidiary of any Borrower (a) that is treated as a disregarded entity for U.S. federal income tax purposes, (b) the primary assets of which consists of Equity Interests in either (i) one or more CFCs or (ii) one or more other CFC Holding Companies, and (c) that conducts no material business other than holding such Equity Interests.

"Change in Law" means the occurrence after the date of the Agreement: (a) the adoption or effectiveness of any law, rule, regulation, judicial ruling, judgment or treaty, (b) any change in any law, rule, regulation, judicial ruling, judgment or treaty or in the administration, interpretation, implementation or application by any Governmental Authority of any law, rule, regulation, guideline or treaty, or (c) the making or issuance by any Governmental Authority of any request, rule, guideline or directive, whether or not having the force of law; provided that, notwithstanding anything in the Agreement 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 concerning capital adequacy 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 shall, in each case, be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued.

"Change of Control" means that:

(a) Parent fails to own and control, directly or indirectly, 51% of the Equity Interests of Liggett or Vector Tobacco;

(b) Liggett fails to own and control, directly or indirectly, 100% of the Equity Interests of 100 Maple; or

(c) the occurrence of any "Change of Control" as defined in the 2029 Notes Indenture or, if the 2029 Notes have been refinanced, the indenture or other agreement governing such Refinancing Indebtedness thereof.

"Claim" has the meaning specified therefor in Section 12(c) of the Agreement.

"Code" means the New York Uniform Commercial Code, as in effect from time to time.

"Collateral" means all assets and interests in assets and proceeds thereof now owned or hereafter acquired by any Loan Party in or upon which a Lien is granted by such Person in favor of Agent under any of the Loan Documents.

"Collateral Access Agreement" means a landlord waiver, bailee letter, or acknowledgement agreement of any lessor, warehouseman, processor, consignee, or other Person in possession of, having a Lien upon, or having rights or interests in any Loan Party's books and records, Equipment, or Inventory, in each case, in form and substance reasonably satisfactory to Agent.

"Collections" means, all cash, checks, notes, instruments, and other items of payment (including insurance proceeds, cash proceeds of asset sales, rental proceeds and tax refunds).

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

"Compliance Certificate" means a certificate substantially in the form of Exhibit C-1 to the Agreement delivered to Agent and executed by an Authorized Person who is a senior officer of Liggett and an Authorized Person who is a senior officer of Vector Tobacco.

"Compliance Period" means the period commencing on the date on which the Excess Availability is less than $30,000,000 and ending on the date on which Excess Availability has been equal to or greater than $30,000,000 for any consecutive sixty (60) day period (or such shorter period agreed by Agent) thereafter.

"Confidential Information" has the meaning specified therefor in Section 19.9(a) of the Agreement.

"Consolidated Net Income" shall mean, with respect to any Person, for any period, the aggregate of the net income (loss) of such Person and its Subsidiaries, on a consolidated basis, for such period, excluding to the extent included therein any extraordinary, one-time, non-recurring or non-cash gains or losses, after deducting all charges which should be deducted before arriving at the net income (loss) for such period and after deducting the Provision for Taxes for such period, all as determined in accordance with GAAP; provided that (a) the net income of any other Person that is not a majority owned Subsidiary of such Person or that is accounted for by the equity method of accounting shall be included only to the extent of the amount of cash dividends or similar distributions paid to such Person or a majority owned Subsidiary of such Person; and (b) the net income (if positive) of any majority-owned Subsidiary of such Person to the extent the payment of cash dividends or similar cash distributions by such Subsidiary is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such majority-owned Subsidiary shall be excluded (except to the extent of the amount of cash dividends or similar distributions paid to such Person or another majority-owned Subsidiary of such Person).

"Control Agreement" means a control agreement, in form and substance reasonably satisfactory to Agent, executed and delivered by a Borrower or one of its Subsidiaries, Agent, and the applicable securities intermediary (with respect to a Securities Account) or bank (with respect to a Deposit Account).

"Copyright Security Agreement" has the meaning specified therefor in the Guaranty and Security Agreement.

"Covered Entity" means any of the following:

(a) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(b) a "covered bank" as that term is defined in, and interpreted in accordance with, 17 C.F.R. § 47.3(b); or

(c) a "covered FST" as that term is defined, in and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Covered Party" has the meaning specified therefor in Section 19.14 of this Agreement.

"Daily One Month LIBOR" shall mean the rate of interest per annum determined by Agent on the rate for United States dollar deposits for delivery of funds for one (1) month as reported on Reuters Screen LIBOR01 page (or any successor page) at approximately 11:00 a.m., London time, or, for any day not a Business Day, the immediately preceding Business Day (or if not so reported, then as determined by Bank from another recognized source or interbank quotation) (and, if any such rate is below zero, then the Daily One Month LIBOR shall be deemed to be zero). When interest is determined in relation to the Daily One Month LIBOR, each change in the interest rate shall become effective each Business Day that Agent determines that the Daily One Month LIBOR has changed.

"Daily LIBOR Rate Loan" means each portion of a Revolving Loan that bears interest at a rate determined by reference to Daily One Month LIBOR.

"Daily LIBOR Rate Margin" has the meaning set forth in the definition of Applicable Margin.

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

"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.

"Defaulting Lender" means any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies Agent and Borrowers in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable Default or Event of Default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to Agent, Issuing Bank, or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit) within two (2) Business Days of the date when due, (b) has notified any Borrower, Agent or Issuing Bank in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent

to funding (which condition precedent, together with any applicable Default or Event of Default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by Agent or any Borrower, to confirm in writing to Agent and Borrowers that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by Agent and Borrowers), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of any Insolvency Proceeding, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-in Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon delivery of written notice of such determination to Borrowers, Issuing Bank, and each Lender.

"Defaulting Lender Rate" means (a) for the first three (3) days from and after the date the relevant payment is due, the Base Rate, and (b) thereafter, the interest rate then applicable to Revolving Loans that are Base Rate Loans (inclusive of the Base Rate Margin applicable thereto).

"Deposit Account" means any deposit account (as that term is defined in the Code).

"Designated Account" means each of (a) the Deposit Account of Liggett identified on Schedule D-1 to the Agreement (or such other Deposit Account of Liggett located at Designated Account Bank that has been designated as such, in writing, by Liggett to Agent), and (b) the Deposit Account of Vector Tobacco identified on Schedule D-1 to the Agreement (or such other Deposit Account of Vector Tobacco located at Designated Account Bank that has been designated as such, in writing, by Vector Tobacco to Agent).

"Designated Account Bank" has the meaning specified therefor in Schedule D-1 to the Agreement (or such other bank that is located within the United States that has been designated as such, in writing, by Borrowers to Agent).

"Designated Percentage" shall mean the lesser of (a) sixty-five percent (65%) multiplied by the Eligible Cost (as that term is used and reported in the most recent appraisal report rendered from time to time pursuant to this Agreement; it being understood that for purposes hereof, "Eligible Cost" shall have the meaning set forth in, and shall be calculated using the method of calculation thereof that is employed, in the appraisal reports delivered prior to the Amendment No. 4 Effective Date) of Eligible Inventory consisting of leaf tobacco as reflected on the books and records of the applicable Borrower maintained by such Borrower in good faith, or (b) eighty-five percent (85%) of the net orderly liquidation value of Eligible Inventory consisting of leaf tobacco as indicated by the most recent appraisal report thereof rendered from time to time pursuant to this Agreement, assuming an orderly liquidation sale within ninety (90) days.

"Dilution" means, as of any date of determination, a percentage, based upon the experience of the immediately prior twelve (12) months, that is the result of dividing the Dollar amount of (a) bad debt

write-downs, discounts, advertising allowances, credits, or other dilutive items with respect to Borrowers' Accounts during such period, by (b) Borrowers' billings with respect to Accounts during such period.

"Dilution Reserve" means, as of any date of determination, an amount sufficient to reduce the advance rate against Eligible Accounts by one (1) percentage point for each percentage point by which Dilution is in excess of five percent (5%).

"Disqualified Equity Interests" means any Equity Interest that, by its terms (or by the terms of any security or other Equity Interests 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 (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Revolver Commitments), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provides for the scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is one hundred eighty (180) days after the Maturity Date.

"Dollars" or "$" means United States dollars.

"Drawing Document" means any Letter of Credit or other document presented for purposes of drawing under any Letter of Credit.

"Early Opt-in-Election" means the occurrence of:

(a) (i) a determination by Agent or (ii) a notification by the Required Lenders to Agent (with a copy to Borrowers) that the Required Lenders have determined that Dollar-denominated syndicated credit, facilities being executed at such time, or that include language similar to that contained in Section 2.12(d)(iii), are being executed or amended, as applicable, to incorporate or adopt a new benchmark interest rate to replace the LIBOR Rate and/or Daily One Month LIBOR, as applicable; and

(b) (i) the election by Agent or (ii) the election by the Required Lenders to declare that an Early Opt-in Election has occurred and the provision, as applicable, by Agent of written notice of such election to Borrowers and the Lenders or by the Required Lenders of written notice of such election to Agent.

"EBITDA" means, as to any Person, with respect to any period, an amount equal to: (a) the Consolidated Net Income of such Person and its Subsidiaries for such period, *plus* (b) depreciation and amortization, imputed interest, deferred compensation and other non-cash charges for such period (to the extent deducted in the computation of Consolidated Net Income of such Person), all in accordance with GAAP, *plus* (c) Interest Expense for such period (to the extent deducted in the computation of Consolidated Net Income of such Person), *plus* (d) the Provision for Taxes for such period (to the extent deducted in the computation of Consolidated Net Income of such Person).

"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.

"Eligible Accounts" means those Accounts created by a Borrower (other than 100 Maple) in the ordinary course of its business that arise out of its sale of goods or rendition of services, that comply with each of the representations and warranties respecting Eligible Accounts made in the Loan Documents, and that are not excluded as ineligible by virtue of one or more of the excluding criteria set forth below; provided that such criteria may be revised from time to time by Agent in Agent's Permitted Discretion to address the results of any field examination performed by (or on behalf of) Agent from time to time after February 26, 2021 in the case of Vector Tobacco and October 13, 2020 in the case of Liggett. In determining the amount to be included, Eligible Accounts shall be calculated net of customer deposits, unapplied cash, taxes, discounts, credits, allowances, and rebates. Eligible Accounts shall not include the following:

(a) Accounts (other than those set forth in the parenthetical of clause (g) below) that are unpaid more than the earlier of ninety (90) days after the invoice date or forty-five (45) days after the due date of the original invoice for them;

(b) Accounts owed by an Account Debtor where fifty percent (50%) or more of all Accounts owed by that Account Debtor and its Affiliates are deemed ineligible under clause (a) above;

(c) Accounts with respect to which the Account Debtor is an Affiliate of any Borrower or an employee or agent of any Borrower or any Affiliate of any Borrower;

(d) Accounts arising in a transaction wherein goods are placed on consignment or are sold pursuant to a guaranteed sale, a sale or return, a sale on approval, a bill and hold, or any other terms by reason of which the payment by the Account Debtor may be conditional (it being understood that the right of an Account Debtor to return goods to Borrowers in the ordinary course of Borrowers' business consistent with past practices shall not constitute conditional payment);

(e) Accounts that are not payable in Dollars;

(f) Accounts with respect to which the Account Debtor either (i) does not maintain its chief executive office in the United States, or (ii) is not organized under the laws of the United States or any state thereof, or (iii) is the government of any foreign country or sovereign state, or of any state, province, municipality, or other political subdivision thereof, or of any department, agency, public corporation, or other instrumentality thereof, unless (A) the Account is supported by an irrevocable letter of credit reasonably satisfactory to Agent in its Permitted Discretion (as to form, substance, and issuer or domestic confirming bank) that has been delivered to Agent and is directly drawable by Agent, or (B) the Account is covered by credit insurance in form, substance, and amount, and by an insurer, reasonably satisfactory to Agent in its Permitted Discretion, or (C) such Account is otherwise acceptable in all respects to Agent (subject to such lending formula with respect thereto as Agent may determine);

(g) Accounts with respect to which the Account Debtor is either (i) the United States or any department, agency, or instrumentality of the United States (unless (A) the Accounts are Accounts with respect to which Borrowers have complied, to the reasonable satisfaction of Agent, with the Assignment of Claims Act, 31 USC §3727 or (B) (1) such Accounts result from sales in the ordinary course of business to the United States military which arise from only military purchase orders or, in any other case, upon Agent's request, the Federal Assignment of Claims Act of 1940, as amended or any similar State or local law, if applicable, has been complied with in a manner satisfactory to Agent in its Permitted Discretion and (2) such Accounts are not unpaid more than one hundred twenty (120) days after the date of the original invoice for them), or (ii) any state of the United States;

(h) Accounts with respect to which the Account Debtor is a creditor of a Borrower and has or has asserted a right of recoupment or setoff, or has disputed its obligation to pay all or any portion of the Account, to the extent of such claim, right of recoupment or setoff, or dispute;

(i) Accounts with respect to an Account Debtor and its Affiliates whose total obligations owing to Borrowers exceed twenty percent (20%) of the Net Amount of Eligible Accounts, to the extent of the obligations owing by such Account Debtor and its Affiliates in excess of such percentage; provided that, in each case, the amount of Eligible Accounts that are excluded because they exceed the foregoing percentage shall be determined by Agent in its Permitted Discretion based on all of the otherwise Eligible Accounts prior to giving effect to any eliminations based upon the foregoing concentration limit;

(j) Accounts with respect to which the Account Debtor is subject to an Insolvency Proceeding, is not Solvent, has gone out of business, or as to which any Borrower has received notice of an imminent Insolvency Proceeding or a material impairment of the financial condition of such Account Debtor;

(k) Accounts, the collection of which Agent, in its Permitted Discretion, believes to be doubtful, including by reason of the Account Debtor's financial condition;

(l) Accounts that are not subject to a valid and perfected first priority Agent's Lien;

(m) Accounts with respect to which (i) the goods giving rise to such Account have not been shipped and billed to the Account Debtor, or (ii) the services giving rise to such Account have not been performed and billed to the Account Debtor;

(n) Accounts with respect to which the Account Debtor is a Sanctioned Person or Sanctioned Entity;

(o) Accounts that (i) represent the right to receive progress payments or other advance billings that are due prior to the completion of performance by the applicable Borrower of the subject contract for goods or services, or (ii) represent credit card sales; or

(p) Accounts created by 100 Maple.

"Eligible Inventory" means Inventory of a Borrower (other than 100 Maple) that complies with each of the representations and warranties respecting Eligible Inventory made in the Loan Documents and that is not excluded as ineligible by virtue of one or more of the excluding criteria set forth below; provided that such criteria may be revised from time to time by Agent in Agent's Permitted Discretion to address the results of any field examination or appraisal performed by Agent from time to time after February 26, 2021 in the case of Vector Tobacco and October 13, 2020 in the case of Liggett. An item of Inventory shall not be included in Eligible Inventory if:

(a) a Borrower does not have good, valid, and marketable title thereto;

(b) a Borrower does not have actual and exclusive possession thereof (either directly or through a bailee or agent of a Borrower);

(c) it is not located at one of the locations in the continental United States set forth on Schedule E-1 to the Agreement as such schedule may be updated by notice from any Borrower to Agent from time to time (or in-transit from one such location to another such location);

(d) it is in-transit to or from a location of a Borrower (other than in-transit from one location set forth on Schedule E-1 to the Agreement to another location set forth on Schedule E-1 to the Agreement as such schedule may be updated by notice from any Borrower to Agent from time to time);

(e) it is located on real property leased by a Borrower or in a contract warehouse, in each case, unless either: (i) it is subject to a Collateral Access Agreement executed by the lessor or warehouseman, as the case may be, and segregated or otherwise separately identifiable from goods of others, if any, stored on the premises, or (ii) Agent has established a Landlord Reserve with respect to such location; provided, that, during the period from the Amendment No. 4 Effective Date through and including the date that is ninety (90) days after the Amendment No. 4 Effective Date, any otherwise Eligible Inventory of Vector Tobacco located at such leased locations or contract warehouses shall not be deemed ineligible solely by virtue of Vector Tobacco's failure to deliver Collateral Access Agreements covering such locations;

(f) it is the subject of a bill of lading or other document of title;

(g) it is not subject to a valid and perfected first priority Agent's Lien;

(h) it consists of goods returned or rejected by a Borrower's customers;

(i) it consists of goods that are obsolete or slow moving, restrictive or custom items, work-in-process, raw materials (other than tobacco leaf), or goods that constitute spare parts, packaging and shipping materials, supplies used or consumed in Borrowers' business, bill and hold goods, defective goods, "seconds," or Inventory acquired on consignment;

(j) it is subject to third party trademark, licensing or other proprietary rights, unless Agent is satisfied in its Permitted Discretion that such Inventory can be freely sold by Agent on and after the occurrence of an Event of a Default despite such third party rights; or

(k) it is Inventory of 100 Maple.

"Eligible Real Property" means Real Property owned in fee by a Borrower that complies with each of the representations and warranties respecting Real Property made in the Loan Documents and that is not excluded as ineligible by virtue of one or more of the excluding criteria set forth below; provided that such criteria may be revised from time to time by Agent in Agent's Permitted Discretion to address the results of any information with respect to the Borrowers' business or assets of which Agent becomes aware after the Amendment No. 4 Effective Date, including any field examination or appraisal performed or received by Agent from time to time after the Amendment No. 4 Effective Date. An item of Real Property shall not be included in Eligible Real Property if:

(a) it is not identified on Schedule R-1 to the Agreement as of the Amendment No. 4 Effective Date;

(b) a Borrower does not have good, valid, and marketable fee title thereto;

(c) it is not Real Property with respect to which Agent has received (i) mortgagee title insurance policies issued by a title insurance company reasonably satisfactory to Agent in amounts reasonably satisfactory to Agent (but in no event less than the FMV thereof) assuring Agent that the Mortgages on such Real Property are valid and enforceable first priority mortgage Liens on such Real Property free and clear of all defects and encumbrances except Permitted Liens, and otherwise in form and substance reasonably satisfactory to Agent, (ii) ALTA surveys in form and substance reasonably satisfactory to Agent, (iii) phase-I environmental reports with respect to each parcel composing such Real Property (the environmental consultants retained for such reports, the scope of the reports, and the results of which shall be reasonably satisfactory to Agent), and (iv) flood certifications (and, if applicable, acceptable flood insurance and Federal Emergency Management Agency form acknowledgements of insurance);

(d) an Acceptable Appraisal of such item of Real Property has not been completed;

(e) it is not Real Property Collateral subject to a valid and perfected first priority Agent's Lien; or

(f) it is subject to any Lien other than a Permitted Lien of the type described in clauses (a), (b), (c), (g), (k), (q) or (r) of the definition thereof.

As of the Amendment No. 4 Effective Date, the only Eligible Real Property is the Mebane Premises, it being understood that each of the deliverables set forth in clauses (c) and (d) of this definition have been provided in respect of the Mebane Premises in form and substance satisfactory to Agent.

"Eligible Transferee" means (a) any Lender (other than a Defaulting Lender), any Affiliate of any Lender and any Related Fund of any Lender; and (b) (i) a commercial bank organized under the laws of the United States or any state thereof, and having total assets in excess of $1,000,000,000; (ii) a savings and loan association or savings bank organized under the laws of the United States or any state thereof, and having total assets in excess of $1,000,000,000; (iii) a commercial bank organized under the laws of any other country or a political subdivision thereof; provided that (A) (x) such bank is acting through a branch or agency located in the United States or (y) such bank is organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development or a political subdivision of such country, and (B) such bank has total assets in excess of $1,000,000,000; (c) any other entity (other than a natural person) that is an "accredited investor" (as defined in Regulation D under the Securities Act) that extends credit or buys loans as one of its businesses, including insurance companies, investment or mutual funds and lease financing companies, and having total assets in excess of $1,000,000,000; and (d) during the continuation of an Event of Default, any other Person approved by Agent; provided that no Affiliate of any Loan Party or any holder of Subordinated Indebtedness shall qualify as an Eligible Transferee.

"Employee Benefit Plan" means any employee benefit plan within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA, (a) that is or within the preceding six (6) years has been sponsored, maintained or contributed to by any Loan Party or ERISA Affiliate or (b) to which any Loan Party or ERISA Affiliate has, or has had at any time within the preceding six (6) years, any liability, contingent or otherwise.

"Environmental Action" means any written complaint, summons, citation, notice, directive, order, claim, litigation, investigation, judicial or administrative proceeding, judgment, letter, or other written communication from any Governmental Authority, or any third party involving violations of

Environmental Laws or releases of Hazardous Materials (a) from any assets, properties, or businesses of any Borrower, any Subsidiary of any Borrower, or any of their predecessors in interest, (b) from adjoining properties or businesses, or (c) from or onto any facilities which received Hazardous Materials generated by any Borrower, any Subsidiary of any Borrower, or any of their predecessors in interest.

"Environmental Law" means any applicable federal, state, provincial, foreign or local statute, law, rule, regulation, ordinance, code, binding and enforceable guideline, binding and enforceable written policy, or rule of common law now or hereafter in effect and in each case as amended, or any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree or judgment, in each case, to the extent binding on any Borrower or its Subsidiaries, relating to the environment, the effect of the environment on employee health, or Hazardous Materials, in each case as amended from time to time.

"Environmental Liabilities" means all liabilities, monetary obligations, losses, damages, costs and expenses (including all reasonable fees, disbursements and expenses of counsel, experts, or consultants, and costs of investigation and feasibility studies), fines, penalties, sanctions, and interest incurred as a result of any claim or demand, or Remedial Action required, by any Governmental Authority or any third party, and which relate to any Environmental Action.

"Environmental Lien" means any Lien in favor of any Governmental Authority for Environmental Liabilities.

"Equipment" means equipment (as that term is defined in the Code).

"Equity Interests" means, with respect to a Person, all of the shares, options, warrants, interests, participations, or other equivalents (regardless of how designated) of or in such Person, whether voting or nonvoting, including capital stock (or other ownership or profit interests or units), preferred stock, or any other "equity security" (as such term is defined in Rule 3a11-1 of the General Rules and Regulations promulgated by the SEC under the Exchange Act).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended, and any successor statutes thereto, and all regulations and guidance promulgated thereunder. Any reference to a specific section of ERISA shall be deemed to be a reference to such section of ERISA and any successor statutes, and all regulations and guidance promulgated thereunder.

"ERISA Affiliate" means each entity, trade or business (whether or not incorporated) that together with a Loan Party or a Subsidiary would be (or has been) treated as a "single employer" within the meaning of section 4001(b)(1) of ERISA or subsections (b), (c), (m) or (o) of section 414 of the IRC. ERISA Affiliate shall include any Subsidiary of any Loan Party.

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

"Event of Default" has the meaning specified therefor in Section 8 of the Agreement.

"Excess Amount" has the meaning specified therefor in Section 7(b) of the Agreement.

"Excess Availability" means, as of any date of determination, the amount equal to (a) Availability minus (b) the aggregate amount of all trade payables owed to suppliers of Borrowers which are more than sixty (60) days past due as of such time.

"Exchange Act" means the Securities Exchange Act of 1934, as in effect from time to time.

"Excluded Swap Obligation" means, with respect to any Loan Party, any Swap Obligation if, and to the extent that, all or a portion of the guaranty of such Loan Party of (including by virtue of the joint and several liability provisions of Section 2.14), or the grant by such Loan Party of a security interest to secure, such Swap Obligation (or any guaranty thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Loan Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the guaranty of such Loan Party or the grant of such security interest becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guaranty or security interest is or becomes illegal.

"Excluded Taxes" means (i) any Tax imposed on or measured by the net income or net profits of any Lender or any Participant (including any franchise, branch profits or similar Taxes), in each case imposed by the jurisdiction (or by any political subdivision or taxing authority thereof) in which such Lender or such Participant is organized, the jurisdiction (or by any political subdivision or taxing authority thereof) in which such Lender's or such Participant's principal office is located, or any jurisdiction as a result of a present or former connection between such Lender or such Participant and the jurisdiction or Taxing authority imposing the Tax (other than any such connection arising solely from such Lender or such Participant having executed, delivered or performed its obligations or received payment under, or enforced its rights or remedies under the Agreement or any other Loan Document); (ii) Taxes resulting from a Lender's or a Participant's failure to comply with the requirements of Section 17.2 of the Agreement, (iii) any United States federal withholding Taxes that would be imposed on amounts payable to a Lender or a Participant based upon the applicable withholding rate in effect at the time such Lender becomes a party to the Agreement or such Participant acquires an interest in a Loan (or designates a new lending office) except to the extent, pursuant to Section 17 of the Agreement, amounts with respect to such Taxes were payable to such Lender's assignor immediately before such Lender became a party hereto, to such Participant's participating Lender immediately before such Participant acquired an interest in a Loan, or to such Lender or Participant immediately before it changed its lending office, and (iv) any withholding taxes imposed under FATCA.

"Existing Credit Agreement" means the Second Amended and Restated Loan and Security Agreement, dated February 21, 2012, as amended by Amendment No. 1 to Second Amended and Restated Loan and Security Agreement, dated as of February 28, 2014, by and among Liggett, as borrower, 100 Maple, as Guarantor, and Wells Fargo, as lender.

"Existing Loan Documents" means, collectively, (a) the Existing Credit Agreement, (b) the Existing Mebane Loan Documents, and (c) all documents delivered in connection therewith prior to the Restatement Effective Date.

"Existing Mebane Loan Documents" means, collectively, (a) the Term Loan Note, (b) the Fee and Leasehold Deed of Trust and Security Agreement, dated November 22, 1999, made by 100 Maple, as Term Loan Borrower, and Liggett, as lessee, in favor of Kenneth M. Greene, as Trustee for the benefit of Agent, as the same now exists or may hereafter be amended, modified, amended and restated, and (c) all other documents delivered in connection therewith prior to the Restatement Effective Date.

"Extraordinary Advances" has the meaning specified therefor in Section 2.3(d)(iii) of the Agreement.

"Extraordinary Receipts" means (a) so long as no Event of Default has occurred and is continuing, proceeds of judgments, proceeds of settlements, or other consideration of any kind received in connection with any cause of action or claim, and (b) if an Event of Default has occurred and is continuing, any payments received by Loan Party not in the ordinary course of business (and not consisting of proceeds described in Section 2.4(e)(ii) of the Agreement) consisting of (i) proceeds of judgments, proceeds of settlements, or other consideration of any kind received in connection with any cause of action or claim, and (ii) indemnity payments (other than to the extent such indemnity payments are immediately payable to a Person that is not an Affiliate of any Borrower or any of its Subsidiaries).

"FATCA" means Sections 1471 through 1474 of the IRC, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), and (a) any current or future regulations or official interpretations thereof, (b) any agreements entered into pursuant to Section 1471(b)(1) of the IRC, and (c) any intergovernmental agreement entered into by the United States (or any fiscal or regulatory legislation, rules, or practices adopted pursuant to any such intergovernmental agreement entered into in connection therewith).

"FCPA" means the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

"Federal Funds Rate" means, for any period, a fluctuating interest rate per annum equal to, for each day during such period, 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 Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Agent from three Federal funds brokers of recognized standing selected by it (and, if any such rate is below zero, then the rate determined pursuant to this definition shall be deemed to be zero).

"Federal Reserve Bank of New York's Website" means the website of the Federal Reserve Bank of New York at http://www.newyorkfed.org or any successor source.

"Fee Letter" means any fee letter, entered into after the date with the Agreement, among Borrowers and Agent, in form and substance reasonably satisfactory to Agent.

"Flood Laws" means the National Flood Insurance Act of 1968, Flood Disaster Protection Act of 1973, and related laws, rules and regulations, including any amendments or successor provisions.

"FMV" means, as of any date of determination, the fair market value of Borrowers' Eligible Real Property that is estimated to be recoverable in an orderly sale in a twelve (12)-month marketing period of such Eligible Real Property, net of all associated costs and expenses of such sale, such value to be as specified in the most recent Acceptable Appraisal of Real Property.

"Foreclosed Borrower" has the meaning specified therefor in Section 2.14(h) of the Agreement.

"Foreign Lender" means any Lender or Participant that is not a United States person within the meaning of IRC section 7701(a)(30).

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

"Funding Date" means the date on which a Borrowing occurs.

"Funding Losses" has the meaning specified therefor in Section 2.12(b)(ii) of the Agreement.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States, consistently applied.

"Governing Documents" means, with respect to any Person, the certificate or articles of incorporation, by-laws, or other organizational documents of such Person.

"Governmental Authority" means the government of any nation or any political subdivision thereof, whether at the national, state, territorial, provincial, municipal or any other level, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of, or pertaining to, government (including any supra-national bodies such as the European Union or the European Central Bank).

"Guarantor" means each Person that becomes a guarantor after the Restatement Effective Date pursuant to Section 5.11 of the Agreement.

"Guaranty and Security Agreement" means that certain Amended and Restated Guaranty and Security agreement, dated as of January 14, 2015, executed and delivered by Liggett and 100 Maple to Agent, as the same may be amended, restated, amended and restated or supplemented from time to time and as joined by Vector Tobacco by that certain Joinder No. 1, dated as of the Amendment No. 4 Effective Date, to the Amended and Restated Guaranty and Security Agreement.

"Hazardous Materials" means (a) substances that are defined or listed in, or otherwise classified pursuant to, any applicable laws or regulations as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or any other formulation intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, reproductive toxicity, or "EP toxicity," (b) oil, petroleum, or petroleum derived substances, natural gas, natural gas liquids, synthetic gas, drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal resources, (c) any flammable substances or explosives or any radioactive materials, and (d) asbestos in any form or electrical equipment that contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of 50 parts per million.

"Hedge Agreement" means a "swap agreement" as that term is defined in Section 101(53B)(A) of the Bankruptcy Code.

"Hedge Obligations" means any and all obligations or liabilities, whether absolute or contingent, due or to become due, now existing or hereafter arising, of each Loan Party and its Subsidiaries arising under, owing pursuant to, or existing in respect of Hedge Agreements entered into with one or more of the Hedge Providers.

"Hedge Provider" means Wells Fargo or any of its Affiliates.

"Indebtedness" as to any Person means (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes, or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances, or other similar financial products, (c) all obligations of such Person as a lessee under Capital Leases, (d) all obligations or liabilities of others secured by a Lien on any asset of such Person, irrespective of whether such obligation or liability is assumed, (e) all obligations of such Person to pay the deferred purchase price of

assets (other than trade payables incurred in the ordinary course of business and repayable in accordance with customary trade practices and, for the avoidance of doubt, other than royalty payments payable in the ordinary course of business in respect of non-exclusive licenses) and any earn-out or similar obligations,
(f) all monetary obligations of such Person owing under Hedge Agreements (which amount shall be calculated based on the amount that would be payable by such Person if the Hedge Agreement were terminated on the date of determination), (g) any Disqualified Equity Interests of such Person, and (h) any obligation of such Person guaranteeing or intended to guarantee (whether directly or indirectly guaranteed, endorsed, co-made, discounted, or sold with recourse) any obligation of any other Person that constitutes Indebtedness under any of clauses (a) through (g) above. For purposes of this definition, (i) the amount of any Indebtedness represented by a guaranty or other similar instrument shall be the lesser of the principal amount of the obligations guaranteed and still outstanding and the maximum amount for which the guaranteeing Person may be liable pursuant to the terms of the instrument embodying such Indebtedness, and (ii) the amount of any Indebtedness which is limited or is non-recourse to a Person or for which recourse is limited to an identified asset shall be valued at the lesser of (A) if applicable, the limited amount of such obligations, and (B) if applicable, the fair market value of such assets securing such obligation.

"Indemnified Liabilities" has the meaning specified therefor in Section 10.3 of the Agreement.

"Indemnified Person" has the meaning specified therefor in Section 10.3 of the Agreement.

"Indemnified Taxes" means, any Taxes other than Excluded Taxes.

"Insolvency Proceeding" means any proceeding commenced by or against any Person under any provision of the Bankruptcy Code or under any other state or federal bankruptcy or insolvency law, assignments for the benefit of creditors, formal or informal moratoria, compositions, extensions generally with creditors, or proceedings seeking reorganization, arrangement, or other similar relief.

"Interest Expense" means, for any period, as to any Person, as determined in accordance with GAAP, the total interest expense of such Person, whether paid or accrued during such period but without duplication (including the interest component of Capital Leases for such period), including discounts in connection with the sale of any Accounts that are sold for purposes other than collection, but excluding interest paid in property other than cash and any other interest expense not payable in cash.

"Interest Period" means, with respect to each LIBOR Rate Loan, a period commencing on the date of the making of such LIBOR Rate Loan (or the continuation of a LIBOR Rate Loan or the conversion of a Base Rate Loan to a LIBOR Rate Loan) and ending 1, 2, or 3 months thereafter; provided that (a) interest shall accrue at the applicable rate based upon the LIBOR Rate from and including the first day of each Interest Period to, but excluding, the day on which any Interest Period expires, (b) any Interest Period that would end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day, (c) with respect to an Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period), the Interest Period shall end on the last Business Day of the calendar month that is 1, 2, or 3 months after the date on which the Interest Period began, as applicable, and (d) Borrowers may not elect an Interest Period which will end after the Maturity Date.

"Inventory" means inventory (as that term is defined in the Code).

"Inventory Reserves" means, as of any date of determination, (a) Landlord Reserves, and (b) those reserves that Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(c), to establish and maintain (including reserves for slow moving Inventory and Inventory shrinkage) with respect to Eligible Inventory or the Maximum Revolver Amount.

"Investment" means, with respect to any Person, any investment by such Person in any other Person (including Affiliates) in the form of loans, guarantees, advances, capital contributions (excluding
(a) commission, travel, and similar advances to officers and employees of such Person made in the ordinary course of business, and (b) *bona fide* accounts receivable arising in the ordinary course of business), or acquisitions of Indebtedness, Equity Interests, or all or substantially all of the assets of such other Person (or of any division or business line of such other Person), and any other items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. The amount of any Investment shall be the original cost of such Investment plus the cost of all additions thereto, without any adjustment for increases or decreases in value, or write-ups, write-downs, or write-offs with respect to such Investment.

"IRC" means the Internal Revenue Code of 1986, as in effect from time to time and any successor statutes, and all regulations and guidance promulgated thereunder. Any reference to a specific section of the IRC shall be deemed to be a reference to such section of the IRC and any successor statutes, and all regulations and guidance promulgated thereunder.

"ISP" means, with respect to any Letter of Credit, the International Standby Practices 1998 (International Chamber of Commerce Publication No. 590) and any version or revision thereof accepted by Issuing Bank for use.

"Issuer Document" means, with respect to any Letter of Credit, a letter of credit application, a letter of credit agreement, or any other document, agreement or instrument entered into (or to be entered into) by a Borrower in favor of Issuing Bank and relating to such Letter of Credit.

"Issuing Bank" means Wells Fargo or any other Lender that, at the request of Borrowers and with the consent of Agent, agrees, in such Lender's sole discretion, to become an Issuing Bank for the purpose of issuing Letters of Credit pursuant to Section 2.11 of the Agreement, and Issuing Bank shall be a Lender.

"Landlord Reserve" means, as to each location at which a Borrower has Eligible Inventory or books and records located and as to which a Collateral Access Agreement has not been received by Agent (except, in the case of books and records, if such books and records are also located at a location subject to a Collateral Access Agreement), a reserve that Agent determines is necessary or appropriate in its Permitted Discretion in an amount up to the greater of (a) the number of months' rent, storage charges, fees or other amounts under the lease or other applicable agreement relative to such location for which the landlord will have, under applicable law, a Lien in the Inventory of such Borrower to secure the payment of rent or other amounts under the lease or other applicable agreement relative to such location, or (b) three (3) months' rent under the lease relative to such location.

"Lender" has the meaning set forth in the preamble to the Agreement, shall include Issuing Bank and Swing Lender, and shall also include any other Person made a party to the Agreement pursuant to the provisions of Section 13.1 of the Agreement and "Lenders" means each of the Lenders or any one or more of them.

"Lender Group" means each of the Lenders (including Issuing Bank and Swing Lender) and Agent, or any one or more of them.

"Lender Group Expenses" means all (a) costs or expenses (including taxes and insurance premiums) required to be paid by any Loan Party or its Subsidiaries under any of the Loan Documents that are paid, advanced, or incurred by the Lender Group, (b) reasonable and documented out-of-pocket fees or charges paid or incurred by Agent in connection with the Lender Group's transactions with each Borrower and its Subsidiaries under any of the Loan Documents, including photocopying, notarization, couriers and messengers, telecommunication, public record searches, filing fees, recording fees, publication, real estate surveys, real estate title policies and endorsements, and environmental audits, (c) Agent's reasonable, documented and customary fees and charges imposed or incurred in connection with any background checks or OFAC/PEP searches related to any Borrower or its Subsidiaries, (d) Agent's reasonable, documented and customary fees and charges (as adjusted from time to time) with respect to the disbursement of funds (or the receipt of funds) to or for the account of any Borrower (whether by wire transfer or otherwise), together with any reasonable and documented out-of-pocket costs and expenses incurred in connection therewith, (e) reasonable, documented and customary charges imposed or incurred by Agent resulting from the dishonor of checks payable by or to any Loan Party, (f) reasonable and documented out-of-pocket costs and expenses paid or incurred by the Lender Group to correct any default or enforce any provision of the Loan Documents, or during the continuance of an Event of Default, in gaining possession of, maintaining, handling, preserving, storing, shipping, selling, preparing for sale, or advertising to sell the Collateral, or any portion thereof, irrespective of whether a sale is consummated, (g) reasonable and documented field examination, appraisal, and valuation fees and expenses of Agent related to any field examinations, appraisals, or valuations to the extent of the fees and charges (and up to the amount of any limitation) provided in Section 2.10 of the Agreement, (h) Agent's reasonable and documented out-of-pocket costs and expenses (including reasonable and documented attorneys' fees and expenses) relative to third party claims or any other lawsuit or adverse proceeding paid or incurred, whether in enforcing or defending the Loan Documents or otherwise in connection with the transactions contemplated by the Loan Documents, Agent's Liens in and to the Collateral, or the Lender Group's relationship with any Borrower or any of its Subsidiaries (subject to the limitations set forth in Section 10.3 of the Agreement), (i) Agent's reasonable and documented out-of-pocket costs and expenses (including reasonable and documented attorneys' fees and due diligence expenses) incurred in advising, structuring, drafting, reviewing, administering (including travel, meals, and lodging), syndicating (including reasonable and documented out-of-pocket costs and expenses relative to CUSIP, DXSyndicate™, SyndTrak or other communication costs incurred in connection with a syndication of the loan facilities) (to the extent mutually agreed upon by Agent and Borrowers), or amending, waiving, or modifying the Loan Documents, and (j) Agent's and each Lender's reasonable and documented out-of- pocket costs and expenses (including reasonable and documented attorneys', accountants', consultants', and other advisors' fees and expenses) incurred in terminating, enforcing the Loan Documents (including reasonable and documented attorneys', accountants', consultants', and other advisors' fees and expenses incurred in connection with a "workout," a "restructuring," or an Insolvency Proceeding concerning any Loan Party or any of its Subsidiaries or in exercising rights or remedies under the Loan Documents), or defending the Loan Documents, irrespective of whether a lawsuit or other adverse proceeding is brought, or in taking any enforcement action or any Remedial Action with respect to the Collateral.

"Lender Group Representatives" has the meaning specified therefor in Section 19.9 of the Agreement.

"Lender-Related Person" means, with respect to any Lender, such Lender, together with such Lender's Affiliates, officers, directors, employees, attorneys, and agents.

"Letter of Credit" means a letter of credit (as that term is defined in the Code) issued by Issuing Bank.

"Letter of Credit Collateralization" means either (a) providing cash collateral (pursuant to documentation reasonably satisfactory to Agent, including provisions that specify that the Letter of Credit Fees and all commissions, fees, charges and expenses provided for in Section 2.11(k) of the Agreement (including any fronting fees) will continue to accrue while the Letters of Credit are outstanding) to be held by Agent for the benefit of Issuing Bank and Lenders in an amount equal to 105% of the then existing Letter of Credit Usage, (b) delivering to Agent documentation executed by all beneficiaries under the Letters of Credit, in form and substance reasonably satisfactory to Agent and Issuing Bank, terminating all of such beneficiaries' rights under the Letters of Credit, or (c) providing Agent with a standby letter of credit, in form and substance reasonably satisfactory to Agent, from a commercial bank acceptable to Agent (in its sole discretion) in an amount equal to 105% of the then existing Letter of Credit Usage (it being understood that the Letter of Credit Fee and all fronting fees set forth in the Agreement will continue to accrue while the Letters of Credit are outstanding and that any such fees that accrue must be an amount that can be drawn under any such standby letter of credit).

"Letter of Credit Disbursement" means a payment made by Issuing Bank pursuant to a Letter of Credit.

"Letter of Credit Exposure" means, as of any date of determination with respect to any Lender, such Lender's participation in the Letter of Credit Usage pursuant to Section 2.11(e) on such date.

"Letter of Credit Fee" has the meaning specified therefor in Section 2.6(b) of the Agreement.

"Letter of Credit Indemnified Costs" has the meaning specified therefor in Section 2.11(f) of the Agreement.

"Letter of Credit Related Person" has the meaning specified therefor in Section 2.11(f) of the Agreement.

"Letter of Credit Usage" means, as of any date of determination, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit, plus (b) the aggregate amount of outstanding reimbursement obligations with respect to Letters of Credit which remain unreimbursed or which have not been paid through a Revolving Loan.

"LIBOR Deadline" has the meaning specified therefor in Section 2.12(b)(i) of the Agreement.

"LIBOR Notice" means a written notice in the form of Exhibit L-1 to the Agreement.

"LIBOR Option" has the meaning specified therefor in Section 2.12(a) of the Agreement.

"LIBOR Rate" means the rate per annum as published by ICE Benchmark Administration Limited (or any successor page or other commercially available source as Agent may designate from time to time) as of 11:00 a.m., London time, two (2) Business Days prior to the commencement of the requested Interest Period, for a term, and in an amount, comparable to the Interest Period and the amount of the LIBOR Rate Loan requested (whether as an initial LIBOR Rate Loan or as a continuation of a LIBOR Rate Loan or as a conversion of a Base Rate Loan or a Daily LIBOR Rate Loan to a LIBOR Rate Loan) by Borrowers in accordance with this Agreement (and, if any such published rate is below zero, then the LIBOR Rate shall be deemed to be zero). Each determination of the LIBOR Rate shall be made by Agent and shall be conclusive in the absence of manifest error.

"LIBOR Rate Loan" means each portion of a Revolving Loan that bears interest at a rate determined by reference to the LIBOR Rate.

"LIBOR Rate Margin" has the meaning set forth in the definition of Applicable Margin.

"Lien" means any mortgage, deed of trust, pledge, hypothecation, assignment, charge, deposit arrangement, encumbrance, easement, lien (statutory or other), 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.

"Liggett" has the meaning specified therefor in the preamble to the Agreement.

"Liggett Agreement" shall mean that certain Sales, Marketing and Distribution Agreement, dated January 1, 2011, by and between Liggett and Liggett Vector Brands LLC (successor to Liggett Vector Brands Inc.), as may be amended from time to time.

"Loan" means any Revolving Loan made (or to be made) hereunder.

"Loan Account" has the meaning specified therefor in Section 2.9 of the Agreement.

"Loan Documents" means the Agreement, the Control Agreements, any Copyright Security Agreement, any Borrowing Base Certificate, the Guaranty and Security Agreement, any Issuer Documents, the Letters of Credit, any Mortgages, any Patent Security Agreement, any Trademark Security Agreement, the 2029 Notes Intercreditor Agreement, any other note or notes executed by Borrowers in connection with the Agreement and payable to any member of the Lender Group, and any other instrument or agreement entered into, now or in the future, by any Loan Party or any of its Subsidiaries and any member of the Lender Group in connection with the Agreement.

"Loan Party" means any Borrower or any Guarantor, if any.

"Margin Stock" as defined in Regulation U of the Board of Governors as in effect from time to time.

"Master Settlement Agreement" means that certain settlement agreement, dated November 23, 1998, between Philip Morris Incorporated, Brown & Williamson Tobacco Corporation, Lorillard Tobacco Company and R.J. Reynolds Tobacco Company, as the original participating manufacturers, Liggett Group, Inc., and any other tobacco product manufacturer that becomes a signatory, as the participating manufacturers, and 46 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa and the Northern Marianas, as amended from time to time.

"Material Adverse Effect" means (a) a material adverse effect in the business, operations, results of operations, assets, liabilities or financial condition of the Loan Parties and their Subsidiaries, taken as a whole, (b) a material impairment of the Loan Parties and their Subsidiaries' ability to perform their obligations under the Loan Documents to which they are parties or of the Lender Group's ability to enforce the Obligations or realize upon the Collateral (other than as a result of as a result of an action taken or not taken that is solely in the control of Agent), or (c) a material impairment of the enforceability or priority of Agent's Liens with respect to all or a material portion of the Collateral.

"Maturity Date" means March 22, 2026.

"Maximum Revolver Amount" means $90,000,000, decreased by the amount of reductions in the Revolver Commitments made in accordance with Section 2.4(c) of the Agreement.

"Mebane Lease" shall mean the lease, dated November 17, 1999 made by 100 Maple, as lessor, to Liggett, as lessee, of the Mebane Premises, as the same may be amended, restated, amended and restated or supplemented from time to time, in accordance with the terms of this Agreement.

"Mebane Premises" shall mean the land, buildings, fixtures and other improvements at 100 Maple Lane, Mebane, North Carolina.

"Moody's" has the meaning specified therefor in the definition of Cash Equivalents.

"Mortgages" means, individually and collectively, one or more mortgages, deeds of trust, or deeds to secure debt, executed and delivered by any Loan Party or one of its Subsidiaries in favor of Agent, in form and substance reasonably satisfactory to Agent, that encumber the Real Property Collateral as the same may be amended, restated, amended and restated, modified or supplemented from time to time, including the Second Amended and Restated Fee and Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of October 31, 2019, as amended, made by 100 Maple, as borrower, and Liggett, as lessee, to CR Services, LLC, a North Carolina limited liability company, as trustee, in favor of Agent for the benefit of the Lender Group and the Bank Product Provider.

"Multiemployer Plan" means any multiemployer plan within the meaning of Section 3(37) or 4001(a)(3) of ERISA with respect to which any Loan Party or ERISA Affiliate has an obligation to contribute or has any liability, contingent or otherwise or could be assessed withdrawal liability assuming a complete withdrawal from any such multiemployer plan.

"Net Amount of Eligible Accounts" shall mean the gross amount of Eligible Accounts less (a) sales, excise or similar taxes billed to the account debtor as such and (b) returns, discounts, claims, credits and allowances of any nature at any time issued, owing, granted, outstanding, available or claimed with respect thereto, including accrued promotional reserves (including coupon and sticker programs, if any), shelving accruals, competitive incentives, profit rebates, and other items representing potential offsets against Accounts, as determined by Agent in its Permitted Discretion.

"Net Cash Proceeds" means:

(a) with respect to any sale or disposition by any Loan Party of assets, the amount of cash proceeds actually received by such Loan Party from time to time (whether as initial consideration or through the payment of deferred consideration) in connection therewith after deducting therefrom only (i) the amount of any Indebtedness secured by any Permitted Lien on any asset (other than (A) Indebtedness owing to Agent or any Lender under the Agreement or the other Loan Documents and (B) Indebtedness assumed by the purchaser of such asset) which is required to be, and is, repaid in connection with such sale or disposition, (ii) reasonable fees, commissions, and expenses related thereto and required to be paid by such Loan Party in connection with such sale or disposition (including legal, accounting, investment banking, valuation, investment and financial advisor fees), (iii) taxes (including sales, transfer, deed or mortgage recording taxes) paid or payable to any taxing authorities by such Loan Party in connection with such sale or disposition, in each case to the extent, but only to the extent, that the amounts so deducted are, at the time of receipt of such cash, actually paid or payable to a Person that is not an Affiliate of any Loan Party or any of its Subsidiaries (other than pursuant to any Tax Sharing Agreement), and are properly attributable to such transaction; (iv)(1) amounts held in escrow to be applied as part of the purchase price of any such sale or disposition and (2) all amounts that are set aside as a reserve (A) for adjustments in respect of the purchase price of such assets, (B) for any liabilities associated with such sale or disposition (including reserves for pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with any such sale

or disposition), and (C) for the payment of unassumed liabilities relating to the assets sold or otherwise disposed of at the time of, or within 30 days after, the date of such sale or other disposition, to the extent that in each case the funds described above in this clause (iv) are (x) deposited into escrow with a third party escrow agent or set aside in a separate Deposit Account that is subject to a Control Agreement in favor of Agent and (y) paid to Agent as a prepayment of the applicable Obligations in accordance with Section 2.4(e) of the Agreement at such time when such amounts are no longer required to be set aside as such a reserve; and (v) other out-of-pocket fees and expenses actually incurred in connection therewith; and

(b) with respect to the issuance or incurrence of any Indebtedness by any Loan Party, the aggregate amount of cash actually received by such Loan Party from time to time (whether as initial consideration or through the payment or disposition of deferred consideration) in connection with such issuance or incurrence, after deducting therefrom only (i) reasonable fees, commissions, and expenses related thereto and required to be paid by such Loan Party in connection with such issuance or incurrence (including legal, accounting and investment banking fees, advisory fees, sales commissions or underwriting discounts), (ii) taxes paid or payable to any taxing authorities by such Loan Party in connection with such issuance or incurrence, in each case to the extent, but only to the extent, that the amounts so deducted are, at the time of receipt of such cash, actually paid or payable to a Person that is not an Affiliate of any Loan Party or any of its Subsidiaries, and are properly attributable to such transaction, and (iii) other out-of-pocket fees and expenses actually incurred in connection therewith.

"Non-Consenting Lender" has the meaning specified therefor in Section 15.2(a) of the Agreement.

"Non-Defaulting Lender" means each Lender other than a Defaulting Lender.

"Notification Event" means (a) the occurrence of a "reportable event" described in Section 4043 of ERISA for which the 30-day notice requirement has not been waived by applicable regulations issued by the PBGC, (b) the withdrawal of any Loan Party or ERISA Affiliate from a Pension Plan during a plan year in which it was a "substantial employer" as defined in Section 4001(a)(2) of ERISA, (c) the termination of a Pension Plan, the filing of a notice of intent to terminate a Pension Plan or the treatment of a Pension Plan amendment as a termination, under Section 4041 of ERISA, if the plan assets are not sufficient to pay all plan liabilities, (d) the institution of proceedings to terminate, or the appointment of a trustee with respect to, any Pension Plan by the PBGC or any Pension Plan or Multiemployer Plan administrator, (e) any other event or condition that would constitute grounds under Section 4042(a) of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan, (f) the imposition of a Lien pursuant to the IRC or ERISA in connection with any Benefit Plan, (g) the partial or complete withdrawal of any Loan Party or ERISA Affiliate from a Multiemployer Plan (other than any withdrawal that would not constitute an Event of Default under Section 8.12), (h) any event or condition that results in the reorganization or insolvency of a Multiemployer Plan under Sections of ERISA, (i) any event or condition that results in the termination of a Multiemployer Plan under Section 4041A of ERISA or the institution by the PBGC of proceedings to terminate or to appoint a trustee to administer a Multiemployer Plan under ERISA, (j) any Pension Plan being in "at risk status" within the meaning of IRC Section 430(i), (k) any Multiemployer Plan being in "endangered status" or "critical status" within the meaning of IRC Section 432(b) or the determination that any Multiemployer Plan is or is expected to be insolvent or in reorganization within the meaning of Title IV of ERISA, (l) with respect to any Pension Plan, any Loan Party or ERISA Affiliate incurring a substantial cessation of operations within the meaning of ERISA Section 4062(e), (m) the failure of any Pension Plan or Multiemployer Plan to meet the minimum funding standards within the meaning of the IRC or ERISA (including Section 412 of the IRC or Section 302 of ERISA), in each case, whether or not waived, (n) the filing of an application for a waiver of the minimum funding standards within the meaning of the IRC or ERISA (including

Section 412 of the IRC or Section 302 of ERISA) with respect to any Pension Plan or Multiemployer Plan, (o) the failure to make by its due date a required payment or contribution with respect to any Pension Plan or Multiemployer Plan, or (p) any event that results in or could reasonably be expected to result in a liability to any Loan Party or ERISA Affiliate pursuant to Section 401(a)(29) of the IRC or (q) any of the foregoing as determined by any Loan Party or Agent in its Permitted Discretion is reasonably likely to occur in the following 30 days.

"Obligations" means (a) all loans (including the Revolving Loans (inclusive of Extraordinary Advances and Swing Loans)), debts, principal, interest (including any interest that accrues after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), reimbursement or indemnification obligations with respect to Letters of Credit (irrespective of whether contingent), premiums, liabilities (including all amounts charged to the Loan Account pursuant to the Agreement), obligations (including indemnification obligations), fees (including the fees provided for in any Fee Letter), Lender Group Expenses (including any fees or expenses that accrue after the commencement of an Insolvency Proceeding, regardless of whether allowed or allowable in whole or in part as a claim in any such Insolvency Proceeding), guaranties, and all covenants and duties of any other kind and description owing by any Loan Party to any member of the Lender Group or any Bank Product Provider arising out of, under, pursuant to, in connection with, or evidenced by the Agreement or any of the other Loan Documents and irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising, and including all interest not paid when due and all other expenses or other amounts that any Loan Party is required to pay or reimburse by the Loan Documents or by law or otherwise in connection with the Loan Documents, and (b) all Bank Product Obligations; provided that, anything to the contrary contained in the foregoing notwithstanding, the Obligations shall exclude any Excluded Swap Obligation. Without limiting the generality of the foregoing, the Obligations of Loan Parties under the Loan Documents include the obligation to pay (i) the principal of the Revolving Loans, (ii) interest accrued on the Revolving Loans, (iii) the amount necessary to reimburse Issuing Bank for amounts paid or payable pursuant to Letters of Credit, (iv) Letter of Credit commissions, fees (including fronting fees) and charges, (v) Lender Group Expenses, (vi) fees payable under the Agreement or any of the other Loan Documents, and (vii) indemnities and other amounts payable by any Loan Party under any Loan Document. Any reference in the Agreement or in the Loan Documents to the Obligations shall include all or any portion thereof and any extensions, modifications, renewals, or alterations thereof, both prior and subsequent to any Insolvency Proceeding.

"OFAC" means The Office of Foreign Assets Control of the U.S. Department of the Treasury.

"Originating Lender" has the meaning specified therefor in Section 13.1(e) of the Agreement.

"Overadvance" means, as of any date of determination, that the Revolver Usage is greater than any of the limitations set forth in Section 2.1 or Section 2.11.

"Parent" means Vector Group Ltd., a Delaware corporation.

"Participant" has the meaning specified therefor in Section 13.1(e) of the Agreement.

"Participant Register" has the meaning set forth in Section 13.1(i) of the Agreement.

"Patent Security Agreement" has the meaning specified therefor in the Guaranty and Security Agreement.

"Patriot Act" has the meaning specified therefor in Section 4.13 of the Agreement.

"PBGC" means the Pension Benefit Guaranty Corporation or any successor agency.

"Pension Plan" means any Employee Benefit Plan, other than a Multiemployer Plan, which is subject to the provisions of Title IV or Section 302 of ERISA or Sections 412 or 430 of the Code sponsored, maintained, or contributed to by any Loan Party or ERISA Affiliate or to which any Loan Party or ERISA Affiliate has any liability, contingent or otherwise.

"Perfection Certificate" means a certificate in the form of Exhibit P-1 to the Agreement.

"Permitted Discretion" means a determination made in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment.

"Permitted Dispositions" means:

(a) sales, abandonment, or other dispositions of Equipment and other personal property or assets (other than Accounts, Eligible Inventory or Eligible Real Property) that is substantially worn, damaged, or obsolete or no longer used or useful in the ordinary course of business and leases or subleases of Real Property not useful in the conduct of the business of Borrowers and their Subsidiaries;

(b) sales of Inventory to buyers in the ordinary course of business;

(c) the use or transfer of money or Cash Equivalents in a manner that is not prohibited by the terms of the Agreement or the other Loan Documents;

(d) the licensing, on a non-exclusive basis, of patents, trademarks, copyrights, and other intellectual property rights in the ordinary course of business;

(e) the granting of Permitted Liens and the incurrence of Permitted Indebtedness;

(f) the sale or discount, in each case without recourse, of accounts receivable arising in the ordinary course of business, but only in connection with the compromise or collection thereof;

(g) any involuntary loss, damage or destruction of property;

(h) any involuntary condemnation, seizure or taking, by exercise of the power of eminent domain or otherwise, or confiscation or requisition of use of property;

(i) the leasing or subleasing of assets of any Loan Party or its Subsidiaries (other than the Mebane Premises, except pursuant to the Mebane Lease) in the ordinary course of business;

(j) the sale or issuance of Equity Interests (other than Disqualified Equity Interests) of any Loan Party or any of their Subsidiaries;

(k) (i) the lapse of registered patents, trademarks, copyrights and other intellectual property rights of any Borrower or any of its Subsidiaries to the extent not economically desirable in the conduct of its business, required under applicable law or materially adverse to the interests of the Lender Group, or (ii) the abandonment of patents, trademarks, copyrights, or other intellectual property rights in the ordinary course of business so long as (in the case of clause (ii)) (A) with respect to copyrights, such copyrights are not material revenue generating copyrights, and (B) such abandonment is not materially adverse to the interests of the Lender Group;

(l) the making of Restricted Payments and the transactions permitted under Section 6.10, in each case, to the extent such payments and transactions are expressly permitted to be made pursuant to the Agreement;

(m) the making of Permitted Investments;

(n) sales of marketable securities, liquid investments and other equivalent financial instruments in connection with ordinary course cash management of Borrowers and their Subsidiaries;

(o) the surrender or waiver of contractual rights or tort claims in the ordinary course of business;

(p) the sale, lease, license, transfer or other disposition of assets (i) among Loan Parties (ii) among Subsidiaries who are not Loan Parties and (iii) from Subsidiaries who are not Loan Parties to Loan Parties; and

(q) other sales, leases, licenses, transfers or other dispositions of assets (other than Eligible Accounts, Eligible Inventory or Eligible Real Property) with a fair market value not to exceed $500,000 in the aggregate for Liggett and its Subsidiaries, taken as a whole, and $500,000 for Vector Tobacco and its Subsidiaries, taken as a whole, per fiscal year.

"Permitted Indebtedness" means:

(a) the Obligations (including guarantees thereof);

(b) Indebtedness set forth on Schedule 4.14 to the Agreement and any Refinancing Indebtedness in respect of such Indebtedness;

(c) Permitted Purchase Money Indebtedness and any Refinancing Indebtedness in respect of such Indebtedness;

(d) endorsement of instruments or other payment items for deposit;

(e) Indebtedness consisting of (i) guarantees incurred in the ordinary course of business with respect to surety and appeal bonds, performance bonds, bid bonds, appeal bonds, completion guarantee and similar obligations or with respect to workers' compensation claims; (ii) guarantees arising with respect to customary indemnification obligations or purchase price adjustments to purchasers in connection with Permitted Dispositions or acquisitions of assets; and (iii) guarantees with respect to Indebtedness of any Loan Party or one of its Subsidiaries to the extent that the Person obligated under such guaranty could have incurred such underlying Indebtedness,

(f) Indebtedness incurred in the ordinary course of business under performance, surety, statutory, or appeal bonds or in respect of workers' compensation claims,

(g) Indebtedness owed to any Person providing unemployment insurance, health, disability and other employee benefits or property, casualty, liability, or other insurance to any Loan Party or any of its Subsidiaries, so long as the amount of such Indebtedness is not in excess of the amount of the unpaid cost of, and shall be incurred only to defer the cost of, such insurance for the year in which such Indebtedness is incurred and such Indebtedness is outstanding only during such year;

(h) the incurrence by any Loan Party or its Subsidiaries of Indebtedness under Hedge Agreements that are incurred for the bona fide purpose of hedging the interest rate, commodity, or foreign currency risks associated with any Loan Party's and such Subsidiary's operations and not for speculative purposes;

(i) Indebtedness incurred in the ordinary course of business in respect of credit cards, credit card processing services, debit cards, stored value cards, commercial cards (including so-called "purchase cards," "procurement cards" or "p-cards"), or Cash Management Services;

(j) Indebtedness comprising Permitted Investments;

(k) unsecured Indebtedness incurred in respect of netting services, overdraft protection, and other like services, including overdrafts, in each case, incurred in the ordinary course of business;

(l) accrual of interest, accretion or amortization of original issue discount, or the payment of interest in kind, in each case, on Indebtedness that otherwise constitutes Permitted Indebtedness;

(m) any guaranty made by any Borrower or any of their respective Subsidiaries of the Indebtedness owing by Parent with respect to the 2029 Notes and the 2029 Notes Indenture, any Refinancing Indebtedness thereof and any other refinancing, refunding, extensions, renewals, issuances or replacements thereof to the extent permitted under the Agreement;

(n) any guaranty made by any Borrower or any of their respective subsidiaries of the Indebtedness owing by Parent with respect to 2029 Note Equivalent Indebtedness, any Refinancing Indebtedness thereof and any other refinancing, refunding, extensions, renewals, issuances or replacements thereof to the extent permitted under the Agreement;

(o) guarantees of any Indebtedness of any Subsidiary of Borrowers to Lenders or any Affiliate of Lenders in connection with Bank Products;

(p) other Indebtedness of a type not otherwise specifically permitted in clauses (m) and (n) above, in an aggregate principal amount not to exceed $7,500,000; provided, that, (i) the aggregate outstanding principal amount of Indebtedness permitted under this clause (p) for Liggett and its Subsidiaries, taken as a whole, shall not exceed $5,000,000 at any time, and (ii) the aggregate outstanding principal amount of Indebtedness permitted under this clause (p) for Vector Tobacco and its Subsidiaries, taken as a whole, shall not exceed $5,000,000 at any time;

(q) any unsecured guaranty made by any Borrower or any of their respective Subsidiaries of the Indebtedness owing by Parent with respect to the 2026 Notes and the 2026 Notes Indenture, any Refinancing Indebtedness thereof and any other refinancing, refunding, extensions, renewals, issuances or replacements thereof to the extent permitted under the Agreement; and

(r) any unsecured guaranty made by any Borrower or any of their respective Subsidiaries of the Indebtedness owing by Parent with respect to 2026 Note Equivalent Indebtedness, any Refinancing Indebtedness thereof and any other refinancing, refunding, extensions, renewals, issuances or replacements thereof to the extent permitted under the Agreement.

"Permitted Investments" means:

(a) Investments in cash and Cash Equivalents;

(b) Investments in negotiable instruments deposited or to be deposited for collection in the ordinary course of business;

(c) advances made in connection with purchases of goods or services in the ordinary course of business;

(d) Investments received in settlement of amounts due to any Loan Party or any of its Subsidiaries effected in the ordinary course of business or owing to any Loan Party or any of its Subsidiaries as a result of Insolvency Proceedings involving an account debtor or upon the foreclosure or enforcement of any Lien in favor of a Loan Party or its Subsidiaries;

(e) Investments owned by any Loan Party or any of its Subsidiaries on the Amendment No. 4 Effective Date and set forth on Schedule P-1 to the Agreement;

(f) guarantees permitted under the definition of Permitted Indebtedness;

(g) Equity Interests or other securities acquired in connection with the satisfaction or enforcement of Indebtedness or claims due or owing to a Loan Party or its Subsidiaries (in bankruptcy of customers or suppliers or otherwise outside the ordinary course of business) or as security for any such Indebtedness or claims;

(h) deposits of cash made in the ordinary course of business to secure performance of operating leases;

(i) an Investment made prior to October 31, 2019 in the form of capital contribution made by Liggett in 100 Maple, in an amount not to exceed $2,600,000, which was utilized by 100 Maple to pay to 3C Alliance LLP a portion of the purchase price for the Mebane Premises;

(j) Investments resulting from entering into (i) Bank Product Agreements, or (ii) agreements relative to Indebtedness that are permitted under clause (j) of the definition of Permitted Indebtedness;

(k) Investments consisting of the ownership of Equity Interests in Subsidiaries; and

(l) other Investments in an amount not to exceed $1,000,000 at any time outstanding for Liggett and its Subsidiaries, taken as a whole, and $1,000,000 at any time outstanding for Vector Tobacco and its Subsidiaries, taken as a whole.

"Permitted Liens" means

(a) Liens granted to Agent, or for the benefit of, Agent, Issuing Bank and Lenders (and in the case of Bank Products any Affiliate of Agent) to secure the Obligations;

(b) Liens for unpaid taxes, assessments, or other governmental charges or levies that either (i) are not yet delinquent, or (ii) do not have priority over Agent's Liens and the underlying taxes, assessments, or charges or levies are the subject of Permitted Protests;

(c) judgment Liens arising solely as a result of the existence of judgments, orders, or awards that do not constitute an Event of Default under Section 8.3 of the Agreement;

(d) Liens set forth on Schedule P-2 to the Agreement; provided that to qualify as a Permitted Lien, any such Lien described on Schedule P-2 to the Agreement shall only secure the Indebtedness that it secures on the Amendment No. 4 Effective Date and any Refinancing Indebtedness in respect thereof;

(e) the interests of lessors under operating leases and non-exclusive licensors under license agreements;

(f) purchase money Liens on fixed assets or the interests of lessors under Capital Leases to the extent that such Liens or interests secure Permitted Purchase Money Indebtedness and so long as (i) such Lien attaches only to the fixed asset purchased or acquired and the proceeds thereof, and (ii) such Lien secures only the Indebtedness that was incurred to acquire or finance the asset purchased or acquired or any Refinancing Indebtedness in respect thereof;

(g) Liens arising by operation of law in favor of warehousemen, landlords, carriers, mechanics, materialmen, laborers, or suppliers and other non-consensual statutory Liens (other than Liens securing the payment of taxes), incurred in the ordinary course of business and not in connection with the borrowing of money, and which Liens either (i) are for sums not yet delinquent, or (ii) are the subject of Permitted Protests;

(h) Liens on cash deposited to secure any Borrower's and any of its Subsidiaries' obligations in connection with worker's compensation or other unemployment insurance and other types of social security;

(i) Liens on cash deposited to secure any Borrower's and any of its Subsidiaries' obligations in connection with the making or entering into of bids, tenders, or leases in the ordinary course of business and not in connection with the borrowing of money;

(j) Liens on cash deposited to secure any Borrower's and any of its Subsidiaries' reimbursement obligations with respect to surety, performance or appeal bonds obtained in the ordinary course of business;

(k) with respect to any Real Property, easements, rights of way, licenses, covenants, and zoning restrictions and other restrictions on the use of real property that do not materially interfere with or impair the use or operation thereof;

(l) non-exclusive licenses of patents, trademarks, copyrights, and other intellectual property rights in the ordinary course of business;

(m) Liens that are replacements of Permitted Liens to the extent that the original Indebtedness is the subject of permitted Refinancing Indebtedness and so long as the replacement Liens only encumber those assets that secured the original Indebtedness;

(n) rights of setoff or bankers' liens upon deposits of funds in favor of banks or other depository institutions, solely to the extent incurred in connection with the maintenance of such Deposit Accounts in the ordinary course of business;

(o) Liens granted in the ordinary course of business on the unearned portion of insurance premiums securing the financing of insurance premiums to the extent the financing is permitted under the definition of Permitted Indebtedness;

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

(q) the security interests and liens in the Collateral granted by each Borrower and its respective Subsidiaries to the 2029 Notes Trustee (or the holder of any Refinancing Indebtedness in respect thereof) to secure Indebtedness under the 2029 Notes and the 2029 Notes Indenture or any Refinancing Indebtedness thereof and to any Person to secure any other refinancing, refunding, extensions, renewals, issuances or replacements thereof to the extent permitted under the Agreement, so long as such liens and security interests are subordinate to those granted in favor of Agent pursuant to the Loan Documents to the extent provided in the 2029 Notes Intercreditor Agreement and are otherwise subject to the 2029 Notes Intercreditor Agreement or a replacement agreement in form and substance reasonably satisfactory to Agent;

(r) security interests and liens in the Collateral granted by any Borrower or its Subsidiaries to secure 2029 Note Equivalent Indebtedness; provided that such liens are subordinate to those granted in favor of Agent pursuant to the Loan Documents to the extent provided in the 2029 Notes Intercreditor Agreement and are subject to an intercreditor agreement substantially similar to the 2029 Notes Intercreditor Agreement which shall be in form and substance reasonably satisfactory to Agent;

(s) licenses, leases or subleases with respect to personal property (other than Accounts and Inventory) granted by any Borrower or their respective Subsidiaries to third parties in the ordinary course of business that do not interfere in any material respect with the business of any Borrower or any of their respective Subsidiaries; and

(t) other Liens on assets (other than Accounts, Inventory or the Mebane Premises) securing obligations in an aggregate amount not to exceed $250,000 at any time outstanding for Liggett and its Subsidiaries, taken as a whole, and $250,000 at any time outstanding for Vector Tobacco and its Subsidiaries, taken as a whole.

"Permitted Protest" means the right of any Loan Party or any of its Subsidiaries to protest any Lien (other than any Lien that secures the Obligations), taxes (other than payroll taxes or taxes that are the subject of a United States federal tax lien), or rental payment; provided that (a) a reserve with respect to such obligation is established on such Loan Party's or its Subsidiaries' books and records in such amount as is required under GAAP, (b) any such protest is instituted promptly and prosecuted diligently by such Loan Party or its Subsidiary, as applicable, in good faith, and (c) Agent is satisfied (as determined in its Permitted Discretion) that, while any such protest is pending, there will be no impairment of the enforceability, validity, or priority of any of Agent's Liens.

"Permitted Purchase Money Indebtedness" means, as of any date of determination, Indebtedness (other than the Obligations, but including Capitalized Lease Obligations), incurred after the Restatement Effective Date for the purpose of financing all or any part of the acquisition of any fixed asset or real property.

"Person" means a natural person, corporation, limited liability company, limited partnership, general partnership, limited liability partnership, joint venture, trust, land trust, business trust, or other organization, irrespective of whether it is a legal entities, and any government or agency or political subdivision thereof.

"Platform" has the meaning specified therefor in Section 19.9(c) of the Agreement.

"Projections" means Borrowers' forecasted (a) balance sheets, (b) profit and loss statements, and (c) cash flow statements, all prepared on a consolidating combined basis for the Borrowers and all their Subsidiaries taken as a whole consistent with Borrowers' historical financial statements, together with appropriate supporting details and a statement of underlying assumptions.

"Protective Advances" has the meaning specified therefor in Section 2.3(d)(i) of the Agreement.

"Provision for Taxes" shall mean an amount equal to all taxes imposed on or measured by net income or due under any Tax Sharing Agreement, whether federal, state, provincial, country or local, and whether foreign or domestic, that are paid or payable by any Person in respect of any period in accordance with GAAP.

"Pro Rata Share" means, as of any date of determination:

(a) with respect to a Lender's obligation to make all or a portion of the Revolving Loans, with respect to such Lender's right to receive payments of interest, fees, and principal with respect to the Revolving Loans, and with respect to all other computations and other matters related to the Revolver Commitments or the Revolving Loans, the percentage obtained by dividing (i) the Revolving Loan Exposure of such Lender by (ii) the aggregate Revolving Loan Exposure of all Lenders;

(b) with respect to a Lender's obligation to participate in the Letters of Credit, with respect to such Lender's obligation to reimburse Issuing Bank, and with respect to such Lender's right to receive payments of Letter of Credit Fees, and with respect to all other computations and other matters related to the Letters of Credit, the percentage obtained by dividing (i) the Revolving Loan Exposure of such Lender, by (ii) the aggregate Revolving Loan Exposure of all Lenders; provided that, if all of the Revolving Loans have been repaid in full and all Revolver Commitments have been terminated, but Letters of Credit remain outstanding, Pro Rata Share under this clause shall be the percentage obtained by dividing (A) the Letter of Credit Exposure of such Lender, by (B) the Letter of Credit Exposure of all Lenders; and

(c) with respect to all other matters as to a particular Lender (including the indemnification obligations arising under Section 16.7 of the Agreement), the percentage obtained by dividing (i) the Revolving Loan Exposure of such Lender by (ii) the aggregate Revolving Loan Exposure of all Lenders, in any such case as the applicable percentage may be adjusted by assignments permitted pursuant to Section 13.1; provided that, if all of the Loans have been repaid in full, all Letters of Credit have been made the subject of Letter of Credit Collateralization, and all Revolver Commitments have been terminated, Pro Rata Share under this clause shall be determined as if the Revolving Loan Exposures had not been repaid, collateralized, or terminated and shall be based upon the Revolving Loan Exposures as they existed immediately prior to their repayment, collateralization, or termination.

"Public Lender" has the meaning specified therefor in Section 19.9(c) of the Agreement.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

"QFC Credit Support" has the meaning specified therefor in Section 19.14 of this Agreement.

"Qualified Equity Interest" means and refers to any Equity Interests issued by any Borrower (and not by one or more of its Subsidiaries) that is not a Disqualified Equity Interest.

"Real Property" means any estates or interests in real property now owned or hereafter acquired by any Borrower or one of its Subsidiaries and the improvements thereto.

"Real Property Collateral" means the Real Property identified on Schedule R-1 to the Agreement.

"Real Property Reserves" means, as of any date of determination, those reserves that Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(c), to establish and maintain with respect to Eligible Real Property or the Maximum Revolver Amount, including based on the results of appraisals.

"Real Property Subline Amount" means $8,000,000; provided that such amount shall be permanently reduced by an amount equal to $44,444.44 on April 1, 2021, and on the first day of each month ending thereafter.

"Receivable Reserves" means, as of any date of determination, those reserves that Agent deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(c), to establish and maintain (including reserves for rebates, discounts, warranty claims, and returns) with respect to the Eligible Accounts or the Maximum Revolver Amount.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Refinancing Indebtedness" means refinancings, renewals, or extensions of Indebtedness so long as:

(a) such refinancings, renewals, or extensions do not result in an increase in the principal amount of the Indebtedness so refinanced, renewed, or extended, other than by the amount of accrued interest, premiums paid thereon and the fees and expenses incurred in connection therewith and by the amount of unfunded commitments with respect thereto;

(b) such refinancings, renewals, or extensions do not result in a shortening of the final stated maturity or the average weighted maturity (measured as of the date of the refinancing, renewal, or extension) of the Indebtedness so refinanced, renewed, or extended, nor are they on terms or conditions (other than interest rate) that, taken as a whole, are or could reasonably be expected to be materially adverse to the interests of the Lender Group;

(c) if the Indebtedness that is refinanced, renewed, or extended was subordinated in right of payment to the Obligations, then the terms and conditions of the refinancing, renewal, or extension must include subordination terms and conditions that are at least as favorable to the Lender Group as those that were applicable to the refinanced, renewed, or extended Indebtedness; and

(d) the Indebtedness that is refinanced, renewed, or extended is not recourse to any Person that is liable on account of the Obligations other than those Persons which were obligated with respect to the Indebtedness that was refinanced, renewed, or extended.

"Register" has the meaning set forth in Section 13.1(h) of the Agreement.

"Related Fund" means a Fund that is administered or managed by (i) a Lender, (ii) an Affiliate of a Lender or (iii) an entity or an Affiliate of an entity that administers or manages a Lender.

"Relevant Governmental Body" means the Federal Reserve Board and/or the Federal Reserve Bank of New York or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York or any successor thereto.

"Remedial Action" means all actions taken to (a) clean up, remove, remediate, contain, treat, monitor, assess, evaluate, or in any way address Hazardous Materials in the indoor or outdoor environment, (b) prevent or minimize a release or threatened release of Hazardous Materials so they do not migrate or endanger or threaten to endanger public health or welfare or the indoor or outdoor environment, (c) restore or reclaim natural resources or the environment, (d) perform any pre-remedial studies, investigations, or post-remedial operation and maintenance activities, or (e) conduct any other actions with respect to Hazardous Materials required by Environmental Laws.

"Required Lenders" means, at any time, Lenders having or holding more than fifty percent (50%) of the sum of the aggregate Revolving Loan Exposure of all Lenders; provided that (i) the Revolving Loan Exposure of any Defaulting Lender shall be disregarded in the determination of the Required Lenders, (ii) at any time there are two (2) or more Lenders (who are not Affiliates of one another or Defaulting Lenders), "Required Lenders" must include at least two (2) Lenders (who are not Affiliates of one another or Defaulting Lenders).

"Reserves" means, as of any date of determination, those reserves (other than Receivable Reserves, Bank Product Reserves, Inventory Reserves and Real Property Reserves) that Lender deems necessary or appropriate, in its Permitted Discretion and subject to Section 2.1(c), to establish and maintain with respect to the Borrowing Base or the Maximum Revolver Amount (including reserves with respect to (a) sums that any Loan Party or its Subsidiaries are required to pay under any Section of the Agreement or any other Loan Document (such as taxes, assessments, insurance premiums, or, in the case of leased assets, rents or other amounts payable under such leases but excluding the Obligations) and has failed to pay, and (b) amounts owing by any Loan Party or its Subsidiaries to any Person other than Agent or Lenders to the extent secured by a Lien on, or trust over, any of the Collateral (other than a Permitted Lien), which Lien or trust, in the Permitted Discretion of Agent likely would have a priority superior to Agent's Liens (such as Liens or trusts in favor of landlords, warehousemen, carriers, mechanics, materialmen, laborers, or suppliers, or Liens or trusts for ad valorem, excise, sales, or other taxes where given priority under applicable law) in and to such item of the Collateral).

"Resolution Authority" means any EEA Resolution Authority or, with respect to any U.K. Financial Institution, a U.K. Resolution Authority.

"Restatement Effective Date" means January 14, 2015.

"Restricted Payment" means to (a) declare or pay any dividend or make any other payment or distribution, directly or indirectly, on account of Equity Interests issued by any Borrower or its Subsidiaries (including any payment in connection with any merger or consolidation involving a Borrower) or to the direct or indirect holders of Equity Interests issued by any Borrower in their capacity as such (other than dividends or distributions payable in Qualified Equity Interests issued by a Borrower), or (b) purchase, redeem, make any sinking fund or similar payment, or otherwise acquire or retire for value (including in connection with any merger or consolidation involving any Borrower) any Equity Interests issued by any Borrower, (c) make any payment to retire, or to obtain the surrender of, any outstanding warrants, options, or other rights to acquire Equity Interests of any Borrower now or hereafter outstanding, and (d) make, or cause or suffer to permit any Borrower or any of its Subsidiaries to make, any payment or prepayment of principal of, premium, if any, or interest on, or redemption, purchase, retirement, defeasance (including in-substance or legal defeasance), sinking fund or similar payment with

respect to, any Subordinated Indebtedness. For the avoidance of doubt, payments under any Tax Sharing Agreement shall not constitute Restricted Payments.

"Revolver Commitments" means, with respect to each Lender, its Revolver Commitment, and, with respect to all Lenders, their Revolver Commitments, as the context requires, in each case as such Dollar amounts are set forth beside such Lender's name under the applicable heading on Schedule C-1 to the Agreement or in the Assignment and Acceptance pursuant to which such Lender became a Lender under the Agreement, as such amounts may be reduced or increased from time to time pursuant to assignments made in accordance with the provisions of Section 13.1 of the Agreement. On the Amendment No. 4 Effective Date, the sum of all Lenders' Revolver Commitments is $90,000,000.

"Revolver Usage" means, as of any date of determination, the sum of (a) the amount of outstanding Revolving Loans (inclusive of Swing Loans and Protective Advances), *plus* (b) the amount of the Letter of Credit Usage.

"Revolving Loan Exposure" means, with respect to any Lender, as of any date of determination (a) prior to the termination of the Revolver Commitment, the amount of such Lender's Revolver Commitment, and (b) after the termination of the Revolver Commitment, the aggregate outstanding principal amount of the Revolving Loans of such Lender.

"Revolving Loans" has the meaning specified therefor in Section 2.1(a) of the Agreement.

"Sanctioned Entity" means (a) a country or territory or a government of a country or territory, (b) an agency of the government of a country or territory, (c) an organization directly or indirectly controlled by a country or territory or its government, or (d) a Person resident in or determined to be resident in a country or territory, in each case of clauses (a) through (d), that is a target of comprehensive Sanctions, including a target of any comprehensive sanctions program administered and enforced by OFAC, including, currently, Crimea, Cuba, Iran, North Korea and Syria.

"Sanctioned Person" means, at any time (a) any Person named on the list of Specially Designated Nationals and Blocked Persons maintained by OFAC, OFAC's consolidated Non-SDN list or any other Sanctions-related list maintained by any Governmental Authority with jurisdiction over any Loan Party or any of their respective Subsidiaries or Affiliates, (b) a Person that is a target of Sanctions, (c) any Person operating, organized or resident in a Sanctioned Entity, or (d) any Person directly or indirectly owned or controlled (individually or in the aggregate) by any such Person or Persons described in clauses (a) through (c) above.

"Sanctions" means, individually and collectively, respectively, any and all economic sanctions, financial sanctions, and trade embargoes imposed, administered or enforced from time to time by: (a) the United States of America, including those administered by OFAC, the U.S. Department of State, the U.S. Department of Commerce, or through any existing or future executive order, (b) the United Nations Security Council, (c) the European Union or any European Union member state, (d) Her Majesty's Treasury of the United Kingdom, or (d) any other Governmental Authority with jurisdiction over any Loan Party or any of their respective Subsidiaries or Affiliates.

"S&P" has the meaning specified therefor in the definition of Cash Equivalents.

"SEC" means the United States Securities and Exchange Commission and any successor thereto.

"Securities Account" means a securities account (as that term is defined in the Code).

"Securities Act" means the Securities Act of 1933, as amended from time to time, and any successor statute.

"Settlement" has the meaning specified therefor in Section 2.3(e)(i) of the Agreement.

"Settlement Date" has the meaning specified therefor in Section 2.3(e)(i) of the Agreement.

"SOFR" with respect to any day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator), on the Federal Reserve Bank of New York's Website.

"Solvent" means, with respect to Borrowers and their Subsidiaries, taken as a whole, as of any date of determination, that (a) at fair valuations, the sum of Borrowers' and their Subsidiaries' consolidated combined debts (including contingent liabilities) is less than all of Borrowers' and their Subsidiaries' consolidated combined assets, (b) Borrowers and their Subsidiaries are not engaged or about to engage in a business or transaction for which the remaining consolidated combined assets of Borrowers and their Subsidiaries, taken as a whole, are unreasonably small in relation to the business or transaction or for which the property remaining with Borrowers and their Subsidiaries, taken as a whole, is an unreasonably small capital, (c) Borrowers and their Subsidiaries, taken as a whole, have not incurred and do not intend to incur, or reasonably believe that they will incur, debts beyond their ability to pay such debts as they become due (whether at maturity or otherwise), and (d) Borrowers and their Subsidiaries taken as a whole are "solvent" or not "insolvent," as applicable, within the meaning given those terms and similar terms under applicable laws relating to fraudulent transfers and conveyances. For purposes of this definition, 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 (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

"Standard Letter of Credit Practice" means, for Issuing Bank, any domestic or foreign law or letter of credit practices applicable in the city in which Issuing Bank issued the applicable Letter of Credit or, for its branch or correspondent, such laws and practices applicable in the city in which it has advised, confirmed or negotiated such Letter of Credit, as the case may be, in each case, (a) which letter of credit practices are of banks that regularly issue letters of credit in the particular city, and (b) which laws or letter of credit practices are required or permitted under ISP or UCP, as chosen in the applicable Letter of Credit.

"Subordinated Indebtedness" means any unsecured Indebtedness of any Borrower or its Subsidiaries incurred from time to time that is subordinated in right of payment to the Obligations and (a) that is only guaranteed by the Guarantors, (b) that is not subject to scheduled amortization, redemption, sinking fund or similar payment and does not have a final maturity, in each case, on or before the date that is six months after the Maturity Date, (c) that does not include any financial covenants or any covenant or agreement that is more restrictive or onerous on any Loan Party in any material respect than any comparable covenant in the Agreement and is otherwise on terms and conditions reasonably acceptable to Agent, (d) shall be limited to cross-payment default and cross-acceleration to designated "senior debt" (including the Obligations), and (e) the terms and conditions of the subordination are reasonably acceptable to Agent and if requested by Agent, Borrowers shall have delivered a subordination agreement, in form and substance reasonably acceptable to Agent and Required Lenders.

"Subsidiary" of a Person means a corporation, partnership, limited liability company, or other entity in which that Person directly or indirectly owns or controls the Equity Interests having ordinary

voting power to elect a majority of the Board of Directors of such corporation, partnership, limited liability company, or other entity.

"Succeeding Fiscal Year" has the meaning specified therefor in Section 7(b) of the Agreement.

"Supermajority Lenders" means, at any time, Lenders having or holding more than sixty-six and two-thirds percent (66 2/3%) of the sum of the aggregate Revolving Loan Exposure of all Lenders; provided that (i) the Revolving Loan Exposure of any Defaulting Lender shall be disregarded in the determination of Supermajority Lenders, and (ii) at any time there are two (2) or more Lenders (who are not Affiliates of one another or Defaulting Lenders), "Supermajority Lenders" must include at least two (2) Lenders (who are not Affiliates of one another or Defaulting Lenders).

"Supported QFC" has the meaning specified therefor in Section 19.14 of this Agreement.

"Swap Obligation" means, with respect to any Loan Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act.

"Swing Lender" means Wells Fargo or any other Lender that, at the request of Borrowers and with the consent of Agent agrees, in such Lender's sole discretion, to become Swing Lender under Section 2.3(b) of the Agreement.

"Swing Loan" has the meaning specified therefor in Section 2.3(b) of the Agreement.

"Swing Loan Exposure" means, as of any date of determination with respect to any Lender, such Lender's Pro Rata Share of the outstanding principal amount of the Swing Loans on such date.

"Tax Sharing Agreement" has the meaning specified therefor in Section 6.10(g) of the Agreement.

"Taxes" means any taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), fees, assessments or other charges of whatever nature now or hereafter imposed by any jurisdiction or by any political subdivision or taxing authority thereof or therein, including all interest, additions to tax or penalties with respect thereto.

"Tax Lender" has the meaning specified therefor in Section 17.2(a) of the Agreement.

"Term Loan Note" means the Second Amended and Restated Term Promissory Note, dated the Restatement Effective Date, in the original principal amount of $3,564,584.09 made by 100 Maple in favor of Agent for the benefit of Lenders, as the same may be amended, restated, amended and restated, or supplemented from time to time.

"Term SOFR" means the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body.

"Trademark Security Agreement" has the meaning specified therefor in the Guaranty and Security Agreement.

"TTM EBITDA" means, as of any date of determination, EBITDA of Borrowers and their Subsidiaries determined on a consolidated combined basis in accordance with GAAP, for the twelve (12)- month period most recently ended.

"UCP" means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits 2007 Revision, International Chamber of Commerce Publication No. 600 and any version or revision thereof accepted by Issuing Bank for use.

"U.K. Financial Institution" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain Affiliates of such credit institutions or investment firms.

"U.K. Resolution Authority" means the Bank of England or any other public administrative authority having responsibility for the resolution of any U.K. Financial Institution.

"Unadjusted Benchmark Replacement" means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

"United States" means the United States of America.

"Unused Line Fee" has the meaning specified therefor in Section 2.10(c) of the Agreement.

"U.S. Person" means any Person that is a "United States Person" as defined in Section 7701(a)(30) of the IRC.

"U.S. Special Resolution Regimes" has the meaning specified therefor in Section 19.14 of this Agreement.

"Value" shall mean, as determined by Agent in good faith, with respect to Inventory, the lower of (a) cost computed on a first-in-first-out basis (except that Inventory consisting of leaf tobacco shall be computed on an average cost basis) in accordance with GAAP or (b) market value, in each case, on a basis consistent with Borrowers' historical accounting practices.

"Vector Agreements" shall mean, collectively, (a) the Sales, Marketing and Distribution Agreement, dated January 1, 2011, by and between Liggett Vector Brands LLC (successor to Liggett Vector Brands Inc.) and Vector Tobacco Inc., as may be amended from time to time, (b) the Contract Manufacturing Agreement, dated as of July 1, 2019, by and between Liggett and Vector Tobacco Inc., as may be amended from time to time, and (c) the Agreement on Excess Manufacturing and Storage Space Capacity, dated July 1, 2019, by and between Liggett and Vector Tobacco Inc., as may be amended from time to time.

"Vector Tobacco" has the meaning specified therefor in the preamble to the Agreement.

"VGRH" shall mean VGR Holding LLC (formerly VGR Holding Inc., formerly BGLS Inc.), an Affiliate of Liggett and Vector Tobacco.

"Voidable Transfer" has the meaning specified therefor in Section 19.8 of the Agreement.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required 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.

"Wells Fargo" means Wells Fargo Bank, National Association, a national banking association.

"Withdrawal Liability" means liability with respect to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

"Write-Down and Conversion Powers" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any U.K. Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of 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.

EXHIBIT 21.1

SUBSIDIARIES OF THE COMPANY

The following is a list of our active subsidiaries as of December 31, 2022, including the jurisdiction of incorporation of each and the names under which such subsidiaries conduct business. In the case of each subsidiary which is indented, its immediate parent owns beneficially all of the voting securities.

VGR Holding LLC	Delaware
Liggett Group LLC	Delaware
Vector Tobacco LLC	Virginia
New Valley LLC	Delaware

Not included above are other subsidiaries which, if considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary, as such term is defined by Rule 1-02(w) of Regulation S-X.

EXHIBIT 22.1

Vector Group Ltd. List of Guarantor Subsidiaries

Vector Group Ltd. ("Vector Group"), a Delaware corporation, and the following 100% owned subsidiaries of Vector Group have filed a shelf registration statement for the offering of debt securities on a delayed or continuous basis. Any such debt securities may be issued by Vector Group and guaranteed on a full and unconditional basis by the following subsidiaries:

Entity	**Jurisdiction of Incorporation or Organization**
VGR Holding LLC	Delaware
Liggett Group LLC	Delaware
Liggett Vector Brands LLC	Delaware
Vector Tobacco LLC	Virginia
100 Maple LLC	Delaware
Eve Holdings LLC	Delaware
Zoom E-Cigs LLC	Delaware

Exhibit 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in Registration Statement Nos. 333-118113 and 333-196274 on Form S-8 and Registration Statement No. 333-267358 of Form S-3 of our reports dated February 21, 2023, relating to the financial statements of Vector Group Ltd. and the effectiveness of Vector Group Ltd.'s internal control over financial reporting appearing in this Annual Report on Form 10-K for the year ended December 31, 2022.

/s/ Deloitte & Touche LLP

Miami, Florida

February 21, 2023

EXHIBIT 31.1

RULE 13a-14(a) CERTIFICATION OF CHIEF EXECUTIVE OFFICER

I, Howard M. Lorber, certify that:

1. I have reviewed this annual report on Form 10-K of Vector Group Ltd.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   (a) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (b) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 21, 2023

/s/ Howard M. Lorber
Howard M. Lorber
President and Chief Executive Officer

EXHIBIT 31.2

RULE 13a-14(a) CERTIFICATION OF CHIEF FINANCIAL OFFICER

I, J. Bryant Kirkland III, certify that:

1. I have reviewed this annual report on Form 10-K of Vector Group Ltd.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   (a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   (d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

   (c) all significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   (d) any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 21, 2023

/s/ J. Bryant Kirkland III
J. Bryant Kirkland III
Senior Vice President, Treasurer and Chief Financial Officer

EXHIBIT 32.1

SECTION 1350 CERTIFICATION OF CHIEF EXECUTIVE OFFICER AND CHIEF FINANCIAL OFFICER

In connection with the Annual Report of Vector Group Ltd. (the "Company") on Form 10-K for the year ended December 31, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Howard M. Lorber, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 21, 2023

/s/ Howard M. Lorber
Howard M. Lorber
President and Chief Executive Officer

In connection with the Annual Report of Vector Group Ltd. (the "Company") on Form 10-K for the year ended December 31, 2022 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, J. Bryant Kirkland III, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. section 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

1. The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: February 21, 2023

/s/ J. Bryant Kirkland III
J. Bryant Kirkland III
Senior Vice President, Treasurer and Chief Financial Officer

Exhibit 99.1

I. INDIVIDUAL CASES

A. *Engle* Progeny Cases.

Pursuant to the Florida Supreme Court's ruling in *Engle v. Liggett Group Inc.*, which decertified the *Engle* class on a prospective basis, former class members had until January 2008 to file individual lawsuits. Lawsuits by individuals requesting the benefit of the *Engle* ruling are referred to as the "*Engle* progeny" cases. Liggett has resolved the claims of all but 21 *Engle* progeny plaintiffs. For more information on the *Engle* case and on the settlement, see "Note 15. Contingencies."

(i) *Engle* Progeny Cases with trial dates through December 31, 2023.

Stein v. R.J. Reynolds Tobacco Co., *et al.*, Case No. 12-034645, Circuit Court of the 11th Judicial Circuit, Miami-Dade County (case filed 08/31/12). One individual suing. The case is set for the trial period starting 09/05/2023.

(ii) Post-Trial *Engle* Progeny Cases.

None.

B. Other Individual Cases.

Florida

Bennett, *et al.* v. Philip Morris USA Inc., *et al.*, Case No. 20-30196, Circuit Court of the 7th Judicial Circuit, Volusia County (case filed 02/27/2020). One individual suing on behalf of the estate and survivors of a deceased smoker. Vector Group is a named defendant but, not Liggett. The case is set for trial during the trial period starting 10/30/2023.

Carbone v . Philip Morris USA Inc., *et al.*, Case No. 50-2022-CA-012061, Circuit Court of the 15th Judicial Circuit, Palm Beach County (case filed 12/09/2022). One individual suing.

Cowart v. Liggett Group Inc., *et al.*, Case No. 98-01483-CA, Circuit Court of the 4th Judicial Circuit, Duval County (case filed 03/16/1998). One individual suing. Liggett is the only remaining defendant in this case. The case is dormant.

Cunningham v. R.J. Reynolds Tobacco Company, *et al.*, Case No. 17-CA-000293, Circuit Court of the 19th Judicial Circuit, St. Lucie County (case filed 02/20/2017). One individual suing on behalf of the estate and survivors of a deceased smoker.

Garcia v. Philip Morris USA Inc., *et al.*, Case No. 2022-012884, Circuit Court of the 11th Judicial Circuit, Miami-Dade County (case filed 07/13/2022). One individual suing.

Koedam v. Philip Morris USA Inc., *et al.*, Case No. 19-CA-002970, Circuit Court of the 2nd Judicial Circuit, Leon County (case filed 01/03/2020). One individual suing.

Jones, *et al.* v. Philip Morris USA Inc., *et al.*, Case No. 22-020300, Circuit Court of the 11th Judicial Circuit, Miami-Dade County (case filed 10/24/2022). Two individuals suing.

Lane, *et al.* v. Philip Morris USA Inc., *et al.*, Case No. 17-011591, Circuit Court of the 17th Judicial Circuit, Broward County (case filed 06/16/2017). Two individuals suing.

Mathews v. R.J. Reynolds Tobacco Company, *et al.*, Case No. 16-21-CA-005136, Circuit Court of the 4th Judicial Circuit, Duval County (case filed 10/01/2021). One individual suing. Both Liggett and Vector are named defendants.

McMakin v. R.J. Reynolds Tobacco Company, *et al.*, Case No. 20-30329, Circuit Court of the 7th Judicial Circuit, Volusia County, (case filed 03/30/2020). One individual suing on behalf of the estate and survivors of two deceased smokers. Vector Group is a named defendant, but not Liggett. The case is set for trial during the trial period starting 10/30/2023.

Michael v. Philip Morris USA Inc., *et al.*, Case No. 22-018662, Circuit Court of the 17th Judicial Circuit, Broward County (case filed 12/21/2022). One individual suing.

Mier v. Philip Morris USA Inc., *et al*., Case No. 2022 11094, Circuit Court of the 7th Judicial Circuit, Volusia County (case filed 07/12/2022). One individual suing. Vector is a named defendant, not Liggett. The case is set for trial during the trial period starting 10/30/2023.

Moon v. Philip Morris USA Inc., *et al.*, Case No. 19-CA-002941, Circuit Court of the 2nd Judicial Circuit, Leon County (case filed 12/30/2019). One individual suing.

O'Bourke v. Philip Morris USA Inc., *et al*., Case No. 2022-011114, Circuit Court of the 11th Judicial Circuit, Miami-Dade County (case filed 06/16/2022). One individual suing on behalf of the estate and survivors of a deceased smoker.

Perez v. Phillip Morris USA Inc., *et al.*, Case No. 22-024665, Circuit Court of the 11th Judicial Circuit, Miami-Dade County (case filed 10/24/2022). One individual suing.

Perez-Gell v. Philip Morris USA Inc., *et al.*, Case No. 19-016287, Circuit Court of the 11th Judicial Circuit, Miami-Dade County (case filed 05/30/2019). One individual suing on behalf of the estate and survivors of a deceased smoker.

Santana v. Philip Morris USA Inc., *et al.*, Case No. 19-37329, Circuit Court of the 11th Judicial Circuit, Miami-Dade County (case filed 01/03/2020). One individual suing on behalf of the estate and survivors of a deceased smoker.

Santayana, *et al.*, v. Philip Morris USA Inc., *et al*., Case No. 2022-022140, Circuit Court of the 11th Judicial Circuit, Miami-Dade County (case filed 11/18/2022). Two individuals suing.

Schoene v. R.J. Reynolds Tobacco Company, *et al.*, Case No. 21-004689, Circuit Court of the 17th Judicial Circuit, Broward County (case filed 03/05/2021). One individual suing.

Siler v. R.J. Reynolds Tobacco Company, *et al.*, Case No. 22-022692, Circuit Court of the 11th Judicial Circuit, Miami-Dade County (case filed 11/28/2022). One individual suing on behalf of the estate and survivors of deceased smoker.

Taylor v. Philip Morris USA Inc., *et al.*, Case No. 19-CA-255, Circuit Court of the 2nd Judicial Circuit, Wakulla County (case filed 12/18/2019). One individual suing.

Voglio v. R.J. Reynolds Tobacco Company, *et al.*, Case No. 18-CA-000640, Circuit Court of the 19th Judicial Circuit, Martin County (case filed 08/29/2018). One individual suing on behalf of the estate and survivors of a deceased smoker.

Watson, *et al.* v. R.J. Reynolds Tobacco Company, *et al*., Case No. 20-CA-009690-O, Circuit Court of the 9th Judicial Circuit, Orange County (case filed 09/25/2020). Two individuals suing.

Whitehurst v. Philip Morris USA Inc., *et al.*, Case No. 19-016282, Circuit Court of the 11th Judicial Circuit, Miami-Dade County (case filed 05/30/2019). One individual suing on behalf of the estate and survivors of a deceased smoker.

Hawaii

Caravalho, *et al.* v. Philip Morris USA Inc., *et al*., Case No. 3CCV-22-0000072, Circuit Court, 3rd Circuit (case filed 09/02/2022). Seven individuals suing: one individual suing as a descendant and personal representative of the estate of the deceased smoker and six individuals as descendants of the deceased smoker. The case is special set for trial starting 04/15/2024.

Dutro, *et al.* v. Philip Morris USA Inc., *et al.*, Case No. 1CCV-22-0000411, Circuit Court, 1st Circuit, Hawaii, (case filed 04/11/2022). Seven individuals suing: one individual suing as a descendant and personal representative of the estate of the deceased smoker and six individuals as descendants of the deceased smoker. The case is set for trial starting 06/03/2024.

Kanuha v. Philip Morris USA Inc., *et al.*, Case No. 1CCV-22-0000832, Circuit Court, 1st Circuit, Hawaii, (case filed 07/19/2022) One individual suing. The case is special set for trial starting 04/15/2024.

Manious, *et al.* v. Philip Morris USA Inc., *et al.*, Case No. 3CCV-22-0000072, Circuit Court, 3rd Circuit (case filed 03/15/2022). Two individuals suing. The case is consolidated with *Silva* and is special set for trial starting 02/13/2024.

Roach v. Philip Morris USA Inc., *et al*., Case No. 3CCV-22-0000071, Circuit Court, 3rd Circuit (case filed 03/15/2022). One individual suing. The case is set for trial starting 11/14/2023.

Silva v. Philip Morris USA Inc., *et al.*, Case No. 3CCV-22-0000271, Circuit Court, 3rd Circuit (case filed 09/07/2022). One individual suing. The case is consolidated with *Manious* and is special set for trial starting 02/13/2024.

Illinois

Brown, *et al.* v. Philip Morris USA Inc., *et al.*, Case No. 2021-L-008025, Circuit Court of Cook County, Illinois (case filed 08/09/2021). Two individuals suing.

Cain v. Philip Morris USA, Inc., *et al.*, Case No. 2021-L-008850, Circuit Court of Cook County, Illinois (case filed 09/02/2021). One individual suing.

Cielsa v. R.J. Reynolds Tobacco Company, *et al*., Case No. 2021-L-005195, Circuit Court of Cook County, Illinois (case filed 05/20/2021). One individual suing.

Collins v. Philip Morris USA Inc., *et al.*, Case No. 2022-L-000578, Circuit Court of Cook County, Illinois (case filed 01/19/2022). One individual suing.

Demir v. R.J. Reynolds Tobacco Company, *et al.*, Case No. 2021-L-004375, Circuit Court of Cook County, Illinois (case filed 04/28/2021). One individual suing.

Gerace, *et al.* v. Philip Morris USA Inc., *et al*., Case 2022-L-003599, Circuit Court of Cook County, Illinois (case filed 04/19/2022). Two individuals suing.

Gorski v. Philip Morris USA, Inc., *et al.*, Case No. 2021-L-008024, Circuit Court of Cook County, Illinois (case filed 08/12/2021). One individual suing.

McBride. vs. Fischbach, LLC, *et al*., Case No. 2022-L-000489, St. Clair County, Illinois (case filed 06/15/2022). One individual suing.

Montgomery v. Philip Morris USA Inc., *et al.*, Case No. 2021-L-010256, Circuit Court of Cook County, Illinois (case filed 10/19/2021). One individual suing.

Morton v. Philip Morris USA Inc., *et al*., Case No. 2022-L-006350, Circuit Court of Cook County, Illinois (case filed 07/15/2022). One individual suing.

Ogbebor v. Philip Morris USA Inc., *et al.*, Case No. 2023-L-000605, Circuit Court of Cook County, Illinois (case filed 01/20/2023). One individual suing.

Thompson, *et al.* v. Philip Morris USA Inc., *et al.*, Case No. 2023-L-000843, Circuit Court of Cook County, Illinois (case filed 01/27/2023). Two individuals suing.

Louisiana

Oser v. The American Tobacco Co., *et al.*, Case No. 97-9293, Circuit Court of the Civil District Court, Parish of Orleans (case filed 05/27/1997). One individual suing. There has been no recent activity in this case.

Reese, *et al*. v. R. J. Reynolds, *et al.*, Case No. 2003-12761, Circuit Court of the 22nd Judicial District Court, St. Tammany Parish (case filed 06/10/2003). Five individuals suing. There has been no recent activity in this case.

Massachusetts

Sandler, E. v. Philip Morris USA, Inc., *et al*. Case 22-220, Norfolk Superior Court, Commonwealth of Massachusetts, (case filed 03/10/2022). One individual suing.

Nevada

Camacho, *et al.* v. Philip Morris USA Inc., *et al.*, Case No. A-19-807650C, District Court, Clark County, Nevada, (case filed 12/30/2019). Two individuals suing. The case is set for trial starting 04/17/2023.

Geist v. Philip Morris USA Inc., *et al.*, Case No. A-19-807653C, District Court, Clark County, Nevada, (case filed 12/30/2019). One individual suing on behalf of the estate and survivors of a deceased smoker. The case is set for trial starting 06/13/2023.

Rowan v. Philip Morris USA Inc., *et al.*, Case No. A-20-811091C, District Court, Clark County, Nevada, (case filed 02/25/2020). One individual suing as personal representative of the estate and survivors of a deceased smoker. The case is set for trial starting 04/01/2024.

Tully, *et al.* v. Philip Morris USA Inc., *et al.*, Case No. A-19-807657C, District Court, Clark County, Nevada, (case filed 12/30/2019). Two individuals suing. The case is set for trial starting 10/16/2023.

New Mexico

Grace v. RJ Reynolds Tobacco Company, *et al.*, Case No. D-0101-CV-2020-01689, 1st Judicial District, Santa Fe County, New Mexico (case filed 08/05/2020). One individual suing on behalf of the estate and survivors of a deceased smoker. The case is set for trial starting 06/20/2023.

Lopez, H. v. RJ Reynolds Tobacco Company, *et al.*, Case No. D-0101-CV-2020-01686, 1st Judicial District, Santa Fe County, New Mexico (case filed 08/04/2020). One individual suing on behalf of the estate and survivors of two deceased smokers. The case is set for trial starting 12/04/2023.

Martinez, *et al.* v. RJ Reynolds Tobacco Company, *et al.*, Case No. D-0101-CV-2020-01691, 1st Judicial District, Santa Fe County, New Mexico (case filed 08/05/2020). Two individuals suing. The case is set for trial starting 05/30/2023.

South Carolina

Reed v. RJ Reynolds Tobacco Company, *et al*., Case No. 8:22-cv-01029-TMC-JDA, U.S. District Court for the District of South Carolina, South Carolina (case filed 03/31/2022). One individual suing.

II. CLASS ACTION CASES

Parsons, *et al.* v. A C & S Inc., *et al.*, Case No. 00-C-7000, First Judicial Circuit, West Virginia, Ohio County (case filed 02/09/1998). This purported class action is brought on behalf of plaintiff and all West Virginia residents who allegedly have claims arising from their exposure to cigarette smoke and asbestos fibers and seeks compensatory and punitive damages. The case has been stayed since December 2000 as a result of bankruptcy petitions filed by three co-defendants.

Young, *et al.* v. American Brands Inc., *et al*., Case No. 97-19984cv, Civil District Court, Louisiana, Orleans Parish (case filed 11/12/1997). This purported class action is brought on behalf of plaintiff and all similarly situated residents in Louisiana who, though not themselves cigarette smokers, were exposed to and suffered injury from secondhand smoke from cigarettes. The plaintiffs seek an unspecified amount of compensatory and punitive damages. The case has been stayed since March 2016 pending the completion of the smoking cessation program ordered by the court in *Scott v. The American Tobacco Co*.

III. HEALTH CARE COST RECOVERY ACTIONS

Crow Creek Sioux Tribe v. The American Tobacco Company, *et al.*, Case No. cv-97-09-082, Tribal Court of the Crow Creek Sioux Tribe, South Dakota (case filed 09/26/1997). The plaintiff seeks to recover actual and punitive damages, restitution, funding of a clinical cessation program, funding of a corrective public education program and disgorgement of unjust profits from alleged sales to minors. The case is dormant.

IV. OTHER MATTERS

Mayor of Baltimore, *et al*. v. Philip Morris USA Inc., *et al.*, Case No. 24-C-22-004904 OT, Maryland, Circuit Court for Baltimore City (case filed 11/21/22). In December 2022, the Mayor and City Council of Baltimore sued Liggett and others, claiming, among other things, that defendants' failure to use biodegradable filters on their cigarette products resulted in littering by smokers of the city's streets, sidewalks, beaches, parks, lawns and waterways, which in turn resulted in contamination of the soil and water, increased costs of clean-up and disposal of this litter, as well as the reduction of property values and tourism to the city. Plaintiffs seek compensatory damages, punitive damages, penalties, fines, disgorgement of profits and equitable relief.

EXHIBIT 99.2

Vector Group Ltd.
Condensed Consolidating Financial Statements
December 31, 2022
(in thousands of dollars)

Presented herein are Condensed Consolidating Balance Sheet as of December 31, 2022 and the related Condensed Consolidating Statements of Operations for the year ended December 31, 2022 of Vector Group Ltd. (Parent/Issuer), the guarantor subsidiaries (Subsidiary Guarantors) and the subsidiaries that are not guarantors (Subsidiary Non-Guarantors).

CONDENSED CONSOLIDATING BALANCE SHEETS

	December 31, 2022				
	Parent/ Issuer	Subsidiary Guarantors	Subsidiary Non-Guarantors	Consolidating Adjustments	Consolidated Vector Group Ltd.
ASSETS:					
Current assets:					
Cash and cash equivalents	$ 213,952	$ 10,129	$ 499	$ —	$ 224,580
Investment securities at fair value	116,436	—	—	—	116,436
Accounts receivable - trade, net	—	40,677	—	—	40,677
Intercompany receivables	2,238	—	—	(2,238)	—
Inventories	—	92,448	—	—	92,448
Income taxes receivable, net	24,025	—	13,165	(28,736)	8,454
Other current assets	997	8,773	—	—	9,770
Total current assets	357,648	152,027	13,664	(30,974)	492,365
Property, plant and equipment, net	395	29,589	9,596	—	39,580
Long-term investment securities	44,959	—	—	—	44,959
Investments in real estate ventures	—	—	121,117	—	121,117
Operating lease right-of-use assets	3,287	4,455	—	—	7,742
Investments in consolidated subsidiaries	265,884	—	—	(265,884)	—
Intangible assets	—	107,511	—	—	107,511
Other assets	13,265	79,050	3,002	—	95,317
Total assets	$ 685,438	$ 372,632	$ 147,379	$ (296,858)	$ 908,591
LIABILITIES AND STOCKHOLDERS' DEFICIENCY:					
Current liabilities:					
Current portion of notes payable and long-term debt	$ —	$ 22,065	$ —	$ —	$ 22,065
Intercompany payables	—	198	2,040	(2,238)	—
Income taxes payable, net	—	28,736	—	(28,736)	—
Current payments due under the Master Settlement Agreement	—	14,838	—	—	14,838
Current operating lease liability	1,648	1,903	—	—	3,551
Other current liabilities	38,667	95,844	659	—	135,170
Total current liabilities	40,315	163,584	2,699	(30,974)	175,624
Notes payable, long-term debt and other obligations, less current portion	1,390,253	8	—	—	1,390,261
Non-current employee benefits	57,119	6,097	—	—	63,216
Deferred income taxes, net	(139)	25,523	25,650	—	51,034
Non-current operating lease liability	2,501	2,968	—	—	5,469
Other liabilities, including litigation accruals and payments due under the Master Settlement Agreement	3,266	27,235	363	—	30,864
Total liabilities	1,493,315	225,415	28,712	(30,974)	1,716,468
Commitments and contingencies					
Total stockholders' (deficiency) equity	(807,877)	147,217	118,667	(265,884)	(807,877)
Total liabilities and stockholders' deficiency	$ 685,438	$ 372,632	$ 147,379	$ (296,858)	$ 908,591

CONDENSED CONSOLIDATING STATEMENTS OF OPERATIONS

	Year Ended December 31, 2022				
	Parent/ Issuer	Subsidiary Guarantors	Subsidiary Non-Guarantors	Consolidating Adjustments	Consolidated Vector Group Ltd.
Revenues	$ —	$ 1,425,125	$ 16,915	$ (1,031)	$ 1,441,009
Expenses:					
Cost of sales	—	991,331	7,327	—	998,658
Operating, selling, administrative and general expenses	29,257	73,018	1,858	(1,031)	103,102
Litigation settlement and judgment expense	—	239	—	—	239
Management fee expense	—	13,501	—	(13,501)	—
Operating (loss) income	(29,257)	347,036	7,730	13,501	339,010
Other income (expenses):					
Interest expense	(108,101)	(2,564)	—	—	(110,665)
Gain on extinguishment of debt	412	—	—	—	412
Equity in losses from real estate ventures	—	—	(5,946)	—	(5,946)
Equity in losses from investments	(4,995)	—	—	—	(4,995)
Equity in earnings in consolidated subsidiaries	266,480	—	—	(266,480)	—
Management fee income	13,501	—	—	(13,501)	—
Other, net	(5,247)	8,107	2,532	(2,646)	2,746
Income before provision for income taxes	132,793	352,579	4,316	(269,126)	220,562
Income tax benefit (expense)	25,908	(85,208)	(2,561)	—	(61,861)
Net income	$ 158,701	$ 267,371	$ 1,755	$ (269,126)	$ 158,701
Comprehensive income	$ 158,351	$ 262,411	$ 1,755	$ (264,166)	$ 158,351