

**UNITED STATES
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, 2023
or
 TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934
For the transition period from _____ to _____
Commission File Number: 1-32731

CHIPOTLE MEXICAN GRILL, INC.

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation or organization)

84-1219301
(IRS Employer
Identification No.)

610 Newport Center Drive, Suite 1100 Newport Beach, CA
(Address of Principal Executive Offices)

92660
(Zip Code)

Registrant's telephone number, including area code: (949) 524-4000

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 \$0.01 per share	CMG	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 No

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

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

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

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

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

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

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

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

As of June 30, 2023, the aggregate market value of the registrant's outstanding common equity held by non-affiliates was \$46.885 billion, based on the closing price of the registrant's common stock on June 30, 2023, the last trading day of the registrant's most recently completed second fiscal quarter. For purposes of this calculation, shares of common stock held by each executive officer and director and by holders of 5% or more of the outstanding common stock have been excluded since those persons may under certain circumstances be deemed to be affiliates. This determination of affiliate status is not necessarily a conclusive determination for other purposes.

As of February 2, 2024, there were 27,421,169 shares of the registrant's common stock, par value of \$0.01 per share outstanding.

DOCUMENTS INCORPORATED BY REFERENCE

Part III incorporates certain information by reference from the registrant's definitive proxy statement for the 2024 annual meeting of shareholders, which will be filed no later than 120 days after the close of the registrant's fiscal year ended December 31, 2023.

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PART I

Cautionary Note Regarding Forward-Looking Statements

This report includes “forward-looking” statements within the meaning of the Private Securities Litigation Reform Act of 1995, including projected cash from operations, expected capital expenditures for 2024 and all other statements that are not historical facts. We use words such as “may,” “will,” “should,” “expect,” “intend,” “plan,” “anticipate,” “believe,” “think,” “estimate,” “seek,” “expect,” “predict,” “could,” “project,” “potential,” “goal” and other similar terms and phrases, including references to assumptions, to identify forward-looking statements. These forward-looking statements are based on currently available operating, financial and competitive information and are subject to various risks and uncertainties. Our actual future results and trends may differ materially depending on a variety of factors, including, but not limited to, the risks and uncertainties described in this report under the heading “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” so you should not place undue reliance on forward-looking statements. These statements are subject to risks and uncertainties that could cause actual results to differ materially from those described in the statements, including: increasing wage inflation and the competitive labor market, including as a result of regulations such as California AB 1228, which impacts our ability to attract and retain qualified employees and has resulted in occasional staffing shortages; increases in ingredient and other operating costs and the inability of our third-party suppliers and business partners to fulfill their responsibilities and commitments due to inflation, global conflicts, climate change, our Food with Integrity philosophy, tariffs or trade restrictions and supply shortages; increasing supply costs (including beef, tortillas, queso, salsa, beans and rice); risks of food safety incidents and food-borne illnesses; risks associated with our reliance on certain information technology systems operated by us or by third parties and potential failures, outages or interruptions; privacy and cybersecurity risks, including risk of breaches, unauthorized access, theft, modification, destruction or ransom of guest or employee personal or confidential information stored on our network or the network of third-party providers; the impact of competition, including from sources outside the restaurant industry; the competitive labor market and changes in the availability and cost of labor and the impact of any union organizing efforts and our responses to such efforts; the financial impact of increasing our average hourly wage; the impact of federal, state or local government regulations relating to our employees, employment practices, restaurant design and construction, and the sale of food or alcoholic beverages; our ability to achieve our planned growth, such as the costs and availability of suitable new restaurant sites and the equipment needed to fully outfit new restaurants, construction materials and contractors and the expected costs to accelerate our international expansion through franchise restaurants in the Middle East; the uncertainty of our ability to achieve expected levels of comparable restaurant sales due to factors such as changes in guests' perceptions of our brand, including as a result of actual or rumored food safety concerns or other negative publicity, decreased overall consumer spending, including as a result of high inflation, mass layoffs, fears of possible recession and higher energy costs, or the inability to increase menu prices or realize the benefits of menu price increases; risks associated with our digital business, including risks arising from our reliance on third party delivery services; and risks relating to litigation, including possible governmental actions and potential class action litigation related to food safety incidents, cybersecurity incidents, employment or privacy laws, advertising claims or other matters. We are including this Cautionary Note to make applicable and take advantage of the safe harbor provisions of the Private Securities Litigation Reform Act of 1995 for forward-looking statements. We expressly disclaim any obligation to update or revise any forward-looking statements after the date of this report as a result of new information, future events or other developments, except as required by applicable laws and regulations.

ITEM 1. BUSINESS

General

Chipotle Mexican Grill, Inc., a Delaware corporation, together with its subsidiaries (“Chipotle,” “we,” “us,” or “our”) owns and operates Chipotle Mexican Grill restaurants, which feature a relevant menu of burritos, burrito bowls (a burrito without the tortilla), quesadillas, tacos, and salads. We strive to cultivate a better world by serving responsibly sourced, classically cooked, real food with wholesome ingredients and without artificial colors, flavors or preservatives. We are passionate about providing a great guest experience and making our food more accessible to everyone while continuing to be a brand with a demonstrated purpose. Our first Chipotle restaurant opened in Denver, Colorado in 1993. Over 30 years later, our devotion to seeking out high-quality ingredients, raised with respect for animals, farmers, and the environment, remains at the core of our commitment to Food with Integrity.

As of December 31, 2023, we owned and operated 3,371 Chipotle restaurants throughout the United States (“U.S.”) and 66 international Chipotle restaurants. We manage our operations based on eight regions and aggregate our operations to one reportable segment. Our revenue is derived from sales by our restaurants.

Business Strategy

We are a brand with a demonstrated purpose of Cultivating a Better World. Our mission is to win today while we grow our future by focusing on five key fundamental strategies:

- Sustaining world class people leadership by developing and retaining diverse talent at every level;
- Running successful restaurants with a people accountable culture that provides great Food with Integrity while delivering exceptional in-restaurant and digital experiences;
- Making the brand visible, relevant, and loved to improve overall guest engagement;
- Amplifying technology and innovation to drive growth and productivity at our restaurants, support centers and in our supply chain; and
- Expanding access and convenience by accelerating new restaurant openings in North America and internationally.

Food with Integrity

Serving high-quality food while still charging reasonable prices is critical to ensuring guests enjoy wholesome food at a great value. In our Chipotle restaurants, we strive to serve only meats that are raised in accordance with criteria we have established in an effort to improve sustainability and promote animal welfare, and without the use of non-therapeutic antibiotics or added growth hormones. We brand these meats as “Responsibly Raised®.” We also seek to use responsibly grown produce, by which we mean produce grown by suppliers whose practices conform to our Food with Integrity standards and our priorities with respect to environmental considerations and employee welfare. For more information about our sustainability and animal welfare initiatives, see our biennial Sustainability Report and interim Update Report on our website www.chipotle.com/sustainability.

Purchasing

Maintaining the high levels of quality and safety we demand in our restaurants depends in part on our ability to acquire high-quality, fresh ingredients and other necessary supplies that meet our specifications from reliable suppliers. Our 26 independently owned and operated regional distribution centers purchase from various suppliers we carefully select based on quality, price, availability, and the suppliers’ understanding of and adherence to our mission and Food with Integrity standards. We have also sought to increase, where practical, the number of suppliers for our ingredients to help mitigate pricing volatility and reduce our reliance on one or several suppliers, which could create supply shortages. In addition, we closely monitor industry news, trade tariffs, weather, exchange rates, foreign demand, crises and other world events that may affect our ingredient prices or available supply. Certain key ingredients (beef, tomatoes, tortillas and adobo) are purchased from a small number of suppliers.

Quality Assurance and Food Safety

We are committed to serving only safe, high-quality food. Our food safety and quality assurance teams work to ensure compliance with our food safety programs and practices, components of which include:

- natural inhibitors (to prevent microbial growth in ingredients);
- advanced technologies (tools that reduce or eliminate pathogens while maintaining food quality);
- enhanced restaurant procedures (protocols for handling ingredients and sanitizing surfaces in our restaurants);
- food safety certifications;
- internal and third-party restaurant inspections;
- small grower support during on-site audits;
- supplier interventions (steps to mitigate food safety risks before ingredients reach Chipotle); and
- ingredient traceability.

These and other food safety practices underscore our commitment to be a leader in food safety while continuing to serve high-quality food that our guests love. Our food safety and quality assurance teams establish and monitor our quality and food safety programs and work closely with suppliers to ensure our high standards are met throughout the supply chain. We maintain a limited list of approved suppliers, many of whom are among the top suppliers in the industry. In addition, we have a team approach where our training, operations, culinary, legal and restaurant food safety and quality assurance departments develop and implement operating standards for food quality, food preparation, restaurant cleanliness, employee health protocols, and safety in the restaurants. Our food safety programs are also intended to ensure that we not only continue to comply with applicable national, federal, state and local food safety regulations, but also establish Chipotle as an industry leader in food safety. To help achieve this goal, we have a Food Safety Advisory Council comprised of some of the nation’s foremost food safety authorities. The Food Safety Advisory Council is charged with evaluating our programs and advising us on ways to elevate our already high standards for food safety. Our food safety and quality assurance team members hold board seats and participate in technical working groups with several associations. This gives us the opportunity to learn and share our knowledge and expertise with other food safety professionals and regulatory agencies.

Digital Business

Our digital platform continues to be a strategic driver of our growth. In recent years, we have significantly upgraded our capabilities by digitizing our restaurant kitchens, expanding our partnerships with third-party delivery services and building more Chipotlanes, which is our drive through format for customer pick-up of digital orders. Digital sales represent food and beverage revenue generated through the Chipotle website, Chipotle app or third-party delivery aggregators and include revenue deferrals associated with Chipotle Rewards. Digital sales represented 37.4% of food and beverage revenue in 2023, compared to 39.4% of food and beverage revenue in 2022. We have made digital ordering convenient with enhancements to the Chipotle app and website, such as customization, contactless delivery, and group ordering and we have improved the overall guest experience within the app with the inclusion of order readiness messaging, wrong location detection and reminders to scan for points.

Human Capital

At Chipotle, our vision is to cultivate an environment where our employees can thrive, pursue their passion and become lifelong leaders. We believe in investing and supporting our people because they are our most important asset and give us a competitive advantage in our business. As of December 31, 2023, Chipotle employed 116,068 people worldwide and 1,088 contract workers. Of our employees, 114,042 worked in the United States, and 2,026 worked internationally across Canada, France, Germany, and the United Kingdom. Within the U.S., 112,572 employees worked in our restaurants, and 1,470 in our Restaurant Support Centers. There were no union petitions or campaigns in 2023. We continue to bargain with the one restaurant that voted in 2022 to form a union, and we believe that our relationship with our employees is good. We also believe our efforts to manage our workforce have been effective, as evidenced by a strong culture and our employees' demonstrated commitment to living our purpose and values.

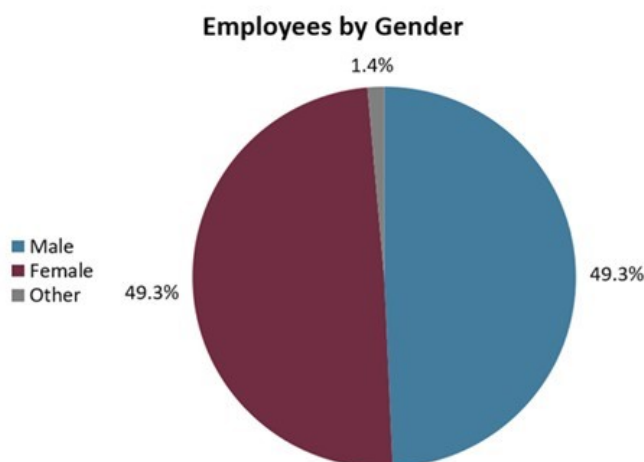
Talent Acquisition

We continue to invest heavily in recruiting top talent and ensuring appropriate staffing levels are maintained, especially during our two peak hiring seasons (spring and fall). We focus on new and innovative ways to attract and engage talent for our restaurants, which includes marketing campaigns that build on our documentary-style television spots, featuring unscripted testimonials from team members about the impact Chipotle has had on their lives. We invest in advertising on social media and highlight growth opportunities and the possible trajectory of achieving six-figure total compensation in approximately three years.

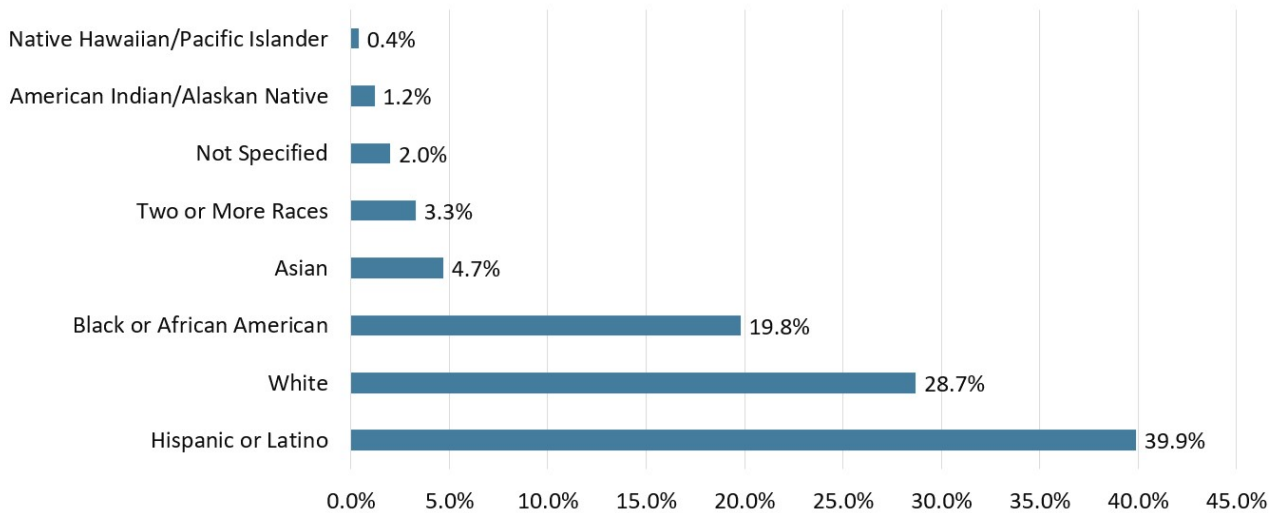
Additionally, we now offer a formal Summer Internship Program to invest in students while creating opportunities for our restaurant employees to further gain exposure to our Restaurant Support Centers.

Diversity, Equity & Inclusion

Maintaining a diverse, equitable and inclusive work environment is critical to our success as a business. As of December 31, 2023, U.S.-based employee diversity statistics were as follows:



Employees by Race/Ethnicity



Our most recent EEO-1 consolidated report is posted on the Investors page of our website at www.ir.chipotle.com under Corporate Governance – Human Capital Information and additional details about the demographics of our employee population is included in our biennial Sustainability Report and interim Update Report on our website www.chipotle.com/sustainability.

Notably, our rate of internal promotions for 2023 was similar within our employee populations, with approximately 50% of promoted employees identifying as female and 39% of promoted employees identifying as Hispanic or Latino.

We have undertaken several actions to promote diverse, equitable and inclusive work environments.

We created a consistent and structured candidate interview process with new interview guides. This ensures quality, speed and equitable hiring practices are followed throughout internal and external candidate interviews. We also launched an internal job board across multiple communication channels to our employees to provide increased visibility and access to internal opportunities. Since December 2021, we have participated in Management Leadership for Tomorrow’s Black Equity at Work Certification Program, which establishes a comprehensive aggregate measurement system and provides a rigorous, results-oriented approach that accelerates progress toward Black equity internally, amongst our employees, and externally by supporting Black equity within our business partners and in the communities where we operate.

In early 2023, we engaged an independent third-party consultant to conduct a Talent Management Equity Audit to identify places in our talent management cycle where we may need to eliminate bias and/or create more equitable policies, practices, and procedures; identify potential blockers and new opportunities to create and sustain equity in talent management; and identify key strengths and pockets of risk. The consultant concluded that Chipotle has a robust set of processes, practices and policies to enable equitable talent recruiting, development and retention throughout the company and identified opportunities to strengthen Chipotle’s existing practices. See the Investors page of our website at www.ir.chipotle.com under Corporate Governance – Human Capital Information for additional details.

We have a holistic approach to pay equity to ensure consistent and equitable treatment among our employees. We retain an independent third-party compensation consultant each year to conduct a pay equity analysis of our U.S. and Canadian workforce, including factors of pay (e.g., grade level, tenure in role, most recent promotion) and external market conditions (e.g., geographic location), to ensure consistency and equitable treatment among our employees. In 2023, our review included 99% of our U.S. and Canadian employee population, excluding only approximately 50 of our most senior management employees. The analysis identified small, isolated pay gaps for certain segments of the population, and we subsequently made pay adjustments to close those gaps. Since there are not many common roles among our 50 most senior executives, we consider both internal equity by level as well as individualized market data to help ensure we maintain pay equity among this group.

Talent Development

We provide high-quality growth and development opportunities to retain top talent and support internal promotions. In 2023, we had more than 24,000 internal promotions, including 100% of U.S. based Regional Vice Presidents, 87% of Team Directors, and 87% of Field Leaders. To develop our employees, we provide the following programs:

Leadership Evolution and Development: Focuses on preparing a cross-functional cohort of mid-level managers for the future of work and leadership. During the 9-month program, participants learn the critical capabilities of leading oneself, leading others, and leading the business with topics designed to stretch capabilities and improve decision-making skills.

Cultivate University: A four-day immersive leadership experience designed to upskill our new multi-unit restaurant leaders to excel in their role and execute on their Top 5 KPIs. Participants are introduced to a variety of leadership models as well as operational tools to support them in leading effective teams and driving results in their restaurants.

General Manager Upskilling: Trains our restaurant leaders in fundamental soft skills to help bolster their leadership acumen so that they can better lead their teams and create an exceptional guest experience.

Executive Development: Focuses on developing high potential Team Directors in areas such as leadership, marketing, business and finance, data and analytics, ESG and hospitality, so they gain an in-depth understanding of various functions within the company.

Teach & Taste Live seminars: Offers lunch and learn sessions on leadership topics such as effective communication, emotional intelligence, and building a culture of accountability to provide on-going professional development for employees at our Restaurant Support Centers. Each course introduces a new leadership skill and offers best practices and actionable tools to continue developing the top talent that supports our field operations.

Development courses and online programs that focus on creating a culture of belonging.

Online executive coaching for mid- and senior-level leaders throughout the organization.

Succession Planning: We utilize talent calibrations to identify a diverse pipeline of emerging leaders and define appropriate development programs.

Total Rewards

The financial, physical, and mental wellness of our employees remains our top priority and we believe we have compelling compensation packages and incentive programs, and a robust suite of benefit offerings that enable us to engage current team members and attract new team members:

We have made substantial investments in our compensation packages, including competitive wages and industry leading incentive programs, such as our annual and quarterly bonus programs, which allow us to attract and retain the top talent in the industry.

We offer a Debt-Free Degree program that provides Chipotle employees access to nearly 100 degrees at 10 universities, completely tuition debt free.

We support Career Certificates, which further enhances our Tuition Assistance benefits by providing on-demand certificate programs to help Chipotle team members advance their careers in as little as eight weeks.

In 2023, we launched a program that provides our medically enrolled employees and their families with a Health Pro who can help them navigate the complex healthcare environment, helping them understand how their health benefits cover their care, how to save money, as well as get expert, high-quality medical care.

In 2023, we also offered personalized mental health assistance to all Chipotle employees and their family members with support available 24/7 via in-person, phone, or virtual visits with a licensed counselor.

Starting in 2024, we are partnering with SoFi to offer student loan payment matching programs via our 401(k)-retirement program. This, in addition to a credit optimization service, will help bolster our employees' financial well-being.

Culture and Engagement

Giving employees the opportunity to provide anonymous feedback is a key part of our employee engagement strategy, which positively contributes to our culture. This begins with soliciting feedback regarding onboarding. As of December 31, 2023, 9 in 10 respondents in our restaurants reported a favorable onboarding experience. For our employees in field support organizations and Restaurant Support Centers, nearly 95% of respondents had a favorable view of their onboarding. Results of our surveys are shared with business partners and senior leaders, who continuously work to improve the experience for all employees.

To encourage a collaborative working culture between our Restaurant Support Centers and restaurant operations, we created an Operations Council comprised of employees from restaurant and field leadership, operations, and our business partners, who work together to share feedback and implement new projects collaboratively.

Additionally, to promote an engaged culture, we respond to employees quickly via our Employee Service Center (“ESC”). The ESC is available seven days a week to resolve employee questions about things like restaurant health and safety, compliance, benefits, payroll, etc. We also maintain a confidential Respectful Workplace Hotline that allows employees to anonymously report concerns like sexual harassment, discrimination, and retaliation.

Government Regulation and Environmental Matters

We are subject to various federal, state and local laws and regulations that govern aspects of our business operations. While costs associated with compliance with laws and regulations have increased as the number and scope of regulation have increased, the total costs incurred have not had, and are not expected to have, a material effect on our capital expenditures, results of operations or competitive position. See “Risk Factors” in Item 1A for discussion of risks relating to federal, state, local and international laws and regulations applicable to our business.

Seasonality

Seasonal factors influencing our business are described under the heading “Quarterly Financial Data/Seasonality” in Item 7. “Management’s Discussion and Analysis of Financial Condition and Results of Operations.”

Competition

The fast-casual, quick-service, and casual dining segments of the restaurant industry are highly competitive with respect to, among other things, taste, price, food quality and presentation, service, location, convenience, brand reputation, cleanliness, and ambience of each restaurant. Our competition includes a variety of restaurants in each of these segments, including locally-owned restaurants, as well as national and regional chains. Competition from food delivery services, which offer meals from a wide variety of restaurants, also has increased in recent years and is expected to continue to increase. Many of our competitors also offer dine-in, carry-out, online, catering, and delivery services. Among our main competitors are restaurant formats that claim to serve higher quality ingredients without artificial flavors, colors and preservatives, and that serve food quickly and at a reasonable price.

Our Intellectual Property and Trademarks

“Chipotle,” “Chipotle Mexican Grill,” “Food with Integrity,” “Responsibly Raised,” “Chipotle Rewards,” and a number of other marks and related designs and logos are U.S. registered trademarks of Chipotle. We have filed trademark applications for a number of additional marks in the U.S. as well. In addition to our U.S. registrations, we have registered trademarks for “Chipotle” and a number of other marks in Canada, the European Union, the Middle East and various other countries, and have filed trademark applications for “Chipotle Mexican Grill,” “Chipotle” and a number of other marks in additional countries. We also believe that the design of our restaurants is our proprietary trade dress and have registered elements of our restaurant design for trade dress protection in the U.S. as well.

From time to time, we have taken action against other restaurants that we believe are misappropriating our trademarks, restaurant designs or advertising. Although our policy is to protect and defend vigorously our rights to our intellectual property, we may not be able to adequately protect our intellectual property, which could harm the value of our brand and adversely affect our business.

Available Information

We maintain a website at www.chipotle.com, including an investor relations section at ir.chipotle.com, on which we routinely post important information, such as webcasts of quarterly earnings calls and other investor events in which we participate or host, and any related materials. Our Code of Ethics and our Supplier Code of Conduct also are available in this section of our website. You may access our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments to those reports, as well as other reports relating to us that are filed with or furnished to the SEC, free of charge in the investor relations section of our website as soon as reasonably practicable after such material is electronically filed with or furnished to the SEC. The SEC also maintains a website that contains reports, proxy and information statements and other information regarding issuers that file electronically with the SEC at www.sec.gov.

The contents of the websites mentioned above and elsewhere in this report are not incorporated into and should not be considered a part of this report. The references to the URLs for these websites are intended to be inactive textual references only.

ITEM 1A. RISK FACTORS

You should carefully consider the risks described below in addition to the other information set forth in this Annual Report on Form 10-K, including the “Management’s Discussion and Analysis of Financial Conditions and Results of Operations” section and the consolidated financial statements and related notes. If any of the risks and uncertainties described below occur or continue to occur, our business, financial condition and results of operations, and the trading price of our common stock could be materially and adversely affected. The risks and uncertainties described below are those that we have identified as material but are not the only risks and uncertainties we face. Our business is also subject to general risks and uncertainties that affect many other companies, including, but not limited to, overall economic and industry conditions. Additional risks not currently known to us or that we presently deem immaterial may arise or become material and may negatively impact our business, reputation, financial condition, results of operations or the trading price of our common stock.

Risks Related to the Nature of our Business and the Restaurant Industry

Food safety and food-borne illness concerns may have an adverse effect on our business by decreasing sales and increasing costs.

Food safety is our top priority, and we dedicate significant resources to ensuring that our guests enjoy safe, high-quality food products. However, even with strong preventative controls and interventions, food safety risks cannot be completely eliminated in every restaurant. Incidents of food-borne illnesses continue to occur in the restaurant industry and may result from the failure of restaurant employees or suppliers to follow our food safety policies and procedures, or from employees or guests entering our restaurant while ill and contaminating ingredients or surfaces. Although we monitor and audit compliance with our program, we cannot guarantee that each and every food item is safely and properly maintained from the start of the supply chain through guest consumption. Any report, legitimate or rumored, of food-borne illness such as E. coli, hepatitis A, norovirus or salmonella, or other food safety issues, such as food tampering or contamination, at one of our restaurants could adversely affect our reputation and have a negative impact on our sales. In addition, instances of food-borne illness or food safety issues that occur solely at competitors’ restaurants could result in negative publicity about the restaurant industry and adversely impact our sales. Social media has dramatically increased the speed with which negative publicity, including actual or perceived food safety incidents, is disseminated before there is any meaningful opportunity to investigate, respond to and address an issue. The occurrence of food-borne illnesses or food safety issues could also adversely affect the price and availability of affected ingredients, resulting in higher costs and lower margins.

We may be at a higher risk for food safety incidents than some competitors due to our greater use of fresh, unprocessed produce, handling of raw chicken in our restaurants, our reliance on employees cooking with traditional methods and the lack of added preservatives and frozen ingredients in our menu items. The risk of illnesses associated with our food also may increase due to our delivery or catering businesses, in which our food is transported, stored and/or served in conditions that are not under our control. All of these factors could have an adverse impact on our ability to attract and retain guests, which could in turn have a material adverse effect on our growth and profitability.

Our digital business, which accounted for a significant portion of our 2023 total revenue, is subject to risks.

In 2023, 37.4% of our food and beverage revenue was derived from digital orders, which includes third-party delivery and customer pickup in-restaurant and through our Chipotlanes. Approximately 18% of our 2023 food and beverage revenue consisted of delivery orders for which we are reliant on third-party delivery companies. Depending on which ordering platform a guest uses – our platform or the platform of a third-party delivery service – the delivery fee we collect from the guest may be less than the actual delivery cost, which has a negative impact on our profitability. In addition, several jurisdictions (e.g., California, New York City and Seattle) have implemented minimum wages for delivery drivers, and other jurisdictions are considering similar wage regulations, which could increase delivery fees and decrease our digital sales. In 2023, we implemented menu price increases to partially offset the increases in ingredients, labor and other costs; however, our higher menu prices may cause some guests to shift their purchases to other restaurants offered on the platform. If the third-party delivery companies we utilize increase their fees or give greater priority or promotions on their platforms to other restaurants, our delivery business and our sales may be negatively impacted. These delivery companies maintain control over data regarding our guests who use their platform and over the guest experience. We use our mobile app to drive convenience and increase brand engagement with our guests. If a third-party delivery driver fails to make timely deliveries or fails to deliver the complete order, our guests may attribute the bad customer experience to Chipotle and our reputation and sales could be negatively impacted. The ordering and payment platforms used by these third parties, our mobile app or our online ordering site have been and could again be interrupted by technological failures, user errors, cyber-attacks or other factors, which could adversely impact sales through these channels and negatively impact our overall sales and reputation. In addition, the delivery business has been consolidating and may continue to consolidate, which may give third-party delivery companies more leverage in negotiating the terms and pricing of contracts, which in turn could negatively impact our profits from this channel.

The restaurant industry is highly competitive. If we are not able to compete successfully, our business, financial condition and results of operations would be adversely affected.

The restaurant industry is highly competitive with respect to taste preferences, price, food quality and selection, customer service, brand reputation, digital engagement, advertising and promotional initiatives, and the location, attractiveness and maintenance of restaurants. We also compete with non-traditional market participants, such as “convenience meals” in the form of entrées, side dishes or meal preparation kits from the deli or prepared foods sections of grocery stores, meal kit delivery services, and “ghost” or “dark” kitchens, where meals are prepared at separate takeaway premises rather than a restaurant. Increased competition could have an adverse effect on our sales, profitability and development plans. If guest or dietary preferences change, if our marketing efforts are unsuccessful, or if our restaurants are unable to compete successfully with other restaurant outlets, our business could be adversely affected.

We continue to believe that our commitment to higher-quality and responsibly sourced ingredients resonates with guests and gives us a competitive advantage; however, many of our competitors also make claims related to the quality of their ingredients and lack of artificial flavors, colors and preservatives. The increasing use of these claims by competitors, regardless of the accuracy of such claims, may lessen our differentiation and make it more difficult for us to compete. If we are unable to continue to maintain our distinctiveness and compete effectively, our business, financial condition and results of operations could be adversely affected.

If we do not continue to persuade guests of the benefits of paying higher prices for our higher-quality food, our sales and results of operations could be hurt.

Our success depends in large part on our ability to persuade guests that food made with ingredients that were raised or grown according to our Food with Integrity principles are worth paying a higher price relative to prices of some of our competitors, particularly quick-service restaurants. Under our Food with Integrity principles, for example, animals must be responsibly raised, and the milk in our sour cream, cheese and queso must come from cows that have not been treated with rBGH, practices which typically are more costly than conventional farming. If we are not able to successfully persuade guests that consuming food made in accordance with our Food with Integrity principles is better for them and the environment, or if guests do not agree with the overall value proposition of our menu, our sales could be adversely affected, which would negatively impact our results of operations.

Our inability or failure to recognize, respond to and effectively manage the immediacy of social media could have a material adverse impact on our business.

Social media and internet-based communications, including video-sharing, social networking, and gaming and messaging platforms, give users immediate access to a broad audience. These platforms have dramatically increased the speed and scale of dissemination and accessibility of information, including negative comments about our food quality or safety, negative guest or employee experiences and videos depicting inappropriate behavior of employees and guests. Accurate, inaccurate or misleading information can be widely disseminated before there is any meaningful opportunity to respond or address an issue. It is impossible for us to fully predict or control social media backlash, and the inappropriate use of social media by our guests or employees could harm our business, prospects, financial condition, and results of operations, regardless of the information’s accuracy.

Use of social media is an important element of our marketing efforts. Social media and internet-based communication platforms are evolving rapidly, and we need to continuously innovate and evolve our marketing strategies to maintain our brand relevance and broad appeal to guests. We also continue to invest in other digital marketing initiatives to reach our guests and build their awareness of, engagement with, and loyalty to us, including our “Chipotle Rewards” loyalty program. These initiatives may not be successful, resulting in expenses incurred without the benefit of higher revenues, increased customer engagement or brand recognition. Other risks associated with our use of social media and internet-based communication platforms include association with influencers or online celebrities who become embroiled in controversy, platforms and business partners who experience challenges, improper disclosure of proprietary information, negative comments about us, exposure of personally identifiable information, fraud, hoaxes or malicious dissemination of false information. Use of social media by our employees, guests and associates could lead to litigation or result in negative publicity that could damage our reputation.

Risks Related to Human Capital

If we are not able to hire, develop and retain qualified restaurant employees and/or appropriately plan our workforce, our growth plan and profitability could be adversely affected.

Our aggressive pace of opening new restaurants can make it increasingly difficult to recruit and hire sufficient numbers of qualified employees to manage and work in our restaurants, to maintain an effective system of internal controls for a dispersed workforce and to train employees to deliver a consistently high-quality product and customer experience, which could materially harm our business and results of operations. Maintaining appropriate staffing in our restaurants requires precise workforce planning, which has become more complex due to predictive scheduling laws (also called “fair workweek” or “secure scheduling”) and “just cause” termination legislation in certain geographic areas where we operate. The market for qualified talent continues to be competitive and we must continue to offer competitive wages, benefits and workplace conditions to retain qualified employees. We have experienced and may continue to experience challenges in hiring and retaining restaurant employees and in maintaining full restaurant staffing in various locations, which has resulted in longer wait times for guest orders, temporary closures of the digital make line and decreased employee and guest satisfaction. In one instance, we permanently closed a restaurant due to lack of necessary staff after a prolonged recruiting effort. A shortage of qualified candidates who meet legal work authorization requirements, failure to hire, train and retain new restaurant employees in a timely manner or higher than expected turnover levels could affect our ability to open new restaurants, grow sales at existing restaurants or meet our labor cost objectives. In addition, failure to adequately monitor and proactively respond to employee dissatisfaction could lead to poor guest satisfaction, higher turnover, litigation and unionization efforts, which could negatively impact our ability to meet our growth targets. We have experienced labor union efforts to organize groups of our employees from time to time and, if successful, those organizational efforts may decrease our operational flexibility and disrupt our normal operations, which could adversely affect our business.

If we fail to comply with applicable federal, state and local employment and labor laws and regulations, it could have a material, adverse impact on our business.

Various federal, state and local employment and labor laws and regulations govern our relationships with our employees, and similar laws and regulations apply to our operations outside of the U.S. These laws and regulations relate to matters such as employment discrimination, wage and hour laws, requirements to provide and document meal and rest periods or other benefits, family leave mandates, requirements regarding working conditions and accommodations to certain employees, citizenship or work authorization and related requirements, insurance and workers’ compensation rules, healthcare laws and anti-discrimination and anti-harassment laws. We incur substantial costs to comply with these laws and regulations and non-compliance could expose us to significant liabilities. For example, we have had lawsuits filed against us alleging violations of federal and state laws regarding employee wages and payment of overtime, meal and rest breaks, employee classification, employee record-keeping and related practices with respect to our employees. We incur legal costs to defend these types cases, and we could incur losses from these and similar cases, and the amount of such losses or costs could be material.

In addition, several jurisdictions (e.g. New York City, Philadelphia, Chicago, Seattle, etc.) have implemented fair workweek or “secure scheduling” legislation, which impose complex requirements related to scheduling for certain restaurant and retail employees, and additional jurisdictions are considering similar legislation. Several jurisdictions also have implemented sick pay and paid time off legislation, which requires employers to provide paid time off to employees, and “just cause” termination legislation, which restricts companies’ ability to terminate employees or reduce employees’ hours unless they can prove “just cause” or a “bona fide economic reason” for the termination or reduction in hours. All of these regulations impose additional obligations on us and our failure to comply with any of these regulations could subject us to penalties and other legal liabilities, which could adversely affect our ability to attract and retain employees and our results of operations, and potentially cause us to close or reduce operating hours of some restaurants in these jurisdictions. For example, we previously reported the settlement of a complaint alleging that we violated New York City’s Fair Workweek law and Earned Safe and Sick Time Act, and we also have been and are undergoing several audits of our compliance with employment law requirements, which could result in additional liabilities. Our liability exposure for these employment laws and regulations may be higher than our restaurant peers because we are one of the largest restaurant companies that owns and operates all our restaurants, while most of our restaurant peers franchise some or a significant portion of their operations.

Increases in the cost of labor, including mandated minimum wage increases, could adversely impact our business and profitability.

Our profitability has been and could continue to be adversely impacted by increases in labor costs, including wages and benefits, which are some of our most significant costs, including increases triggered by federal, state and local laws governing matters such as minimum wages, meal and rest breaks and changes to eligibility for overtime pay; regulations regarding scheduling and benefits; increased health care and workers' compensation insurance costs; and higher wages and benefit costs necessary to attract, hire and retain high-quality employees with the right skill sets in a highly competitive job market. In addition, state and local laws may require wage increases and standards on working hours and other factors that would restrict our flexibility to respond to market conditions and increase our costs without corresponding benefits. Beginning in April 2024, new California legislation requires national restaurant chains, including Chipotle, to pay a minimum \$20 per hour wage to restaurant workers in California, which minimum wage may be increased annually by a state-appointed council. Other state, county and city jurisdictions are considering similar regulations. Our ability to offset higher labor costs by increasing menu prices depends on the willingness of our guests to pay the higher prices and the perceived value of our meals relative to competitors. If competitive or inflationary pressures or other factors prevent us from offsetting higher labor costs by increased menu prices, our profitability may decline.

A failure to recruit, develop and retain effective leaders or the loss or shortage of personnel with key capacities and skills could impact our strategic growth plans and jeopardize our ability to meet our business performance expectations and growth targets.

Our ability to continue to grow our business depends substantially on the contributions and abilities of our executive leadership team and other key management personnel. Changes in senior management could expose us to significant changes in strategic direction and initiatives. A failure to maintain appropriate organizational capacity and capability to support our strategic initiatives or to build adequate bench strength with key skillsets required for seamless succession of leadership, could jeopardize our ability to meet our business performance expectations and growth targets. If we are unable to attract, develop, retain and incentivize sufficiently experienced and capable management personnel, our business and financial results may suffer.

Risks Related to Cybersecurity, Data Privacy and IT Systems

Breaches or other unauthorized access, theft, modification or destruction of guest and/or employee personal, confidential or other material information that is stored in our systems or by third parties on our behalf could adversely affect our business.

As our reliance on technology has grown, the scope and severity of risks posed to our systems from cyber threats has increased. Many of our information technology systems (whether cloud-based or hosted in proprietary servers), including those used for our point-of-sale, web and mobile platforms, online and mobile payment systems, delivery services and rewards programs and administrative functions, contain personal, financial or other information that is entrusted to us by our guests, business partners and employees. Many of our information technology systems also contain confidential information about our business, such as business strategies, development initiatives and designs, and confidential information about third parties, such as suppliers. Similar to many other restaurant companies, we have in the past experienced, and we expect to continue to experience, cyber-attacks, including phishing, and other attempts to breach, or gain unauthorized access to, our systems and databases. To date, these attacks have not had a material impact on our operations, but we cannot provide assurance that they will not have an impact in the future.

Our third-party providers' and business partners' information technology systems and databases are likewise subject to such risks. The number and frequency of these attempts varies from year to year but could be exacerbated to some extent by an increase in our digital operations. In addition, we provide some guest and employee data, as well as confidential information important to our business, to third parties to conduct our business. Individuals performing work for us and these third parties also may access some of this data, including on personally owned digital devices. To the extent we, a third party or such an individual were to experience a breach of our or their information technology systems that results in the unauthorized access, theft, use, destruction or other compromises of customers' or employees' data or confidential information of Chipotle stored in or transmitted through such systems, including through cyber-attacks or other external or internal methods, it could result in a material loss of revenues from the potential adverse impact to our reputation and brand, a decrease in our ability to retain customers or attract new ones, the imposition of potentially significant costs (including loss of data or payment for recovery of data) and liabilities, loss of business, loss of business partners and licensees and the disruption to our supply chain, business and plans. Unauthorized access, theft, use, destruction or other compromises are becoming increasingly sophisticated and may occur through a variety of methods, including attacks using malicious code, vulnerabilities in software, hardware or other infrastructure (including systems used by our supply chain), system misconfigurations, phishing or social engineering. The rapid evolution and increased adoption of artificial intelligence technologies may intensify our cybersecurity risks. Our logging capabilities, or the logging capabilities of third parties, are not always complete or sufficiently granular, affecting our ability to fully understand the scope of security breaches.

Such security breaches also could result in a violation of applicable U.S. and international privacy, cyber and other laws or trigger data breach notification laws, including new disclosure rules promulgated by the SEC, and subject us to private third party or securities litigation and governmental investigations and proceedings, any of which could result in our exposure to material civil or criminal liability.

We may be required to make significant capital investments and other expenditures to investigate security incidents, remedy cybersecurity problems, recuperate lost data, prevent future compromises and adapt systems and practices to react to the changing threat environment. These include costs associated with notifying affected individuals and other agencies, additional security technologies, training and personnel, retention of experts and providing credit monitoring services for individuals whose data has been breached. These costs could be material and could adversely impact our results of operations in the period in which they are incurred, including by causing us to delay the pursuit of other important business strategies and initiatives, and may not meaningfully limit the success of future attempts to breach our information technology systems.

Media or other reports of existing or perceived security vulnerabilities in our systems or those of our third-party business partners or service providers can also adversely impact our brand and reputation and materially impact our business. Additionally, the techniques and sophistication used to conduct cyber-attacks and compromise information technology systems, as well as the sources and targets of these attacks, change frequently and are often not recognized until such attacks are launched or have been in place for a period of time. The rapid evolution and increased adoption of artificial intelligence technologies amplifies these concerns. We continue to make significant investments in technology, third-party services and personnel to develop and implement systems and processes that are designed to anticipate cyber-attacks and to prevent or minimize breaches of our information technology systems or data loss, but these security measures cannot provide assurance that we will be successful in preventing such breaches or data loss.

We may incur increased costs to comply with privacy and data protection laws and, if we fail to comply, we could be subject to government enforcement actions, private litigation and adverse publicity.

Complex local, state, federal and international laws and regulations apply to the collection, use, retention, protection, disclosure, transfer and other processing of personal data. These privacy and data protection laws and regulations are quickly evolving, with new or modified laws and regulations proposed and implemented frequently and existing laws and regulations subject to new or different interpretations and enforcement. For example, the European Union's General Data Protection Regulation ("GDPR") requires companies to meet certain requirements regarding the handling of personal data, including its use, protection and transfer and the ability of persons whose data is stored to correct or delete such data about themselves, and failure to meet the GDPR requirements could result in penalties of up to 4% of annual worldwide revenue. Additionally, the California Consumer Privacy Act of 2018 ("CCPA") provides a private right of action for data breaches and requires companies that process the personal information of California residents to make new disclosures to consumers about their data collection, use and sharing practices, allow consumers to opt out of certain data sharing with third parties and to request deletion of personal information (subject to certain exceptions). Other states passed similar privacy legislation that took effect in 2023, and other states and countries passed or are considering expanding or passing comprehensive privacy laws. If we fail, or are perceived to have failed, to properly respond to security breaches of our or a third party's information technology systems or fail to properly respond to or honor consumer requests under any of the foregoing privacy laws, we could experience reputational damage, adverse publicity, loss of consumer confidence, reduced sales and profits, complications in executing our growth initiatives and regulatory and legal risk, including regulatory fines and penalties, and in some cases civil liabilities where individuals have been provided with a private right of action.

Compliance with the current and future privacy and data protection laws can be costly and time-consuming and there is no assurance that our compliance efforts will be successful in preventing breaches or data loss. Our failure to comply with applicable laws and regulations or other obligations to which we may be subject relating to personal information, or to protect personal information from unauthorized access, use or other processing, could result in enforcement actions and regulatory investigations against us, claims for damages by customers and other affected individuals, fines or damage to our brand reputation, any of which could have a material adverse effect on our operations, financial performance and business.

The regulatory environment related to privacy and data security is changing at an ever-increasing pace, with new, increasingly rigorous, and often unclear requirements applicable to our business. In addition, the issues regulated by privacy laws (such as advertising and marketing, children, biometric, employee, surveillance, artificial intelligence, and health related information) have expanded, as have the number of city, state, federal and international governmental bodies and agencies that have recently passed or are currently considering privacy legislation or regulatory rulemaking. Where not limited by preemption and where there are perceived shortcomings in federal laws, many states have passed or are considering adopting stricter versions of federal privacy laws (e.g., state level statutes similar to the Telephone Consumer Protection Act of 1991, the Health Insurance Portability and Accountability Act, and the Children's Online Privacy Protection Act of 1998). Private service providers also have implemented mandatory privacy requirements impacting businesses, like Chipotle, that wish to utilize services available on their platforms.

In addition, a number of recent lawsuits have pled creative claims under privacy legislation such as the Video Privacy Protection Act, Electronic Communications Privacy Act (including the WireTap Act and Stored Communications Act), Computer Fraud and Abuse Act, and similar state laws alleging wiretapping, eavesdropping, tape recording and invasion of privacy through the use of marketing pixels, analytics software, session replay technology, voice recording, and live chat functionality. Defending against such claims can be costly and strain internal resources.

Taken together, Chipotle faces rapidly increasing compliance costs in order to modify its operations and business practices to comply with applicable laws, regulations and other requirements.

We rely heavily on information technology systems and failures or interruptions in our IT systems could harm our ability to effectively operate our business and/or result in the loss of guests or employees.

We rely heavily on information technology systems, including the point-of-sale and payment processing system in our restaurants, technologies supporting our digital and delivery business, technologies that trace ingredients back to suppliers and growers and manage our supply chain, our rewards program, technologies that facilitate marketing initiatives, employee engagement and payroll processing, and various other processes and transactions. Our ability to effectively manage our business and coordinate the procurement, production, distribution, safety and sale of our products depends significantly on the availability, reliability and security of these systems. Many of these critical systems are provided and managed by third parties, and we are reliant on these third-party providers to implement protective measures that ensure the security and availability of their systems. Although we have operational safeguards in place, these safeguards may not be effective in preventing the failure of these third-party systems or platforms to operate effectively and be available. Failures may be caused by various factors, including power outages, catastrophic events, physical theft, computer and network failures, inadequate or ineffective redundancy, problems with transitioning to upgraded or replacement systems or platforms, flaws in third-party software or services, errors or improper use by our employees or the third-party service providers. If any of our critical IT systems were to become unreliable, unavailable, compromised or otherwise fail, and we were unable to recover in a timely manner, we could experience an interruption in our operations that could have a material adverse impact on our profitability.

Risks Related to Supply Chain

Increases in the costs of ingredients and other materials, including increases caused by inflation, global conflicts and climate risks, or the failure to procure sufficient ingredients could adversely affect our results of operations.

Supply chain risk could increase our costs and result in a shortage of ingredients and supplies that are critical to our restaurant operations. The markets for some of our ingredients, such as beef, avocado and other produce, are particularly volatile due to factors beyond our control such as limited sources, seasonal shifts, climate conditions, inclement weather, natural disasters, recent inflationary trends, military and geopolitical conflicts and industry demand, including as a result of animal disease outbreaks, international commodity markets, food safety concerns, product recalls and government regulation. In addition, for certain of our ingredients and other materials, we have a limited number of suppliers and distributors. We remain in regular contact with our key suppliers and to date we have not experienced significant prolonged disruptions in our supply chain; however, inflationary pressures for certain supplies and ingredients could continue as inflation increases across the global supply chain. Our efforts to mitigate future price risk through forward contracts, strong partnerships with key suppliers, directly managing key raw material procurement, diversifying our supply base and other activities may not fully insulate us from increases in commodity costs, which could have an adverse impact on our profitability.

We also could be adversely impacted by price increases specific to meats raised in accordance with our Responsibly Raised animal welfare criteria, and ingredients grown in accordance with our Food with Integrity specifications, the markets for which are generally smaller and more concentrated than the markets for conventionally raised or grown ingredients. Any increase in the prices of the ingredients most critical to our menu, such as chicken, beef, dairy (for cheese, sour cream and queso), avocados, tomatoes and pork, would have a particularly adverse effect on our operating results. If the cost of one or more ingredients significantly increases, we may choose to temporarily suspend serving menu items that use those ingredients, such as guacamole or one of our proteins, rather than pay the increased cost. Any such changes to our available menu may negatively impact our restaurant traffic and could adversely impact our sales and brand.

Shortages or interruptions in the supply of ingredients could adversely affect our operating results.

Our business is dependent on frequent and consistent deliveries of ingredients that comply with our Food with Integrity specifications, such as dairy (for cheese, sour cream and queso). We may experience shortages, delays or interruptions in the supply of ingredients and other supplies to our restaurants due to inclement weather, natural disasters, labor issues or other operational disruptions at our suppliers, distributors or transportation providers, or other conditions beyond our control. Ongoing global conflicts have disrupted and could continue to disrupt some shipping routes, which could result in shortages or delays of certain ingredients. In addition, we have a single or a limited number of suppliers for some of our ingredients, including certain oils, tomatoes, tortillas and adobo. Although we believe we have potential alternative suppliers and sufficient reserves of ingredients, shortages or interruptions in our supply of ingredients could adversely affect our financial results.

Legal and Regulatory Risks

We could be party to litigation or other legal proceedings that could adversely affect our business, results of operations and reputation.

We have been and likely will continue to be subject to litigation and other legal proceedings that may adversely affect our business. These legal proceedings may involve claims brought by employees, guests, government agencies, suppliers, shareholders or others through private actions, administrative proceedings, regulatory actions or other litigation, including litigation on a class or collective basis on behalf of what can be a large group of potential claimants. These legal proceedings have involved, and in the future may involve, allegations of illegal, unfair or inconsistent employment practices, including those governing wage and hour, employment of minors, discrimination, harassment, wrongful termination, and vacation and family leave laws; food safety issues including food-borne illness, food contamination and adverse health effects from consumption of our food products; data security or privacy breaches; guest discrimination; personal injury in our restaurants; marketing and advertising claims, including claims that our Food with Integrity or other sustainability claims are misleading or inaccurate; infringement of patent, copyright or other intellectual property rights; violation of the federal securities laws; workers' compensation; or other concerns. We are party to a number of pending lawsuits and governmental audits alleging violations of federal and state employment laws, including wage and hour claims, and we could be involved in similar or even more significant litigation and legal proceedings in the future. Even if the allegations against us in current or future legal matters are unfounded or we ultimately are held not liable, the costs to defend ourselves may be significant and the litigation may subject us to substantial settlements, fines, penalties or judgments against us and may divert management's attention away from operating our business, all of which could negatively impact our financial condition and results of operations. Litigation also may generate negative publicity, regardless of whether the allegations are valid, or we ultimately are not liable, which could damage our reputation, and adversely impact our sales as well as our relationships with our employees and guests.

We are subject to extensive laws, government regulation, and other legal requirements and our failure to comply with existing or new laws and regulations could adversely affect our operational efficiencies, ability to attract and retain talent and results of operations.

Our business is subject to extensive federal, state, local and international laws and regulations, including those relating to:

preparation, sale and labeling of food, including regulations of the Food and Drug Administration, which oversees the safety of the entire food system, including inspections and mandatory food recalls, menu labeling and nutritional content;

employment practices and working conditions, including minimum wage rates, wage and hour practices, meal and rest breaks, fair workweek/secure scheduling and “just cause” legislation, employment of minors, discrimination, harassment, classification of employees, paid and family leave, workplace safety, immigration and overtime among others;

privacy and data security (including regulations governing the protection of personal information, advertising and marketing, access by children, biometrics, surveillance, artificial intelligence, health-related information and financial information), such as California Privacy Rights Act and CCPA in California and privacy-related legislation in a growing number of other states, and international laws such as GDPR in the European Union and Personal Information Protection and Electronic Documents Act in Canada;

health, sanitation, safety and fire standards and the sale of alcoholic beverages;

building and zoning requirements, including state and local licensing and regulation governing the design and operation of facilities and land use;

public accommodations and safety conditions, including the Americans with Disabilities Act and similar state laws that give civil rights protections to individuals with disabilities in the context of employment, public accommodations, online resources and other areas;

environmental matters, such as emissions and air quality; water consumption; the discharge, storage, handling, release and disposal of hazardous or toxic substances; local ordinances restricting the types of packaging we can use in our restaurants; and claims we make about our sustainability practices and achievements; and

public company compliance, disclosure and governance matters, including accounting and tax regulations, SEC and NYSE disclosure requirements.

Compliance with these laws and regulations, and future new laws or changes in these laws or regulations that impose additional requirements, can be costly. Any failure or perceived failure to comply with these laws or regulations could result in, among other things, revocation of required licenses, administrative enforcement actions, fines and civil and criminal liability.

Risks Related to Our Growth and Business Strategy

If we are unable to meet our projections for new restaurant openings, or efficiently maintain the attractiveness of our existing restaurants, our profitability could suffer.

Our growth depends on our ability to open new restaurants at an aggressive rate and operate them profitably as soon as possible. In the past year, the cost of opening new restaurants has increased, due to construction labor inflation and increased costs of materials and equipment. Our timeline for completing construction also has gotten longer, due to landlord reluctance to commit to building in light of high interest rates, tight money supply and general economic conditions, and due to backlogs and long wait times for us to obtain required permits and utility hookups. In addition, we incur substantial startup expenses each time we open a new restaurant, and it can take up to 36 months to ramp up the sales and profitability of a new restaurant, during which time costs may be higher as we train new employees and build up a customer base. If we are unable to build the customer base that we expect or fail to overcome the higher startup expenses associated with new restaurants, our new restaurants may not be as profitable as our existing restaurants. Our ability to open and profitably operate new restaurants also is subject to various risks, such as the identification and availability of desirable locations; the negotiation of acceptable lease terms; the need to obtain all required governmental permits (including zoning approvals and liquor licenses) and comply with other regulatory requirements; the availability of capable contractors and subcontractors; increases in the cost and decreases in the availability of labor and building material; changes in weather, natural disasters, pandemics or other acts of God that could delay construction and adversely affect guest traffic; our ability to hire and train qualified management and restaurant employees; and general economic and business conditions. At each potential location, we compete with other restaurants and retail businesses for desirable development sites, construction contractors, management personnel, hourly employees and other resources. If we are unable to successfully manage these risks, we could face increased costs and lower than anticipated sales and earnings in future periods.

In addition, we continue to improve our existing restaurants through remodels, upgrades and regular upkeep. If the costs associated with remodels, upgrades or regular upkeep are higher than anticipated, restaurants are closed for remodeling for longer periods than planned or remodeled restaurants do not perform as expected, we may not realize our projected desired return on investment, which could have a negative effect on our operating results.

Our failure to effectively manage and support our growth could have a negative adverse effect on our business and financial results.

As of December 31, 2023, we owned and operated over 3,400 Chipotle restaurants and we plan to open a significant number of new restaurants in the next several years. Our existing restaurant management systems, back-office technology systems and processes, financial and management controls, information systems and personnel may not be adequate to support our continued growth. To effectively manage a larger number of restaurants, we may need to upgrade and expand our infrastructure and information systems, automate more processes that currently are manual or require manual intervention and hire, train and retrain restaurant employees and corporate support staff, all of which may result in increased costs and at least temporary inefficiencies. We also place a lot of importance on our culture, which we believe has been an important contributor to our success, and as we continue to grow it may be increasingly difficult to maintain our culture. Our failure to sufficiently invest in our infrastructure and information systems and maintain our strong staffing and culture could harm our brand and operating results.

If we partner with or acquire new businesses and third-party providers that do not align with our core values or that do not fulfill their contractual responsibilities and commitments, our brand reputation and international growth plans could suffer.

Our global growth strategy includes expanding our existing restaurant footprint and introducing Chipotle in new international jurisdictions in which we currently do not operate. The success of our strategy will depend on our identifying and partnering with new business partners, including licensees, joint venture partners, suppliers and distributors, and may include identifying suitable acquisition targets in these new jurisdictions that align with our core values. In 2023, we signed our first-ever development agreement to open restaurants in the Middle East in partnership with international franchise retail operator Alshaya Group, which will initially open new Chipotle restaurants in Dubai and Kuwait before expanding further across the region. Licensees like Alshaya, and future joint venture partners would be authorized to operate restaurants under the Chipotle brand, and we believe guests will expect the same quality of food and customer service in these third-party operated restaurants as they receive in Chipotle-operated restaurants. We provide extensive training to our business partners and we include specific food quality and safety standards and guest service requirements in the contracts we sign with our business partners; however, we do not have direct control over the restaurants operated by third-party partners, and the quality and service in those restaurants may be less than the quality and service of Chipotle-operated restaurants. Failure of our business partners to adhere to our high food quality and operating standards could damage our brand reputation and impair our international expansion plans. New partnerships and/or acquisitions also may divert management's attention from other initiatives and/or day-to-day operations, which could adversely affect our business and results of operations.

The market price of our common stock may be more volatile than the market price of our peers.

We believe the market price of our common stock generally has traded at a higher price-earnings ratio than stocks of most of our peer companies as well as the overall market, which typically has reflected market expectations for higher future operating results. At any given point in time, our price-earnings ratio may trade at more than twice the price-earnings ratio of the S&P 500. Also, the trading market for our common stock has been volatile at times, including because of adverse publicity events. As a result, if we fail to meet market expectations for our operating results in the future, any resulting decline in the price of our common stock could be significant.

Risks Related to Sustainability Factors

We are subject to evolving public disclosure requirements and expectations, including with respect to sustainability matters, that could expose us to numerous risks and could adversely affect our reputation and results of operations.

We are subject to evolving disclosure obligations promulgated by governmental and regulatory organizations relating to sustainability factors that impact our business. These disclosure obligations are complex and not always consistent, making compliance difficult and uncertain. In addition, investors, guests and other stakeholders increasingly are focusing on sustainability matters and related disclosures. We have incurred and expect to continue to incur increased expenses and management time and attention to comply with these disclosure obligations and stakeholder expectations. For example, measuring Scope 1, 2 and 3 greenhouse gas emissions relating to our business, developing reduction plans and initiatives, and creating and disclosing achievable reduction goals can be costly, difficult and time consuming and is subject to evolving reporting standards, including California's Climate Corporate Data Accountability Act, California's Greenhouse Gases: Climate-Related Financial Risk Bill, the SEC's proposed climate-related reporting requirements, and similar proposals by other local and international regulatory agencies. We may also communicate certain initiatives and goals regarding sustainability and human capital management related matters, such as diversity, responsible sourcing and social investments in our SEC filings or in other public disclosures. In November 2021, we announced that we had set science-based targets validated by the Science Based Targets Initiative to reduce absolute Scope 1, 2 and 3 greenhouse gas emissions 50% by 2030 from a 2019 base year, and achievement of this goal is subject to risks and uncertainties, many of which are outside of our control and may prove to be more difficult and costly than we anticipate.

In addition, statements about our sustainability-related initiatives and goals, and progress toward those goals, may be based on standards for measuring progress that are still developing, internal controls and processes that continue to evolve, and assumptions that are subject to change in the future. If we are unable to meet our sustainability-related goals or evolving stakeholder or industry expectations and standards, or if we are perceived to have not responded appropriately to the growing concern for sustainability issues, investors, guest and other stakeholders may choose to patronize a competitor that they perceive to be more responsive, and our reputation, business or financial condition may be adversely affected. If our sustainability-related data, processes and reporting are incomplete or inaccurate, or if we fail to achieve progress with respect to our sustainability goals on a timely basis, or at all, our reputation, business, financial performance and growth could be adversely affected.

In addition, we could be criticized by anti-ESG stakeholders for the scope or nature of our sustainability initiatives or goals or for any revisions to these goals. We could also be subjected to negative responses by governmental actors (such as anti-ESG legislation or retaliatory legislative treatment) or consumers (such as boycotts or negative publicity campaigns) that could adversely affect our reputation, business, financial performance and growth.

Climate change and volatile adverse weather conditions could adversely affect our restaurant sales or results of operations.

There is growing concern that climate change and global warming has caused and may continue to cause more severe, volatile weather or extended droughts, which could increase the frequency and duration of weather impacts on our operations. Adverse weather conditions have in the past and may again impact guest traffic at our restaurants and, in more severe cases such as hurricanes, tornadoes, wildfires or other natural disasters, cause temporary restaurant closures, all of which negatively impact our restaurant sales. In addition, our supply chain is subject to increased costs caused by the effects of climate change, diminishing energy and water resources. Increasing weather volatility and changes in global weather patterns can reduce crop size and crop quality, or destroy crops altogether, which could result in decreased availability or higher pricing for our produce and other ingredients. We may be forced to source ingredients from new geographic regions, which could impact quality and taste, and increase our costs. These factors are beyond our control and, in many instances, unpredictable. Climate change and government regulation relating to climate change also could result in construction delays for new restaurants and interruptions to the availability or increases in the cost of utilities. The ongoing and long-term costs of these impacts related to climate change and other sustainability-related issues could have a material adverse effect on our business and financial condition if we are not able to mitigate them.

General Risk Factors

Economic and business factors that are largely beyond our control may adversely affect consumer behavior and the results of our operations.

Restaurant dining generally is dependent upon consumer discretionary spending, which may be affected by general economic conditions that are beyond our control. Increasing or prolonged high inflation, international, domestic and regional economic conditions, consumer income levels, financial market volatility, a slow or stagnant pace of economic growth, mass layoffs, rising energy costs, rising interest rates, social unrest, military conflicts and governmental, political and budget concerns or divisions may have a negative effect on consumer confidence and discretionary spending. Persistent inflation and concern about a prolonged economic downturn may lead consumers to decrease their discretionary spending. A significant decrease in our guest traffic or average transactions would negatively impact our financial performance. The actual or perceived threat of a pandemic or communicable disease, terrorist attack, mass shooting, heightened security requirements, including cybersecurity, or a failure to protect information systems for critical infrastructure, such as the electrical grid and telecommunications systems, could harm our operations, the economy or consumer confidence generally. Any of the above factors or other unfavorable changes in business and economic conditions affecting our guests could increase our costs, reduce traffic in our restaurants or limit our ability to increase pricing, any of which could lower our profit margins and have a material adverse effect on our sales, financial condition and results of operations. These factors also could cause us to, among other things, reduce the number and frequency of new restaurant openings, close restaurants or delay remodeling of our existing restaurant locations. Further, poor economic conditions may force nearby businesses to shut down, which could reduce traffic to our restaurants or cause our restaurant locations to be less attractive.

Our quarterly financial results may fluctuate significantly, including due to factors that are not in our control.

Our quarterly financial results may fluctuate significantly and could fail to meet investors' expectations for various reasons, including: negative publicity about the safety of our food, employment-related issues, litigation or other issues involving our restaurants; fluctuations in supply costs, particularly for our most significant ingredients, and our inability to offset the higher cost with price increases, without adversely impacting guest traffic; our inability to purchase sufficient quantities of our key ingredients as our restaurant count grows; labor availability and wages of restaurant management and employees; increases in marketing or promotional expenses; the timing of new restaurant openings and related revenues and expenses, and the operating costs at newly opened restaurants; the impact of inclement weather and natural disasters, such as freezes and droughts, which could decrease guest traffic and increase the costs of ingredients; the amount and timing of stock-based compensation; litigation, settlement costs and related legal expenses; tax expenses, asset impairment charges and non-operating costs; and variations in general economic conditions, including the impact of rising inflation and the impact of rising interest rates on consumer demand trends.

As a result of any of these factors, results for any one quarter are not necessarily indicative of results to be expected for any other quarter or for any year. Average restaurant sales or comparable restaurant sales in any future period may decrease.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 1C. CYBERSECURITY

Cybersecurity Risk Management and Strategy

As a global company, we are regularly subject to cyberattacks and other cybersecurity incidents. In response, we have implemented cybersecurity processes, technologies, and controls to aid in our efforts to assess, identify, and manage cybersecurity risks. Our enterprise risk management framework considers cybersecurity risk alongside other company risks as part of our overall risk assessment process. Our enterprise risk management team collaborates with our Information Security function, led by our Chief Information Security Officer ("CISO") and our Chief Customer and Technology Officer ("CCTO"), to gather insights for assessing, identifying and managing cybersecurity threat risks, their severity, and potential mitigations. We also are a member of an industry cybersecurity intelligence and risk sharing organization to stay abreast of changes in the cybersecurity environment.

We assess Chipotle's Information Security program using an industry cybersecurity framework from the National Institute of Standards and Technology. This program includes policies, processes and procedures that help assess and identify our cybersecurity risks and inform how security measures and controls are developed, implemented and maintained. The risk assessment along with risk-based analysis and judgment are used to select security controls to address risks. During this process, the following factors, among others, are considered: likelihood and severity of risk, impact on the Company and others if a risk materializes, feasibility and cost of controls and impact of controls on operations.

We maintain internal resources to perform penetration testing designed to simulate evolving tactics and techniques of real-world threat actors, engage with industry partners and law enforcement and intelligence communities and conduct tabletop exercises and periodic risk interviews across our business. We also engage an independent third party to perform internal and external penetration testing of Chipotle's information security environment periodically and engage other third parties to periodically conduct assessments of our cybersecurity capabilities. In addition, we continue to expand training and awareness practices to mitigate risk from human error, including mandatory computer-based training and internal communications for employees. Our employees undergo cybersecurity awareness training and regular phishing awareness campaigns that are based upon and designed to emulate real-world contemporary threats. We provide prompt feedback (and, if necessary, additional training or remedial action) based on the results of such exercises.

Our processes also address cybersecurity risks associated with our use of third-party service providers including suppliers, software and cloud-based service providers, as well as third-party security firms used in different capacities to provide or operate some of our cybersecurity controls and technology systems. We proactively evaluate the cybersecurity risk of a third party by utilizing a repository of risk assessments, external monitoring sources, threat intelligence and predictive analytics to better inform Chipotle during contracting and vendor selection processes. Additionally, when third party risks are identified, we require those third parties to agree by contract to implement appropriate security controls. Security issues are documented and tracked, and periodic monitoring of third parties is conducted in an effort to mitigate risk.

In addition to the processes, technologies, and controls that we have in place to reduce the likelihood of a material cybersecurity incident (or series of related cybersecurity incidents), Chipotle has a written incident response plan outlining how to address cybersecurity events that occur. The plan sets forth the steps for coordination among various corporate functions and governance groups and serves as a framework for the execution of responsibilities across businesses and operational roles. Our incident response plan is designed to help us coordinate actions to prepare for, detect, respond to and recover from cybersecurity incidents, and includes processes to triage, assess severity, escalate, contain, investigate, and remediate the incident, as well as to assess the need for disclosure, comply with applicable legal obligations and mitigate the impact to our brand and reputation and on impacted parties. We also maintain insurance coverage that, subject to its terms and conditions, is intended to help us cover certain costs associated with cybersecurity incidents and information system failures.

In addition to our cybersecurity incident response plan, we conduct tabletop exercises to enhance our incident response preparedness. We maintain business continuity and disaster recovery plans to prepare for and respond to the potential for a disruption in the technology we rely on.

Chipotle (or the third parties it relies on) may not be able to fully, continuously, or effectively implement security controls as intended. As described above, we utilize a risk-based approach and judgment to determine whether and how to implement certain security controls and it is possible that we may not implement the necessary controls if we are unable to recognize or underestimate a particular risk. In addition, security controls, no matter how well designed or implemented, may only mitigate and not fully eliminate cybersecurity risks. Cybersecurity events, when detected by security tools or third parties, may not always be identified immediately or addressed in the manner intended by our cybersecurity incident response plan.

Impact of cybersecurity risks on business strategy, results of operations or financial condition

Based on the information available as of the date of this Annual Report, we have no reason to believe any risks from cybersecurity threats, including as a result of any previous cybersecurity incidents, have materially affected or are reasonably likely to materially affect us, including our business strategy, results of operations or financial condition. For additional information, see “Risks Related to Cybersecurity, Data Privacy and IT Systems,” in Item 1A, “Risk Factors” in this Annual Report.

Cybersecurity Governance

Our cybersecurity risk management and strategy processes are led by our CISO and our CCTO. These individuals have collectively over 50 years of professional experience in various roles across multiple industries involving managing information security, developing cybersecurity strategy, implementing effective information and cybersecurity programs and managing multiple industry and regulatory compliance environments. Both individuals previously held positions similar to their current roles at other large publicly traded organizations.

Cybersecurity is an important part of our risk management processes and an area of focus for our Board of Directors (the “Board”) and management. Although cybersecurity risk oversight continues to remain a top priority for the Board, the Audit and Risk Committee of our Board has primary oversight responsibility for the Company’s cybersecurity and other technology risks. The Committee regularly reviews and discusses with our CISO and our CCTO the Company’s cybersecurity, privacy and data security programs, the status of projects to strengthen internal cybersecurity, results from third-party assessments, and any significant cybersecurity incidents, including recent incidents at other companies and the emerging threat landscape. The Committee also reviews with management the implementation and effectiveness of the Company’s controls to monitor and mitigate cybersecurity risks. In addition, our Board receives an annual report and quarterly written updates regarding our cybersecurity program.

ITEM 2. PROPERTIES

As of December 31, 2023, there were 3,437 restaurants operated by Chipotle and our consolidated subsidiaries. Our main office is located at 610 Newport Center Drive, Suite 1100, Newport Beach, CA 92660 and our telephone number is (949) 524-4000. We lease our main office and substantially all of the properties on which we operate restaurants. We own 17 properties and operate restaurants on all of them. For additional information regarding the lease terms and provisions, see [Note 1. “Description of Business and Summary of Significant Accounting Policies”](#) and [Note 9. “Leases”](#) in our consolidated financial statements included in Item 8. “Financial Statements and Supplementary Data.”

ITEM 3. LEGAL PROCEEDINGS

For information regarding legal proceedings, see [Note 11. “Commitments and Contingencies”](#) in our consolidated financial statements included in Item 8. “Financial Statements and Supplementary Data.”

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

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

Our common stock trades on the New York Stock Exchange under the symbol "CMG."

As of February 5, 2024, there were approximately 1,508 shareholders of record. This does not include persons whose stock is in nominee or "street name" accounts through brokers.

Purchases of Equity Securities by the Issuer

The table below reflects shares of common stock we repurchased during the fourth quarter of 2023.

	Total Number of Shares Purchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs⁽¹⁾	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs
October	52,611	\$ 1,840.49	52,611	\$ 271,538,394
<i>Purchased 10/1 through 10/31</i>				
November	13,084	\$ 2,092.54	13,084	\$ 244,159,596
<i>Purchased 11/1 through 11/30</i>				
December	8,828	\$ 2,271.49	8,828	\$ 424,106,921
<i>Purchased 12/1 through 12/31</i>				
Total	74,523	\$ 1,935.80	74,523	

(1) Shares were repurchased pursuant to repurchase programs announced on July 26, 2023 and October 26, 2023.

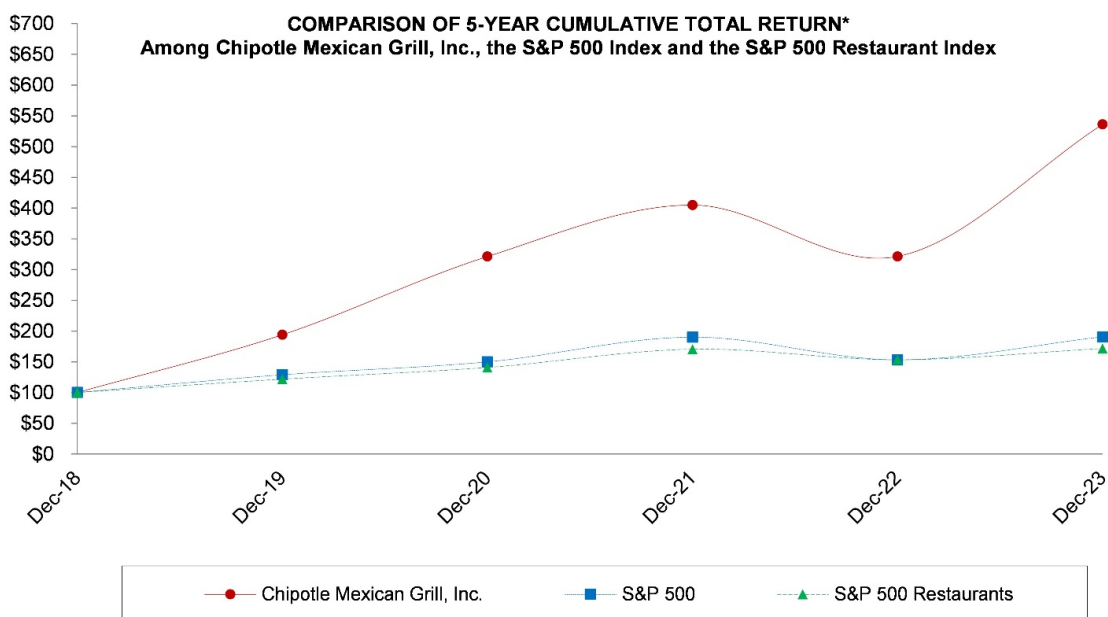
(2) The December total includes an additional \$200 million in authorized repurchases approved on December 14, 2023 and announced February 6, 2024. There is no expiration date for this program. The authorization to repurchase shares will end when we have repurchased the maximum amount of shares authorized, or we have determined to discontinue such repurchases.

Dividend Policy

We are not required to pay any dividends and have not declared or paid any cash dividends on our common stock. We intend to continue to retain earnings for use in the operation and expansion of our business and to repurchase shares of common stock (subject to market conditions), and therefore do not anticipate paying any cash dividends on our common stock in the foreseeable future.

COMPARISON OF CUMULATIVE TOTAL RETURN

The following graph compares the cumulative annual stockholders return on our common stock from December 31, 2018, through December 31, 2023, to that of the total return index for the S&P 500 and the S&P 500 Restaurants Index assuming an investment of \$100 on December 31, 2018. In calculating total annual stockholder return, reinvestment of dividends, if any, is assumed. The indices are included for comparative purposes only. They do not necessarily reflect management’s opinion that such indices are an appropriate measure of the relative performance of our common stock. The values shown are neither indicative nor determinative of future performance. This graph is not “soliciting material,” is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference in any of our filings under the Securities Act or the Exchange Act, whether made before or after the date hereof and irrespective of any general incorporation language in any such filing.



Company/Index	2018	2019	2020	2021	2022	2023
Chipotle Mexican Grill, Inc.	\$ 100	\$ 194	\$ 321	\$ 405	\$ 321	\$ 536
S&P 500	100	129	150	190	153	191
S&P 500 Restaurants	100	122	141	170	153	172

*\$100 invested on December 31, 2018, in stock or index, including reinvestment of dividends.
Fiscal year ending December 31, 2023.
Source data: FactSet

ITEM 6. RESERVED

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

You should read the following discussion together with our consolidated financial statements and related notes included in Item 8. "Financial Statements and Supplementary Data." This section of the Form 10-K generally discusses 2023 items and year-to-year comparisons of 2023 to 2022. Discussions of 2021 items and year-to-year comparisons of 2022 and 2021 that are not included in this Form 10-K can be found in "Management's Discussion and Analysis of Financial Condition and Results of Operations" in Part II, Item 7 on our Annual Report on Form 10-K for the year ended December 31, 2022. The discussion contains forward-looking statements involving risks, uncertainties and assumptions that could cause our results to differ materially from expectations. See "Cautionary Note Regarding Forward-Looking Statements." Factors that might cause such differences include those described in Item 1A. "Risk Factors" and elsewhere in this report.

Overview

As of December 31, 2023, we operated 3,371 Chipotle restaurants throughout the United States, and 66 international Chipotle restaurants. We manage our U.S. operations based on eight regions and aggregate our operations to one reportable segment.

Throughout "Management's Discussion and Analysis of Financial Condition and Results of Operations" we commonly discuss the following key operating metrics which we believe will drive our financial results and long-term growth model. We believe these metrics are useful to investors because management uses these metrics to assess the growth of our business and the effectiveness of our marketing and operational strategies:

- Comparable restaurant sales
- Restaurant operating costs as a percentage of total revenue
- New restaurant openings

2023 Financial Highlights, year-over-year:

- Total revenue increased 14.3% to \$9.9 billion
- Comparable restaurant sales increased 7.9%
- Diluted earnings per share was \$44.34, a 38.4% increase from \$32.04, which includes a \$0.52 after-tax impact from expenses related to restaurant and corporate level impairment and closure costs, accelerated depreciation and corporate restructuring, partially offset by a reduction in contingencies related to certain legal proceedings.

Sales Trends. Comparable restaurant sales increased 7.9% for the year ended December 31, 2023. The increase is primarily attributable to higher transactions and, to a lesser extent, an increase in average check. Comparable restaurant sales represent the change in period-over-period total revenue for restaurants in operation for at least 13 full calendar months. Digital sales represented 37.4% of total food and beverage revenue.

Restaurant Operating Costs. During the year ended December 31, 2023, our restaurant operating costs (food, beverage and packaging; labor; occupancy; and other operating costs) were 73.8% of total revenue, a decrease from 76.1% during the year ended December 31, 2022. The decrease was driven primarily by sales leverage and, to a lesser extent, lower avocado prices. These decreases were partially offset by higher inflation across several food ingredients and, to a lesser extent, wage inflation.

Restaurant Development. During the year ended December 31, 2023, we opened 271 new restaurants, which included 238 restaurants with a Chipotle. We expect to open approximately 285-315 new restaurants in 2024 (including 5 to 10 relocations), which assumes developer, permit, inspection, and utility delays do not worsen. We expect that at least 80% of our new restaurants will include a Chipotle.

Cultivate Next Fund. Our Cultivate Next Fund is a venture formed to make early-stage investments into strategically aligned companies that further our mission to Cultivate a Better World. The Fund has an initial size of \$50.0 million, which is financed almost entirely by Chipotle. As of December 31, 2023, we have made \$33.0 million in investments through this Fund. In December 2023, our Board approved an additional \$50.0 million financial commitment to this Fund. As of December 31, 2023, none of this additional \$50.0 million has been invested.

Restaurant Activity

The following table details restaurant unit data for the years indicated.

	Year ended December 31,	
	2023	2022
Beginning of period	3,187	2,966
Chipotle openings	270	235
Non-Chipotle openings	1	1
Chipotle permanent closures	(3)	(3)
Chipotle relocations	(12)	(12)
Non-Chipotle permanent closures	(6)	-
Total restaurants at end of period	<u>3,437</u>	<u>3,187</u>

Results of Operations

Our results of operations as a percentage of total revenue and period-over-period change are discussed in the following section.

Revenue

	Year ended December 31,		Percentage change
	2023	2022	
	(dollars in millions)		
Food and beverage revenue	\$ 9,804.1	\$ 8,558.0	14.6%
Delivery service revenue	67.5	76.7	(11.9%)
Total revenue	<u>\$ 9,871.6</u>	<u>\$ 8,634.7</u>	14.3%
Average restaurant sales ⁽¹⁾	\$ 3.0	\$ 2.8	6.9%
Comparable restaurant sales increase	7.9%	8.0%	
Transactions	5.0%	0.9%	
Average check	2.9%	7.1%	
Menu price increase	5.2%	12.0%	
Check mix	(2.3%)	(4.9%)	

(1) Average restaurant sales refer to the average trailing 12-month food and beverage sales for restaurants in operation for at least 12 full calendar months.

The following is a summary of the change in restaurant sales for the period indicated:

	Year ended (dollars in millions)
For the period ending December 31, 2022	\$ 8,634.7
Change from:	
Comparable restaurant sales	636.3
Restaurant not yet in comparable base opened in 2023	242.1
Restaurant not yet in comparable base opened in 2022	356.3
Other	2.2
For the period ending December 31, 2023	<u>\$ 9,871.6</u>

Food, Beverage and Packaging Costs

	Year ended December 31,		Percentage change
	2023	2022	
	(dollars in millions)		
Food, beverage and packaging	\$ 2,912.6	\$ 2,602.2	11.9%
As a percentage of total revenue	29.5%	30.1%	(0.6%)

Food, beverage and packaging costs decreased 0.6% as a percentage of total revenue for the year ended December 31, 2023 compared to the year ended December 31, 2022, including 1.6% from menu price increases and 0.6% from lower avocado costs, partially offset by 1.6% due to inflation across several ingredient costs, primarily beef, tortillas and queso.

Labor Costs

	Year ended December 31,		Percentage change
	2023	2022	
	(dollars in millions)		
Labor costs	\$ 2,441.0	\$ 2,198.0	11.1%
As a percentage of total revenue	24.7%	25.5%	(0.8%)

Labor costs decreased 0.8% as a percentage of total revenue for the year ended December 31, 2023 compared to the year ended December 31, 2022, including 1.4% from sales leverage, partially offset by 0.8% due to restaurant wage inflation.

Beginning in April 2024, California legislation will require national restaurant chains, including Chipotle, to pay a minimum \$20 per hour wage to restaurant workers in California. This will increase wages in California nearly 20% and will result in wage inflation increasing from the low to mid-single digit range to the mid-single-digit range. We expect to increase menu prices in California to mitigate higher wage costs resulting from this legislation.

Occupancy Costs

	Year ended December 31,		Percentage change
	2023	2022	
	(dollars in millions)		
Occupancy costs	\$ 503.3	\$ 460.4	9.3%
As a percentage of total revenue	5.1%	5.3%	(0.2%)

Occupancy costs decreased 0.2% as a percentage of total revenue for the year ended December 31, 2023 compared to the year ended December 31, 2022, primarily due to sales leverage, partially offset by increased rent expense associated with new restaurants.

Other Operating Costs

	Year ended December 31,		Percentage change
	2023	2022	
	(dollars in millions)		
Other operating costs	\$ 1,428.7	\$ 1,311.9	8.9%
As a percentage of total revenue	14.5%	15.2%	(0.7%)

Other operating costs decreased 0.7% as a percentage of total revenue for the year ended December 31, 2023 compared to the year ended December 31, 2022, including 0.6% of sales leverage and 0.2% of lower delivery expenses, partially offset by 0.1% of higher maintenance costs.

General and Administrative Expenses

	Year ended December 31,		Percentage change
	2023	2022	
	(dollars in millions)		
General and administrative expense	\$ 633.6	\$ 564.2	12.3%
As a percentage of total revenue	6.4%	6.5%	(0.1%)

Following is a summary of the change in General and administrative expense for the periods indicated:

	Year ended	
	(dollars in millions)	
For the period ending December 31, 2022	\$	564.2
Change from:		
Performance bonuses		31.1
Stock-based compensation, primarily performance-based awards		24.3
Outside services related to corporate initiatives		14.5
Wages, primarily due to headcount growth		10.9
Conferences, primarily biennial All Managers' Conference		(8.9)
Other		(2.5)
For the period ending December 31, 2023	\$	<u>633.6</u>

Depreciation and Amortization

	Year ended December 31,			
	2023	2022		Percentage
	(dollars in millions)			change
Depreciation and amortization	\$ 319.4	\$ 286.8		11.4%
As a percentage of total revenue	3.2%	3.3%		(0.1%)

Depreciation and amortization decreased 0.1% as a percentage of total revenue for the year ended December 31, 2023 compared to the year ended December 31, 2022, primarily due to sales leverage, partially offset by increased depreciation expense associated with new restaurants and, to a lesser extent, the reduction of useful lives for certain leasehold improvements.

Impairment, Closure Costs, and Asset Disposals

	Year ended December 31,			
	2023	2022		Percentage
	(dollars in millions)			change
Impairment, closure costs, and asset disposals	\$ 38.4	\$ 21.1		81.5%
As a percentage of total revenue	0.4%	0.2%		0.2%

Impairment, closure costs, and asset disposals increased in dollar terms for the year ended December 31, 2023 compared to the year ended December 31, 2022, primarily due to elevated impairment of operating lease assets and leasehold improvements and higher charges related to the replacement of certain leasehold improvements and, to a lesser extent, the replacement of certain kitchen equipment. These elevated impairments include the impact of closing all Pizzeria Locale restaurants.

Interest and Other Income, Net

	Year ended December 31,			
	2023	2022		Percentage
	(dollars in millions)			change
Interest and other income, net	\$ 62.7	\$ 21.1		196.7%
As a percentage of total revenue	0.6%	0.2%		0.4%

Interest and other income, net increased in dollar terms for the year ended December 31, 2023 compared to the year ended December 31, 2022, primarily due to increased interest income on our investments in U.S. Treasury securities, money market funds and time deposits, partially offset by a gain on our investments in Tractor Beverages, Inc. of \$10.4 million recognized in the second quarter of 2022.

Provision for Income Taxes

	Year ended December 31,		Percentage change
	2023	2022	
	(dollars in millions)		
Provision for income taxes	\$ (391.8)	\$ (282.4)	38.7%
Effective income tax rate	24.2%	23.9%	n/m*

*Not meaningful

The effective income tax rate increased 0.3% for the year ended December 31, 2023, compared to the year ended December 31, 2022, primarily due to a 0.4% decrease in excess tax benefits from equity vesting and exercises.

Quarterly Financial Data/Seasonality

Seasonal factors cause our profitability to fluctuate from quarter to quarter. Historically, our average daily restaurant sales and net income are lower in the first and fourth quarters due, in part, to the holiday season and because fewer people eat out during periods of inclement weather (the winter months) than during periods of mild or warm weather (the spring, summer and fall months). Other factors also have a seasonal effect on our results. For example, restaurants located near colleges and universities generally do more business during the academic year. Seasonal factors, however, might be moderated or outweighed by other factors that may influence our quarterly results, such as unexpected publicity impacting our business in a positive or negative way, worldwide health pandemics, impact of inflation on consumer spending, fluctuations in food or packaging costs, or the timing of menu price increases or promotional activities and other marketing initiatives. The number of trading days in a quarter can also affect our results, although, on an overall annual basis, changes in trading days do not have a significant impact.

Our quarterly results are also affected by other factors such as the amount and timing of non-cash stock-based compensation expense and related tax rate impacts, litigation, settlement costs and related legal expenses, impairment charges and non-operating costs, timing of marketing or promotional expenses, the number and timing of new restaurants opened in a quarter, and closure of restaurants. New restaurants typically have higher operating costs following opening because of the expenses associated with their opening and operating inefficiencies in the months immediately following opening. Accordingly, results for a particular quarter are not necessarily indicative of results to be expected for any other quarter or for any year.

Liquidity and Capital Resources**Cash and Investments**

As of December 31, 2023, we had a cash and marketable investments balance of \$1.8 billion, non-marketable investments of \$75.4 million, and \$25.6 million of restricted cash. After funding the current operations in our restaurants and support centers, the first planned use of our cash flow from operations is to provide capital for the continued investment in new restaurant construction. In addition to continuing to invest in our restaurant expansion, we expect to utilize cash flow from operations to: repurchase additional shares of our common stock subject to market conditions; invest in, maintain, and refurbish our existing restaurants; and for general corporate purposes. As of December 31, 2023, \$424.1 million remained available for repurchases of shares of our common stock, which includes the \$200.0 million additional authorization approved by our Board of Directors on December 14, 2023. Under the remaining repurchase authorizations, shares may be purchased from time to time in open market transactions, subject to market conditions.

Borrowing Capacity

As of December 31, 2023, we had \$500.0 million of undrawn borrowing capacity under a line of credit facility.

Use of Cash

We believe that cash from operations, together with our cash and investment balances, will be sufficient to meet ongoing capital expenditures, working capital requirements and other cash needs for the foreseeable future. Assuming no significant declines in comparable restaurant sales, we expect we will generate positive cash flow for the foreseeable future.

We have not required significant working capital because customers generally pay using cash or credit and debit cards and because our operations do not require significant receivables, nor do they require significant inventories due, in part, to our use of various fresh ingredients. In addition, we generally have the right to pay for the purchase of food, beverages and supplies sometime after the receipt of those items, generally within ten days, thereby reducing the need for incremental working capital to support our growth.

Our total capital expenditures for 2023 were \$560.7 million. In 2023, we spent on average about \$1.4 million in development and construction costs per new restaurant, or about \$1.2 million net of landlord reimbursements of \$0.2 million. In 2024, we expect to incur about \$635.0 million in total capital expenditures. We expect approximately \$430.0 million in capital expenditures related to our construction of new restaurants, before any reductions for landlord reimbursements. For new restaurants to be opened in 2024, we anticipate average development costs will remain consistent with 2023. We expect approximately \$130.0 million in capital expenditures related to investments in existing restaurants including remodeling and similar improvements, new equipment and hardware, technology to optimize efficiencies. Finally, we expect a portion of our incurred capital expenditures to be for additional corporate initiatives including investments in technology to boost innovation, enhance the guest experience, and improve operations.

The following table summarizes current and long-term material cash requirements as of December 31, 2023, which we expect to fund primarily with operating cash flows:

	Payments Due by Fiscal Year				
	Total	2024	2025-2026	2027-2028	Thereafter
	(dollars in millions)				
Operating leases ⁽¹⁾	\$ 6,343	\$ 447	\$ 971	\$ 938	\$ 3,987
Purchase obligations ⁽²⁾	2,090	969	768	352	1
Total	\$ 8,433	\$ 1,416	\$ 1,739	\$ 1,290	\$ 3,988

- (1) See [Note 9. "Leases"](#) of our consolidated financial statements included in Item 8. "Financial Statements and Supplementary Data." This includes commitments related to reasonably certain renewal periods.
- (2) Purchase obligations include agreements to purchase goods or services that are enforceable and legally binding on us and that specify all significant terms. We have excluded agreements that are cancelable without penalty. The majority of our purchase obligations relate to food, beverage and packaging, capital projects, information technology, marketing initiatives and corporate sponsorships, and other miscellaneous items.

The above table does not include income tax liabilities for uncertain tax positions for which we are not able to make a reasonably reliable estimate of the amount and period of related future payments. Additionally, we have excluded our estimated loss contingencies, due to uncertainty regarding the timing and amount of payment. See [Note 11. "Commitments and Contingencies"](#) of our consolidated financial statements included in Item 8. "Financial Statements and Supplementary Data."

Cash Flows

Cash provided by operating activities was \$1.8 billion for the year ended December 31, 2023, compared to \$1.3 billion for the year ended December 31, 2022. The increase was primarily due to higher net earnings and, to a lesser extent, net cash changes in non-tax operating assets and liabilities.

Cash used in investing activities was \$946.0 million for the year ended December 31, 2023, compared to \$830.0 million for the year ended December 31, 2022. The change was primarily associated with increased capital expenditures of \$81.6 million primarily related to costs associated with new restaurant development and, to a lesser extent, a \$34.4 million increase in investment purchases net of investment maturities.

Cash used in financing activities was \$660.7 million for the year ended December 31, 2023, compared to \$929.4 million for the year ended December 31, 2022. The change was primarily due to decreased treasury stock repurchases of \$237.8 million and, to a lesser extent, \$29.8 million of lower payments of tax withholdings related to stock-based compensation.

Critical Accounting Estimates

We describe our significant accounting policies in [Note 1. "Description of Business and Summary of Significant Accounting Policies"](#) of our consolidated financial statements included in Item 8. "Financial Statements and Supplementary Data." Critical accounting estimates are those that we believe are both significant and that require us to make difficult, subjective or complex judgments, often because we need to estimate the effect of inherently uncertain matters. We base our estimates and judgments on historical experiences and various other factors that we believe to be appropriate under the circumstances. Actual results may differ from these estimates, and we might obtain different estimates if we used different assumptions or factors.

Leases

The majority of our operating leases consist of restaurant locations and office space. We determine if a contract contains a lease at inception. Our leases generally have remaining terms of 1-20 years and most include options to extend the leases for additional 5-year periods. Generally, the lease term is the minimum of the noncancelable period of the lease or the lease term inclusive of reasonably certain renewal periods up to a term of 20 years. If the estimate of our reasonably certain lease term was changed, our depreciation and rent expense could differ materially.

Operating lease assets and liabilities are recognized at the lease commencement date, which is the date we control the use of the property. Operating lease liabilities represent the present value of lease payments not yet paid. We made the policy election to combine lease and non-lease components. We consider fixed common area maintenance (“CAM”) part of our fixed future lease payments; therefore, fixed CAM is also included in our operating lease liability. Operating lease assets represent our right to use an underlying asset and are based upon the operating lease liabilities adjusted for prepayments, initial direct costs, lease incentives, and impairment of operating lease assets. To determine the present value of lease payments not yet paid, we estimate incremental borrowing rates corresponding to the reasonably certain lease term. As we have no outstanding debt nor committed credit facilities, secured or otherwise, we estimate this rate based on prevailing financial market conditions, comparable company and credit analysis, and management judgment. If the estimate of our incremental borrowing rate was changed, our operating lease assets and liabilities could differ materially.

Deferred Revenue

Chipotle Rewards

Eligible customers who enroll in the Chipotle Rewards loyalty program generally earn points for every dollar spent. After accumulating the required number of points, the customer may select a reward. Earned rewards generally expire one to two months after they are issued, and points generally expire if an account is inactive for a period of six months.

The estimation of the standalone selling price of points and other rewards issued to customers involves several assumptions, primarily the estimated value of product for which the reward is expected to be redeemed and the probability that the points or reward will expire. Our estimate of points and other rewards we expect to be redeemed is based on historical company specific data. These inputs are subject to change over time due to factors such as menu price increases, changes in point redemption options and changes in customer behavior. A relative increase of 100 basis points in our estimated ultimate redemption rate for future redemptions would have resulted in a reduction of food and beverage revenue on our consolidated statement of income and comprehensive income of approximately \$0.9 million for the year ended December 31, 2023.

Gift Cards

We sell gift cards, which do not have expiration dates, and we do not deduct non-usage fees from outstanding gift card balances. Gift card balances are initially recorded as unearned revenue. We recognize revenue from gift cards when the gift card is redeemed by the customer. Historically, the majority of gift cards are redeemed within one year. In addition, a portion of gift cards are not expected to be redeemed and will be recognized as breakage over time in proportion to gift card redemptions (“gift card breakage rate”). The gift card breakage rate is based on company and program specific information, including historical redemption patterns, and expected remittance to government agencies under unclaimed property laws, if applicable. We evaluate our gift card breakage rate estimate annually, or more frequently as circumstances warrant, and apply that rate to gift card redemptions. A relative decrease of 100 basis points to our gift card breakage rate would have resulted in a reduction of food and beverage revenue on our consolidated statement of income and comprehensive income of approximately \$0.6 million for the year ended December 31, 2023.

Impairment of Long-Lived Assets

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Long-lived assets are grouped at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. For restaurant assets, we test impairment at the individual restaurant asset group level, which includes leasehold improvements, property and equipment and operating lease assets.

The fair value measurement for asset impairment is generally based on Level 3 inputs. We first compare the carrying value of the asset (or asset group, referred interchangeably throughout as asset) to the asset’s estimated future undiscounted cash flows. If the estimated undiscounted future cash flows are less than the carrying value of the asset, we determine if we have an impairment loss by comparing the carrying value of the asset to the asset’s estimated fair value. The estimated fair value of the asset is generally determined using the income approach to measure the fair value, which is based on the present value of estimated future cash flows. Key inputs to the income approach for restaurant assets include the discount rate, projected revenue and expenses, and sublease income if we are closing the restaurant. In certain cases, management uses other market information, when available, to estimate the fair value of an asset. The impairment charges represent the excess of each asset’s carrying amount over its estimated fair value and are allocated among the long-lived asset or assets of the group.

Our estimates of future revenues and expenses are highly subjective judgments based on internal projections and knowledge of our operations, historical performance, and trends in sales and restaurant operating costs, and can be significantly impacted by changes in our business or economic conditions. The determination of asset fair value is also subject to significant judgment and utilizes valuation techniques including discounting estimated future cash flows and market-based analyses to determine fair value. If our estimates or underlying assumptions, including discount rate and sublease income change in the future, our operating results may be materially impacted.

Stock-based Compensation

We recognize compensation expense for equity awards over the requisite service period based on the award's fair value. We use the Black-Scholes valuation model to determine the fair value of our stock-only stock appreciation rights ("SOSARs"), and we use the Monte Carlo simulation model to determine the fair value of stock awards that contain market conditions. Both of these models require assumptions to be made regarding our stock price volatility, the expected life of the award and expected dividend rates. The volatility and the expected life assumptions were based on our historical data. Similarly, the compensation expense of performance share awards is based in part on the estimated probability of achieving levels of performance associated with particular levels of payout for performance shares. We determine the probability of achievement of future levels of performance by comparing the relevant performance level with our internal estimates of future performance. Those estimates are based on a number of assumptions, including but not limited to growth in restaurant cash flow dollars, growth in comparable restaurant sales and average restaurant level operating margin, and different assumptions may have resulted in different conclusions regarding the probability of achieving future levels of performance relevant to the payout levels for the awards. If we change our estimates of stock price volatility or expected lives of our SOSARs, or if we change our assumptions regarding the probability of achieving future levels of performance with respect to performance share awards, our stock-based compensation expense and results of operations may be materially impacted.

Insurance Liability

We are self-insured for a significant portion of our employee health benefits programs. We carry significant retentions for risks and associated liabilities with respect to workers' compensation, general liability, property and auto damage, employment practices liability, cyber liability and directors' and officers' liability. Predetermined loss limits have been arranged with third-party insurance companies to limit exposure to these claims. We record a liability that represents our estimated cost of claims incurred and unpaid as of the balance sheet date. Our estimated liability is not discounted and is based on a number of assumptions and factors, including historical trends, actuarial assumptions and economic conditions, and is closely monitored and adjusted when warranted by changing circumstances. If a greater amount of claims occurs compared to what we have estimated, or if medical costs increase beyond what we expected, our accrued liabilities might not be sufficient. Actual claims experience could also be more favorable than estimated. If we change our estimates for the cost of claims incurred and unpaid, or if actual claims differ from these estimates, our insurance expense and results of operations may be materially impacted.

Reserves/Contingencies for Litigation and Other Matters

We are involved in various claims and legal actions that arise in the ordinary course of business. We record an accrual for legal contingencies when we determine that it is probable that we have incurred a liability and we can reasonably estimate the amount of the loss. Although we have recorded liabilities related to a number of legal actions, our estimates used to determine the amount of these liabilities may not be accurate, and there are other legal actions for which we have not recorded a liability. As a result, in the event legal actions for which we have not accrued a liability or for which our accrued liabilities are not accurate are resolved, such resolution may affect our operating results and cash flows.

Income Taxes

Our provision for income taxes, deferred tax assets and liabilities and any related valuation allowance requires the use of estimates based on our management's interpretation and application of complex tax laws and accounting guidance. We are primarily subject to income taxes in the U.S. We establish reserves for uncertain tax positions for material, known tax exposures relating to deductions, transactions and other matters involving some uncertainty as to the measurement and recognition of the item. We may adjust these reserves when our judgment changes as a result of the evaluation of new information not previously available and will be reflected in the period in which the new information is available, or due to the expiration of any applicable statute of limitations. While we believe that our reserves are adequate, issues raised by a tax authority may be resolved at an amount different than the related reserve and could materially increase or decrease our income tax provision in future periods.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURE ABOUT MARKET RISK

Commodity Price Risks

We are exposed to commodity price risks. Many of the ingredients we use to prepare our food, as well as our packaging materials and utilities to run our restaurants, are ingredients or commodities that are affected by the price of other commodities, exchange rates, foreign demand, weather, seasonality, production, availability and other factors outside our control. We work closely with our suppliers and use a mix of forward pricing protocols under which we agree with our supplier on fixed prices for deliveries at some time in the future, fixed pricing protocols under which we agree on a fixed price with our supplier for the duration of that protocol, formula pricing protocols under which the prices we pay are based on a specified formula related to the prices of the goods, such as spot prices or based on changes in industry indices, and range forward protocols under which we agree on a price range for the duration of that protocol. Generally, our pricing protocols with suppliers can remain in effect for periods ranging from one to 24 months, depending on the outlook for prices of the particular ingredient. In some cases, we have minimum purchase obligations. We have tried to increase, where practical, the number of suppliers for our ingredients, which we believe can help mitigate pricing volatility, and we follow industry news, trade issues, exchange rates, foreign demand, weather, crises and other world events that may affect our ingredient prices. Increases in ingredient prices could adversely affect our results if we choose for competitive or other reasons not to increase menu prices at the same rate at which ingredient costs increase, or if menu price increases result in customer resistance. We also could experience shortages of key ingredients for many unforeseen reasons, such as crop damage due to inclement weather, if our suppliers need to close or restrict operations, or due to industry-wide shipping and freight delays.

Changing Interest Rates

We are exposed to interest rate risk through fluctuations of interest rates on our investments. As of December 31, 2023, we had \$1.9 billion in cash and cash equivalents, current and long-term investments, and restricted cash, of which the substantial majority are interest bearing. Changes in interest rates affect the interest income we earn, and therefore impact our cash flows and results of operations.

Foreign Currency Exchange Risk

A portion of our operations consist of activities outside of the U.S. and we have currency risk on the transactions in other currencies and translation adjustments resulting from the conversion of our international financial results into the U.S. dollar. However, a substantial majority of our operations and investment activities are transacted in the U.S., and therefore our foreign currency risk is not material at this date.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of Chipotle Mexican Grill, Inc.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheets of Chipotle Mexican Grill, Inc. (the Company) as of December 31, 2023 and 2022, the related consolidated statements of income and comprehensive income, shareholders' equity and cash flows for each of the three years in the period ended December 31, 2023, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2023 and 2022, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2023, in conformity with U.S. generally accepted accounting principles.

We also have 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, 2023, based on criteria established in Internal Control-Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) and our report dated February 7, 2024 expressed an unqualified opinion thereon.

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 the critical audit matter does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the account or disclosure to which it relates.

Evaluation of stock-based compensation performance condition assumptions

Description of the Matter

The Company incurred \$126.7 million in stock-based compensation expense during the year ended December 31, 2023. Approximately 114,000 of the Company's vested and non-vested stock awards were subject to performance conditions during the year ended December 31, 2023. As described in Notes 1 and 8 of the consolidated financial statements, the Company records the grant date fair value of the performance stock awards and expenses the fair value of the performance stock awards subject to service conditions over the respective vesting period. Stock-based compensation expense of stock awards subject to performance conditions is based on the estimated probability of achieving levels of performance associated with particular levels of payout. Additionally, at each reporting period, the Company evaluates the probable outcome of the performance conditions including consideration of significant assumptions and as applicable, recognizes the cumulative effect of the change in estimate in the period of the change.

Auditing the estimated quantity of awards the Company determined are probable of vesting for the Company's stock awards subject to performance conditions was complex and judgmental. In particular, the stock compensation expense is sensitive to significant assumptions including management's internal estimates of the Company's future performance.

How We Addressed the Matter in Our Audit

We obtained an understanding, evaluated the design, and tested the operating effectiveness of management's controls over stock-based compensation. We tested controls over management's review of the assumptions used with regards to the performance conditions. We also tested management's controls to validate that data used in management's internal estimates of the Company's future performance was complete and accurate.

Our substantive audit procedures included, among others, testing the significant assumptions underlying the performance conditions (e.g., certain targets related to growth in cumulative restaurant cash flow dollars and cumulative base restaurant cash flow dollars) and testing the completeness and accuracy of the underlying data. We evaluated management's significant assumptions by comparing the assumptions to current market and economic trends, historical results of the Company's business, and to other relevant factors. We additionally performed a sensitivity analysis of the significant assumptions to evaluate the change in the expense to be recognized for the stock awards subject to performance conditions. We also evaluated the adequacy of the Company's stock-based compensation disclosures included in Notes 1 and 8 of the consolidated financial statements in relation to these matters.

/s/ Ernst & Young LLP

We have served as the Company's auditor since 1997.

Irvine, California
February 7, 2024

CHIPOTLE MEXICAN GRILL, INC.
CONSOLIDATED BALANCE SHEETS
(in thousands, except per share data)

	December 31,	
	2023	2022
Assets		
Current assets:		
Cash and cash equivalents	\$ 560,609	\$ 384,000
Accounts receivable, net	115,535	106,880
Inventory	39,309	35,668
Prepaid expenses and other current assets	117,462	86,412
Income tax receivable	52,960	47,741
Investments	734,838	515,136
Total current assets	1,620,713	1,175,837
Leasehold improvements, property and equipment, net	2,170,038	1,951,147
Long-term investments	564,488	388,055
Restricted cash	25,554	24,966
Operating lease assets	3,578,548	3,302,402
Other assets	63,082	63,158
Goodwill	21,939	21,939
Total assets	\$ 8,044,362	\$ 6,927,504
Liabilities and shareholders' equity		
Current liabilities:		
Accounts payable	\$ 197,646	\$ 184,566
Accrued payroll and benefits	227,537	170,456
Accrued liabilities	147,688	147,539
Unearned revenue	209,680	183,071
Current operating lease liabilities	248,074	236,248
Total current liabilities	1,030,625	921,880
Commitments and contingencies (Note 11)		
Long-term operating lease liabilities	3,803,551	3,495,162
Deferred income tax liabilities	89,109	98,623
Other liabilities	58,870	43,816
Total liabilities	4,982,155	4,559,481
Shareholders' equity:		
Preferred stock, \$0.01 par value, 600,000 shares authorized, no shares issued as of December 31, 2023 and December 31, 2022, respectively	-	-
Common stock, \$0.01 par value, 230,000 shares authorized, 37,483 and 37,320 shares issued as of December 31, 2023 and December 31, 2022, respectively	375	373
Additional paid-in capital	1,956,160	1,829,304
Treasury stock, at cost, 10,057 and 9,693 common shares as of December 31, 2023 and December 31, 2022, respectively	(4,944,656)	(4,282,014)
Accumulated other comprehensive loss	(6,657)	(7,888)
Retained earnings	6,056,985	4,828,248
Total shareholders' equity	3,062,207	2,368,023
Total liabilities and shareholders' equity	\$ 8,044,362	\$ 6,927,504

See accompanying notes to consolidated financial statements.

CHIPOTLE MEXICAN GRILL, INC.
CONSOLIDATED STATEMENTS OF INCOME AND COMPREHENSIVE INCOME
(in thousands, except per share data)

	Year ended December 31,		
	2023	2022	2021
Food and beverage revenue	\$ 9,804,124	\$ 8,558,001	\$ 7,457,169
Delivery service revenue	67,525	76,651	89,892
Total revenue	<u>9,871,649</u>	<u>8,634,652</u>	<u>7,547,061</u>
Restaurant operating costs (exclusive of depreciation and amortization shown separately below):			
Food, beverage and packaging	2,912,564	2,602,245	2,308,631
Labor	2,440,982	2,197,958	1,917,761
Occupancy	503,264	460,425	416,606
Other operating costs	1,428,747	1,311,905	1,197,054
General and administrative expenses	633,584	564,191	606,854
Depreciation and amortization	319,394	286,826	254,657
Pre-opening costs	36,931	29,560	21,264
Impairment, closure costs, and asset disposals	38,370	21,139	19,291
Total operating expenses	<u>8,313,836</u>	<u>7,474,249</u>	<u>6,742,118</u>
Income from operations	1,557,813	1,160,403	804,943
Interest and other income, net	62,693	21,128	7,820
Income before income taxes	1,620,506	1,181,531	812,763
Provision for income taxes	(391,769)	(282,430)	(159,779)
Net income	<u>\$ 1,228,737</u>	<u>\$ 899,101</u>	<u>\$ 652,984</u>
Earnings per share:			
Basic	\$ 44.59	\$ 32.28	\$ 23.21
Diluted	<u>\$ 44.34</u>	<u>\$ 32.04</u>	<u>\$ 22.90</u>
Weighted-average common shares outstanding:			
Basic	27,555	27,851	28,132
Diluted	<u>27,710</u>	<u>28,062</u>	<u>28,511</u>
Other comprehensive income/(loss), net of income taxes:			
Foreign currency translation adjustments	\$ 1,231	\$ (2,534)	\$ (1,125)
Comprehensive income	<u>\$ 1,229,968</u>	<u>\$ 896,567</u>	<u>\$ 651,859</u>

See accompanying notes to consolidated financial statements.

CHIPOTLE MEXICAN GRILL, INC.
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
(in thousands)

	Common Stock			Treasury Stock		Retained Earnings	Accumulated Other Comprehensive Loss	Total
	Shares	Amount	Additional Paid-In Capital	Shares	Amount			
Balance, December 31, 2020	36,704	\$ 367	\$ 1,549,909	8,703	\$ (2,802,075)	\$ 3,276,163	\$ (4,229)	\$ 2,020,135
Stock-based compensation	-	-	178,703	-	-	-	-	178,703
Stock plan transactions and other	428	4	700	-	-	-	-	704
Acquisition of treasury stock	-	-	-	349	(554,027)	-	-	(554,027)
Net income	-	-	-	-	-	652,984	-	652,984
Other comprehensive income (loss), net of income taxes	-	-	-	-	-	-	(1,125)	(1,125)
Balance, December 31, 2021	37,132	\$ 371	\$ 1,729,312	9,052	\$ (3,356,102)	\$ 3,929,147	\$ (5,354)	\$ 2,297,374
Stock-based compensation	-	-	99,821	-	-	-	-	99,821
Stock plan transactions and other	188	2	171	-	-	-	-	173
Acquisition of treasury stock	-	-	-	641	(925,912)	-	-	(925,912)
Net income	-	-	-	-	-	899,101	-	899,101
Other comprehensive income (loss), net of income taxes	-	-	-	-	-	-	(2,534)	(2,534)
Balance, December 31, 2022	37,320	\$ 373	\$ 1,829,304	9,693	\$ (4,282,014)	\$ 4,828,248	\$ (7,888)	\$ 2,368,023
Stock-based compensation	-	-	126,686	-	-	-	-	126,686
Stock plan transactions and other	163	2	170	-	-	-	-	172
Acquisition of treasury stock	-	-	-	364	(662,642)	-	-	(662,642)
Net income	-	-	-	-	-	1,228,737	-	1,228,737
Other comprehensive income (loss), net of income taxes	-	-	-	-	-	-	1,231	1,231
Balance, December 31, 2023	37,483	\$ 375	\$ 1,956,160	10,057	\$ (4,944,656)	\$ 6,056,985	\$ (6,657)	\$ 3,062,207

See accompanying notes to consolidated financial statements.

CHIPOTLE MEXICAN GRILL, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in thousands)

	Year ended December 31,		
	2023	2022	2021
Operating activities			
Net income	\$ 1,228,737	\$ 899,101	\$ 652,984
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	319,394	286,826	254,657
Deferred income tax provision	(9,505)	(43,195)	(12,357)
Impairment, closure costs, and asset disposals	37,025	20,738	17,086
Provision for credit losses	1,570	(760)	493
Stock-based compensation expense	124,016	98,030	176,392
Other	(13,080)	(16,202)	(4,599)
Changes in operating assets and liabilities:			
Accounts receivable	(11,216)	(14,026)	(1,687)
Inventory	(3,649)	(3,011)	(6,392)
Prepaid expenses and other current assets	(39,211)	(14,660)	(26,826)
Operating lease assets	254,241	234,273	223,837
Other assets	4,204	(346)	3,993
Accounts payable	5,313	18,208	21,440
Accrued payroll and benefits	57,048	9,864	(44,555)
Accrued liabilities	3,188	(27,964)	10,997
Unearned revenue	35,685	33,374	34,387
Income tax payable/receivable	(5,237)	46,262	193,379
Operating lease liabilities	(214,477)	(207,186)	(207,164)
Other long-term liabilities	9,431	3,853	(3,984)
Net cash provided by operating activities	<u>1,783,477</u>	<u>1,323,179</u>	<u>1,282,081</u>
Investing activities			
Purchases of leasehold improvements, property and equipment	(560,731)	(479,164)	(442,475)
Purchases of investments	(1,115,131)	(614,416)	(429,350)
Maturities of investments	729,853	263,548	345,748
Proceeds from sale of equipment	-	-	4,035
Net cash used in investing activities	<u>(946,009)</u>	<u>(830,032)</u>	<u>(522,042)</u>
Financing activities			
Acquisition of treasury stock	(592,349)	(830,140)	(466,462)
Tax withholding on stock-based compensation awards	(69,146)	(98,970)	(79,870)
Other financing activities	843	(294)	(2,274)
Net cash used in financing activities	<u>(660,652)</u>	<u>(929,404)</u>	<u>(548,606)</u>
Effect of exchange rate changes on cash, cash equivalents and restricted cash	381	(1,007)	(1,039)
Net change in cash, cash equivalents, and restricted cash	177,197	(437,264)	210,394
Cash, cash equivalents, and restricted cash at beginning of year	408,966	846,230	635,836
Cash, cash equivalents, and restricted cash at end of year	<u>\$ 586,163</u>	<u>\$ 408,966</u>	<u>\$ 846,230</u>
Supplemental disclosures of cash flow information			
Income taxes paid (refunded)	\$ 400,229	\$ 275,796	\$ (17,831)
Purchases of leasehold improvements, property and equipment accrued in accounts payable and accrued liabilities	\$ 76,415	\$ 72,021	\$ 63,802
Acquisition of treasury stock accrued in accounts payable and accrued liabilities	\$ 5,643	\$ 4,497	\$ 7,695

See accompanying notes to consolidated financial statements.

CHIPOTLE MEXICAN GRILL, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(dollar and share amounts in thousands, unless otherwise specified)

1. Description of Business and Summary of Significant Accounting Policies

In this annual report on Form 10-K, Chipotle Mexican Grill, Inc., a Delaware corporation, together with its subsidiaries, is collectively referred to as “Chipotle,” “we,” “us,” or “our.”

We develop and operate restaurants that serve a relevant menu of burritos, burrito bowls, quesadillas, tacos, and salads, made using fresh, high-quality ingredients. As of December 31, 2023, we operated 3,437 restaurants, including 3,371 Chipotle restaurants within the United States, and 66 international Chipotle restaurants. In the current year we closed all non-Chipotle restaurants. We manage our U.S. operations based on eight regions and aggregate our operations to one reportable segment.

Principles of Consolidation and Basis of Presentation

Our consolidated financial statements include our accounts, our wholly and majority owned subsidiaries and investees we control after elimination of all intercompany accounts and transactions.

Management Estimates

The preparation of financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities as of the date of the financial statements, as well as the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates under different assumptions or conditions.

Cash and Cash Equivalents

We consider highly liquid investment instruments purchased with an initial maturity of three months or less to be cash equivalents. Amounts receivable from credit card companies are also considered cash equivalents as they are both short-term and highly liquid in nature. We maintain cash and cash equivalent balances that exceed federally-insured limits with a number of financial institutions.

Restricted Cash

We maintain certain cash balances restricted as to withdrawal or use. Restricted cash assets are primarily insurance-related restricted trust assets.

Accounts Receivable

Accounts receivable primarily consists of receivables from third party gift card distributors, delivery partners, insurance liabilities covered by third-party insurance carriers and vendor rebates.

Allowance for Credit Losses

We closely monitor accounts receivable and held to maturity investment balances and estimate the allowance for credit losses when lifetime credit losses are expected by management. Our estimate is based on historical collection experience, external market data and other factors, including those related to current market conditions and events. We do not recognize a reserve for expected credit losses related to our U.S. Treasury security investments as management has concluded there is no risk of non-payment.

As of December 31, 2023 and 2022, our allowance for credit losses was \$2,742 and \$1,180, respectively.

Inventory

Inventory, consisting principally of food, beverages, and supplies, is valued at the lower of first-in, first-out cost or net realizable value.

Equity Method Investments

Investments are accounted for under the equity method if we are able to exercise significant influence, but not control, over an investee. Our share of the earnings or losses as reported by the investees is included in interest and other income, net on the consolidated statements of income and comprehensive income. The investments are evaluated for impairment annually and when facts and circumstances indicate that the carrying value may not be recoverable. If a decline in fair value is determined to be other-than-temporary, an impairment charge is recorded in interest income and other income, net on our consolidated statements of income and comprehensive income.

Investments

Investments classified as trading securities are carried at fair value with any unrealized gain or loss being recorded in interest and other income, net on the consolidated statements of income and comprehensive income. Investments classified as available-for-sale are carried at fair value with unrealized gains and losses, net of tax, included as a component of other comprehensive income (loss), net of income taxes on the consolidated statements of income and comprehensive income. Held-to-maturity securities are carried at amortized cost. Non-marketable equity investments are measured at cost, less impairments, if any, plus or minus changes resulting from observable price changes in orderly transactions for the identical or similar investment of the same issuer. These gains or losses are included in interest and other income, net on the consolidated statements of income and comprehensive income.

Impairment charges on investments are recognized in interest and other income, net on the consolidated statements of income and comprehensive income when management believes the decline in the fair value of the investment is other-than-temporary.

Fair Value Measurements

Fair value is the price we would receive to sell an asset or pay to transfer a liability (exit price) in an orderly transaction between market participants. For assets and liabilities recorded or disclosed at fair value, we determine fair value based on the following:

Level 1: Quoted prices in active markets for identical assets or liabilities that the entity has the ability to access.

Level 2: Observable inputs other than prices included in Level 1, such as quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated with observable market data.

Level 3: Unobservable inputs for the asset or liability. This includes certain pricing models, discounted cash flow methodologies and similar techniques that use significant unobservable inputs.

Foreign Currency Translation

The functional currency of our foreign entities is the currency of the primary economic environment in which the entity operates. The operations, assets, and liabilities of our entities outside the U.S. are initially measured using the functional currency of that entity. Gains and losses arising from the impact of foreign currency exchange rate fluctuations on transactions in foreign currency are included as a separate component of other comprehensive income (loss), net of income taxes on the consolidated statements of income and comprehensive income. Assets and liabilities of these foreign entities are translated at exchange rates in effect as of the balance sheet date. Income and expense accounts are translated monthly using average monthly exchange rates. Resulting translation adjustments are recorded in accumulated other comprehensive loss on the consolidated balance sheets.

Leasehold Improvements, Property and Equipment

Leasehold improvements, property and equipment are recorded at cost. Internal costs directly associated with the acquisition, development and construction of a restaurant are capitalized. During the years ended December 31, 2023, 2022 and 2021, we capitalized \$15,385, \$12,695, and \$10,870 of internal costs, respectively. Expenditures for refurbishments and improvements that significantly add to the productivity capacity or extend the useful life are capitalized, while expenditures for maintenance and repairs are expensed as incurred. Depreciation is calculated using the straight-line method over the estimated useful lives of the assets. Leasehold improvements are amortized over the shorter of the lease term, which generally includes option periods that are reasonably certain, or the estimated useful lives of the assets. Upon retirement or disposal of assets, the accounts are relieved of cost and accumulated depreciation and any related gain or loss is reflected in impairment, closure costs, and asset disposals in the consolidated statements of income and comprehensive income. Assets to be disposed of are reported at the lower of their carrying amount or fair value less estimated costs to sell.

At least annually, or when impairment indicators are present, we evaluate, and adjust when necessary, the estimated useful lives of leasehold improvements, property and equipment. The changes in estimated useful lives did not have a material impact on depreciation in any period. The estimated useful lives are:

Leasehold improvements and buildings	3-20 years
Furniture and fixtures	4-7 years
Equipment	3-10 years

Leases

The majority of our operating leases consist of restaurant locations and office space. We determine if a contract contains a lease at inception. Our leases generally have remaining terms of 1-20 years and most include options to extend the leases for additional 5-year periods. Generally, the lease term is the minimum of the noncancelable period of the lease or the lease term inclusive of reasonably certain renewal periods up to a term of 20 years.

We recognize an operating lease asset and operating lease liability for each lease with a contractual term greater than 12 months at the time of lease inception. We do not record leases with an initial term of 12 months or less on our consolidated balance sheet but continue to record rent expense on a straight-line basis over the lease term.

Operating lease assets and liabilities are recognized at the lease commencement date, which is the date we control the use of the property. Operating lease liabilities represent the present value of lease payments not yet paid. We made the policy election to combine lease and non-lease components. We consider fixed CAM part of our fixed future lease payments; therefore, fixed CAM is also included in our lease liability. To determine the present value of lease payments not yet paid, we estimate incremental borrowing rates corresponding to the lease term including reasonably certain renewal periods. As we have no outstanding debt nor committed credit facilities, secured or otherwise, we estimate this rate based on prevailing financial market conditions, comparable company and credit analysis, and management judgment.

Total lease costs, which are recorded primarily as occupancy costs, include fixed operating lease costs, variable lease costs and short-term lease costs. Most of our real estate leases require we pay certain expenses, such as CAM costs, real estate taxes and insurance, of which the fixed portion is included in operating lease costs. We recognize operating lease costs on a straight-line basis over the lease term. In addition to the above costs, variable lease costs also include amounts based on a percentage of gross sales in excess of specified levels and are recognized when probable and are not included in determining the present value of our operating lease liability.

Operating lease assets represent our right to use an underlying asset and are based upon the operating lease liabilities adjusted for prepayments, initial direct costs, lease incentives, and impairment of operating lease assets. For operating leases, operating lease assets are reduced over the lease term by the recognized straight-line lease expense less the amount of accretion of the lease liability. Additionally, tenant incentives used to fund leasehold improvements are generally recognized when earned and reduce our right-of-use asset related to the lease. These are amortized through the operating lease asset as reductions of expense over the lease term.

Our lease agreements do not contain any material residual value guarantees or material restrictive covenants. We have not entered into any leases with related parties.

Goodwill

Goodwill is not subject to amortization, but instead is tested for impairment annually in the fourth quarter, or more frequently when impairment indicators are present, and we are required to record any necessary impairment adjustments. Impairment is measured as the excess of the carrying value over the fair value of the goodwill. No impairment charges were recognized on goodwill for the years ended December 31, 2023, 2022, and 2021.

Other Assets

Other assets consist primarily of a rabbi trust as described further in [Note 4. "Fair Value Measurements,"](#) software as a service implementation costs where the service period is greater than one year, an equity method investment described further in [Note 5. "Equity Investments"](#) and transferable liquor licenses.

Insurance Liability

We are self-insured for a significant portion of our employee health benefits programs, and carry significant retentions for risks and associated liabilities with respect to workers' compensation, general liability, property and auto damage, employment practices liability, cyber liability and directors' and officers' liability. Predetermined loss limits have been arranged with third party insurance companies to limit exposure to these claims. We record a liability that represents our estimated cost of claims incurred and unpaid as of the balance sheet date. Our estimated liability is not discounted and is based on a number of assumptions and factors, including historical trends, actuarial assumptions and economic conditions, and is closely monitored and adjusted when warranted by changing circumstances.

Reserves/Contingencies for Litigation and Other Matters

We are involved in various claims and legal actions that arise in the ordinary course of business. We record an accrual for legal contingencies when we determine that it is probable that we have incurred a liability and we can reasonably estimate the amount of the loss.

Income Taxes

We compute income taxes using the asset and liability method, under which deferred income tax assets and liabilities are recognized based on the differences between the financial reporting bases and the respective tax bases of assets and liabilities. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which we expect the temporary differences to reverse. Any effects of changes in income tax rates or tax laws are included in the provision for income taxes in the period that includes the enactment date.

We routinely assess the realizability of our deferred tax assets by jurisdiction and may record a valuation allowance if, based on all available positive and negative evidence, we determine that some portion of the deferred tax assets may not be realized prior to expiration. If we determine that we may be able to realize our deferred tax assets in the future in excess of their net recorded amount, we would make an adjustment to the deferred tax asset valuation allowance, which would reduce the provision for income taxes during the period in which the determination was made that the deferred tax asset can be realized.

We evaluate our tax filing positions and recognize a tax benefit from an uncertain tax position only if it is more likely than not that based on its technical merits the tax position will be sustained upon examination by the relevant taxing authorities, including resolutions of any related appeals or litigation processes. The tax benefits recognized in the financial statements from such a position are measured based on the largest tax benefit that has a greater than 50% likelihood of being realized upon settlement with a taxing authority. For uncertain tax positions that do not meet this threshold, we record a related tax reserve in the period in which it arises. We adjust our unrecognized tax benefit liability and provision for income taxes in the period in which the uncertain tax position is effectively settled, the statute of limitations expires for the relevant taxing authority to examine the tax position or when new information becomes available that requires a change in recognition and/or measurement of the liability.

We recognize interest to be paid on an underpayment of income taxes in interest expense and any related statutory penalties in the provision for income taxes in our consolidated statements of income and comprehensive income. Accrued interest and penalties are included within the related tax reserve on our consolidated balance sheets.

Revenue Recognition

We generally recognize revenue, net of discounts and incentives, when payment is tendered at the point of sale. We report revenue net of sales-related taxes collected from customers and remitted to governmental taxing authorities. Food and beverage revenue primarily relates to the sale of food and beverages. Delivery service revenue is comprised of delivery and related service fees charged to customers on sales made through Chipotle's app and website.

Delivery

We offer our customers delivery in almost all of our geographic regions. Delivery services are fulfilled by third-party service providers. In some cases, we make delivery sales through our website Chipotle.com or the Chipotle App ("White Label Sales"). In other cases, we make delivery sales through a non-Chipotle owned channel, such as the delivery partner's website or mobile app ("Marketplace Sales"). With respect to White Label Sales, we control the delivery services and generally recognize revenue, including delivery fees, when the delivery partner transfers food to the customer. For these sales, we receive payment directly from the customer at the time of sale. With respect to Marketplace Sales, we generally recognize revenue, excluding delivery fees collected by the delivery partner, when control of the food is transferred to the delivery partner. We receive payment from the delivery partner subsequent to the transfer of food and the payment terms are short-term in nature.

Gift Cards

We sell gift cards, which do not have expiration dates and we do not deduct non-usage fees from outstanding gift card balances. Gift card balances are initially recorded as unearned revenue. We recognize revenue from gift cards when the gift card is redeemed by the customer. Historically, the majority of gift cards are redeemed within one year. In addition, a portion of gift cards are not expected to be redeemed and will be recognized as breakage over time in proportion to gift card redemptions. The gift card breakage rate is based on company and program specific information, including historical redemption patterns, and expected remittance to government agencies under unclaimed property laws, if applicable. We evaluate our gift card breakage rate estimate annually, or more frequently as circumstances warrant, and apply that rate to gift card redemptions. Gift card liability balances are typically highest at the end of each calendar year following increased gift card sales during the holiday season; accordingly, revenue recognized from gift card liability balances is highest in the first quarter of each calendar year.

Chipotle Rewards

We have a loyalty program called Chipotle Rewards. Eligible customers who enroll in the program generally earn points for every dollar spent.

We may also periodically offer promotions, which typically provide the customer with the opportunity to earn bonus points or other rewards. Customers may redeem earned points for various rewards, which are primarily comprised of free food and beverage items. Earned rewards generally expire one month to two months after they are issued, and points generally expire if an account is inactive for a period of six months.

We defer revenue associated with the estimated selling price of points or rewards earned by customers as each point or reward is earned, net of points or rewards we do not expect to be redeemed. The estimated selling price of each point or reward earned is based on the estimated value of the product for which the reward is expected to be redeemed. Our estimate of points and rewards we expect to be redeemed is based on historical and other company specific data. The costs associated with rewards redeemed are primarily included in food, beverage, and packaging on our consolidated statements of income and comprehensive income.

We evaluate Chipotle Rewards point breakage annually, or more frequently as circumstances warrant. The result of this annual breakage assessment did not have a material impact on our consolidated financial statements.

We recognize revenue associated with Chipotle Rewards within food and beverage revenue on the consolidated statements of income and comprehensive income when a customer redeems an earned reward. Deferred revenue associated with Chipotle Rewards is included in unearned revenue on our consolidated balance sheets.

Food, Beverage and Packaging Costs

Food, beverage and packaging costs include inventory, warehousing and related purchasing and distribution costs.

Other Operating Costs

Other operating costs include, among other items, marketing and promotional costs, delivery expense, bank and credit card processing fees, restaurant utilities, technology costs, and maintenance costs.

Consideration Received from Vendors

We receive consideration for a variety of vendor-sponsored programs, such as volume rebates and promotions. Vendor consideration is recorded as a reduction of food, beverage and packaging or other operating costs on our consolidated statements of income and comprehensive income depending on the classification of the related costs.

Advertising, Marketing and Promotional Costs

Advertising, marketing and promotional costs are expensed as incurred and totaled \$264,085, \$250,673 and \$222,091 for the years ended December 31, 2023, 2022 and 2021, respectively. Advertising, marketing and promotional costs include costs related to free food which a customer does not need to make a purchase to earn. These costs are included in other operating costs on the consolidated statements of income and comprehensive income.

Stock-Based Compensation

During 2023, we issued shares as part of employee compensation pursuant to the Chipotle Mexican Grill, Inc. 2022 Stock Incentive Plan (the “2022 Incentive Plan”). SOSARs and stock awards generally vest equally on the second and third anniversaries of the grant date, and SOSARs expire after seven years. Stock-based compensation expense is generally recognized on a straight-line basis for each separate vesting portion. Compensation expense related to employees eligible to retire and retain full rights to the awards is recognized over 12 months which coincides with the service period required to earn the full award. We estimate forfeitures based on historical data when determining the amount of stock-based compensation costs to be recognized in each period. We have also granted stock awards with performance vesting conditions and/or market vesting conditions. Stock awards with performance or market vesting conditions generally vest based on our achievement versus stated targets or criteria over a three-year performance and service period. Performance goals are determined by the Board and include measures such as comparable restaurant sales, average restaurant operating margin, restaurant cash flow, new restaurant unit growth, and total shareholder return relative to our peer group. Compensation expense on stock awards subject to performance conditions, which is based on the quantity of awards we have determined are probable of vesting, is recognized over the longer of the estimated performance goal attainment period or time vesting period. Compensation expense is recognized ratably for awards subject to market conditions regardless of whether the market condition is satisfied, provided that the requisite service has been met. Some stock-based compensation awards are made to employees involved in our new restaurant development activities, and expense for these awards is recognized as capitalized development and included in leasehold improvements, property and equipment, net, on the consolidated balance sheets.

Restaurant Pre-Opening Costs

Pre-opening costs, including rent, wages, benefits and travel for training and opening teams, food and other restaurant operating costs, are expensed as incurred prior to a restaurant opening for business, and are included in operating expenses on the consolidated statements of income and comprehensive income.

Impairment of Long-Lived Assets

Long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Long-lived assets are grouped at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. For restaurant assets we test impairment at the individual restaurant asset group level, which includes leasehold improvements, property and equipment and operating lease assets.

The fair value measurement for asset impairment is generally based on Level 3 inputs. See “Fair Value Measurements” above for a description of level inputs. We first compare the carrying value of the asset (or asset group, referred interchangeably throughout as asset) to the asset’s estimated future undiscounted cash flows. If the estimated undiscounted future cash flows are less than the carrying value of the asset, we determine if we have an impairment loss by comparing the carrying value of the asset to the asset’s estimated fair value. The estimated fair value of the asset is generally determined using the income approach to measure the fair value, which is based on the present value of estimated future cash flows. Key inputs to the income approach for restaurant assets include the discount rate, projected restaurant revenues and expenses, and sublease income if we are closing the restaurant. In certain cases, management uses other market information, when available, to estimate the fair value of an asset. The impairment charges represent the excess of each asset’s carrying amount over its estimated fair value and are allocated among the long-lived asset or assets of the group.

Earnings per Share

Basic earnings per share is calculated by dividing income available to common shareholders by the weighted-average number of shares of common stock outstanding during each period. Diluted earnings per share (“diluted EPS”) is calculated using income available to common shareholders divided by diluted weighted-average shares of common stock outstanding during each period. Potentially dilutive securities include shares of common stock underlying SOSARs and non-vested stock awards (collectively “stock awards”). Diluted EPS considers the impact of potentially dilutive securities except in periods in which there is a loss because the inclusion of the potential common shares would have an anti-dilutive effect. Stock awards are excluded from the calculation of diluted EPS in the event they are subject to performance conditions or are antidilutive.

Recently Issued Accounting Standards

In November 2023, the FASB issued ASU No. 2023-07, “Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosure.” The ASU updates reportable segment disclosure requirements, primarily through requiring enhanced disclosures about significant segment expenses and information used to assess segment performance. The ASU is effective for fiscal years beginning after December 15, 2023, with early adoption permitted. We are currently evaluating the impact of adopting this ASU on our disclosures.

In December 2023, the FASB issued ASU No. 2023-09, “Income Taxes (Topic 740): Improvements to Income Tax Disclosures.” The ASU includes amendments requiring enhanced income tax disclosures, primarily related to standardization and disaggregation of rate reconciliation categories and income taxes paid by jurisdiction. The guidance is effective for fiscal years beginning after December 15, 2024, with early adoption permitted, and should be applied either prospectively or retrospectively. We are currently evaluating the impact of adopting this ASU on our disclosures.

We reviewed all other recently issued accounting pronouncements and concluded that they were either not applicable or not expected to have a significant impact to the consolidated financial statements.

2. Supplemental Balance Sheet Information

Prepaid expenses and other current assets were as follows:

	December 31,	
	2023	2022
Prepaid expenses	\$ 97,670	\$ 69,167
Other current assets	19,792	17,245
Prepaid expenses and other current assets	<u>\$ 117,462</u>	<u>\$ 86,412</u>

Leasehold improvements, property and equipment, net were as follows:

	December 31,	
	2023	2022
Land	\$ 12,943	\$ 12,943
Leasehold improvements and buildings	2,595,866	2,317,277
Furniture and fixtures	267,294	242,166
Equipment	1,114,236	989,895
Construction in Progress	161,721	123,453
Leasehold improvements, property and equipment, gross	<u>4,152,060</u>	<u>3,685,734</u>
Accumulated depreciation	<u>(1,982,022)</u>	<u>(1,734,587)</u>
Leasehold improvements, property and equipment, net	<u>\$ 2,170,038</u>	<u>\$ 1,951,147</u>

Accrued payroll and benefits were as follows:

	December 31,	
	2023	2022
Workers' compensation liability	\$ 30,520	\$ 27,531
Accrued payroll, bonuses and taxes	170,251	118,638
Other accrued payroll and benefits	26,766	24,287
Accrued payroll and benefits	<u>\$ 227,537</u>	<u>\$ 170,456</u>

Accrued liabilities were as follows:

	December 31,	
	2023	2022
Sales and use tax payable	\$ 42,071	\$ 35,567
General, product and automobile insurance reserves	30,169	29,544
Other accrued liabilities	75,448	82,428
Accrued liabilities	<u>\$ 147,688</u>	<u>\$ 147,539</u>

3. Revenue Recognition

Gift Cards

The gift card liability included in unearned revenue on the consolidated balance sheets was as follows:

	December 31,	
	2023	2022
Gift card liability	<u>\$ 164,930</u>	<u>\$ 145,014</u>

Revenue recognized from the redemption of gift cards that was included in unearned revenue at the beginning of the year was as follows:

	Year ended December 31,		
	2023	2022	2021
Revenue recognized from gift card liability balance at the beginning of the year	<u>\$ 61,389</u>	<u>\$ 59,175</u>	<u>\$ 48,605</u>

Chipotle Rewards

Changes in our Chipotle Rewards liability included in unearned revenue on the consolidated balance sheets were as follows:

	Year ended December 31,		
	2023	2022	2021
Chipotle Rewards liability, beginning balance	\$ 38,057	\$ 25,572	\$ 22,337
Revenue deferred	135,490	121,406	106,759
Revenue recognized	(128,797)	(108,921)	(103,524)
Chipotle Rewards liability, ending balance	<u>\$ 44,750</u>	<u>\$ 38,057</u>	<u>\$ 25,572</u>

4. Fair Value Measurements

Assets and Liabilities Measured at Fair Value on a Recurring Basis

The carrying value of our cash and cash equivalents, restricted cash, accounts receivable and accounts payable approximate fair value because of their short-term nature.

Our held-to-maturity investments are comprised of U.S. Treasury securities and a corporate debt security, which are held at amortized cost. We also have investments in convertible notes receivable which are held at fair-value. Additionally, we maintain a deferred compensation plan with related assets held in a rabbi trust.

The following tables show our cash, cash equivalents, and debt investments by significant investment category as of December 31, 2023 and 2022:

December 31, 2023							
	Adjusted cost	Unrealized Gains	Unrealized Losses	Fair Value	Cash and Cash Equivalents	Current Investments	Long-term Investments
Cash	\$ 128,458	\$ -	\$ -	\$ 128,458	\$ 128,458	\$ -	\$ -
Level 1 ⁽¹⁾							
Money market funds	355,872	-	-	355,872	355,872	-	-
Time deposits	76,279	-	-	76,279	76,279	-	-
U.S. Treasury securities	1,200,658	4,352	4,083	1,200,927	-	731,339	469,319
Corporate debt securities	19,755	13	7	19,761	-	-	19,755
Subtotal	<u>1,652,564</u>	<u>4,365</u>	<u>4,090</u>	<u>1,652,839</u>	<u>432,151</u>	<u>731,339</u>	<u>489,074</u>
Level 3							
Corporate debt security ⁽²⁾	17,401	-	27	17,374	-	999	16,402
Notes receivable ⁽³⁾	14,500	1,289	141	15,648	-	2,500	13,148
Subtotal	<u>31,901</u>	<u>1,289</u>	<u>168</u>	<u>33,022</u>	<u>-</u>	<u>3,499</u>	<u>29,550</u>
Total	<u>\$ 1,812,923</u>	<u>\$ 5,654</u>	<u>\$ 4,258</u>	<u>\$ 1,814,319</u>	<u>\$ 560,609</u>	<u>\$ 734,838</u>	<u>\$ 518,624</u>
December 31, 2022							
	Adjusted cost	Unrealized Gains	Unrealized Losses	Fair Value	Cash and Cash Equivalents	Current Investments	Long-term Investments
Cash	\$ 75,829	\$ -	\$ -	\$ 75,829	\$ 75,829	\$ -	\$ -
Level 1 ⁽¹⁾							
Money market funds	232,477	-	-	232,477	232,477	-	-
Time deposits	75,694	-	-	75,694	75,694	-	-
U.S. Treasury securities	847,354	63	14,355	833,062	-	515,136	332,218
Subtotal	<u>1,155,525</u>	<u>63</u>	<u>14,355</u>	<u>1,141,233</u>	<u>308,171</u>	<u>515,136</u>	<u>332,218</u>
Level 3							
Corporate debt security ⁽²⁾	17,900	-	700	17,200	-	-	17,900
Note receivable ⁽³⁾	4,860	222	-	5,082	-	-	5,082
Subtotal	<u>22,760</u>	<u>222</u>	<u>700</u>	<u>22,282</u>	<u>-</u>	<u>-</u>	<u>22,982</u>
Total	<u>\$ 1,254,114</u>	<u>\$ 285</u>	<u>\$ 15,055</u>	<u>\$ 1,239,344</u>	<u>\$ 384,000</u>	<u>\$ 515,136</u>	<u>\$ 355,200</u>

⁽¹⁾ Level 1: Quoted prices in active markets for identical assets or liabilities that the entity has the ability to access.

⁽²⁾ The fair value of the corporate debt security is measured using Level 3 (unobservable) inputs. We determined the fair value for the corporate debt security using an internally-developed valuation model and unobservable inputs include credit and liquidity spreads and effective maturity.

(3) We have elected to measure our investments in convertible notes receivable of private companies at fair value under the fair value option. The fair value of the notes receivable is measured using Level 3 (unobservable) inputs. We determined the fair value for the notes receivable using an internally-developed valuation model and unobservable inputs include estimates of the equity value of the underlying business and the timing and probability of future financing events.

Rabbi Trust

We have elected to fund certain deferred compensation plan obligations, as described further in [Note 8. “Stock-Based Compensation and Employee Benefit Plans”](#), through a rabbi trust, the assets of which are designated as trading securities. The rabbi trust is subject to creditor claims in the event of insolvency, but the assets held in the rabbi trust are not available for general corporate purposes. Amounts in the rabbi trust are invested in mutual funds, consistent with the investment choices selected by participants in their Deferred Plan accounts, which are designated as trading securities, carried at fair value, and are included in other assets on the consolidated balance sheets. We record trading gains and losses, along with the offsetting amount related to the increase or decrease in deferred compensation to reflect our exposure to liabilities for payment under the deferred plan in general and administrative expenses on the consolidated statements of income and comprehensive income.

Assets and Liabilities Measured at Fair Value on a Nonrecurring Basis

Assets recognized or disclosed at fair value on the consolidated financial statements on a nonrecurring basis include items such as leasehold improvements, property and equipment, certain long-term investments, operating lease assets, other assets, and goodwill. These assets are measured at fair value whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable or if there has been an observable price change of a non-marketable equity security.

The following table summarizes our restaurant and office assets measured at fair value by hierarchy level on a nonrecurring basis:

	Level	Carrying Value December 31,	
		2023	2022
Leasehold improvements, property and equipment, net	3	\$ 3,571	\$ 264
Operating lease assets	3	4,505	713
Total		\$ 8,076	\$ 977

Fair value of these assets was measured using Level 3 inputs (unobservable inputs for the asset or liability). Unobservable inputs include the discount rate, projected restaurant revenues and expenses, and sublease income if we are closing and intend to sublease the restaurant or office space. For the years ended December 31, 2023, 2022 and 2021, we recorded asset impairments related to restaurants and offices of \$12,613, \$2,387 and \$4,727, respectively. Costs are recorded within impairment, closure costs, and asset disposals on the consolidated statements of income and comprehensive income. Carrying value after the impairment charges approximates fair value.

5. Equity Investments

	December 31,	
	2023	2022
Equity method investments	\$ 8,896	\$ 11,697
Other investments	45,864	32,855
Total	\$ 54,760	\$ 44,552

Equity Method Investments

As of December 31, 2023, we owned 4,325 shares of common stock of Tractor Beverages, Inc. (“Tractor”). Our investment represents ownership of approximately 10.2% of Tractor, and we have invested total cash consideration of \$10,000. As we are a significant customer of Tractor and maintain board representation, we are accounting for our investment under the equity method. There were no impairment charges for the year ended December 31, 2023 or 2022 associated with this equity method investment. The investment in common stock is included within other assets on the consolidated balance sheets with a carrying value of \$8,896 and \$11,697 as of December 31, 2023 and December 31, 2022, respectively. Refer to [Note 13. “Related Party Transactions”](#) for related party disclosures.

Other Investments

As of December 31, 2023, we hold warrants (the “Tractor Warrants”) to purchase 2,162 shares of common stock of Tractor. Tractor is a privately held company, and as such, the Tractor Warrants represent non-marketable equity securities. The investment is included within long-term investments on the consolidated balance sheets with a carrying value of \$8,675 and \$10,747 as of December 31, 2023 and December 31, 2022, respectively.

As of December 31, 2023, we own 766 shares of the Series C Preferred Stock of Nuro, Inc. (“Nuro”). Our investment represents a minority interest and we have determined that we do not have significant influence over Nuro. Nuro is a privately held company, and as such, the preferred shares comprising our investment are illiquid and fair value is not readily determinable. As of December 31, 2023, we have recognized a cumulative gain of \$5,968 related to our investment in Nuro due to observable transactions in prior periods. The investment is included within long-term investments on the consolidated balance sheets with a carrying value of \$15,968 as of December 31, 2023 and December 31, 2022, respectively.

As of December 31, 2023, we held additional investments in other entities through the Cultivate Next Fund. These additional investments are included within long-term investments on the consolidated balance sheets with a carrying value of \$21,221 and \$6,140 as of December 31, 2023 and December 31, 2022, respectively.

6. Income Taxes

Income before income taxes, classified by source of income, was as follows:

	Year ended December 31,		
	2023	2022	2021
Domestic	\$ 1,637,756	\$ 1,192,004	\$ 818,057
Foreign	(17,250)	(10,473)	(5,294)
Income before income taxes	\$ 1,620,506	\$ 1,181,531	\$ 812,763

The components of the provision for income taxes were as follows:

	Year ended December 31,		
	2023	2022	2021
Current tax:			
U.S. Federal	\$ (314,757)	\$ (246,210)	\$ (156,447)
U.S. State and Local	(85,355)	(79,041)	(15,351)
Foreign	(1,162)	(374)	(338)
	<u>(401,274)</u>	<u>(325,625)</u>	<u>(172,136)</u>
Deferred tax:			
U.S. Federal	7,992	23,502	33,004
U.S. State and Local	1,532	19,940	(20,404)
Foreign	7,606	(3,771)	7,229
	<u>17,130</u>	<u>39,671</u>	<u>19,829</u>
Valuation allowance	(7,625)	3,524	(7,472)
Provision for income taxes	<u>\$ (391,769)</u>	<u>\$ (282,430)</u>	<u>\$ (159,779)</u>

The effective tax rate differs from the statutory tax rates as follows:

	Year ended December 31,		
	2023	2022	2021
Statutory U.S. federal income tax rate	21.0 %	21.0 %	21.0 %
State income tax, net of related federal income tax benefit	4.0	3.8	3.5
Federal tax credits	(1.0)	(1.0)	(1.6)
Executive compensation disallowed	0.8	0.8	2.9
Valuation allowance	0.3	0.2	0.3
Uncertain tax position reserves	0.4	0.3	-
Other	0.2	0.6	-
Return to provision and other discrete items	(0.2)	(0.1)	0.1
Equity compensation related adjustments	(1.3)	(1.7)	(4.7)
Federal net operating loss	-	-	(1.8)
Effective income tax rate	<u>24.2 %</u>	<u>23.9 %</u>	<u>19.7 %</u>

The effective tax rate for the year ended December 31, 2023, was higher than the effective tax rate for the year ended December 31, 2022, primarily due to a decrease in excess tax benefits related to option exercises and equity vesting in relation to income before taxes.

The components of the deferred income tax assets and liabilities for continuing operations were as follows:

	December 31,	
	2023	2022
Deferred income tax liability:		
Leasehold improvements, property and equipment, net	\$ 272,017	\$ 263,444
Goodwill and other assets	1,743	1,754
Operating lease assets	972,835	901,058
Total deferred income tax liability	<u>1,246,595</u>	<u>1,166,256</u>
Deferred income tax asset:		
Gift card liability	18,101	15,893
Capitalized transaction costs	323	323
Stock-based compensation and other employee benefits	50,954	45,129
Foreign net operating loss carry-forwards	32,252	24,799
State credits	1,838	3,151
Operating lease liabilities	1,038,911	962,815
Allowances, reserves and other	12,870	15,688
Capitalized research costs	25,990	17,415
Prepaid assets and other	6,637	4,685
State net operating loss carry-forwards	4,332	4,832
Valuation allowance	(34,722)	(27,097)
Total deferred income tax asset	<u>1,157,486</u>	<u>1,067,633</u>
Deferred income tax liabilities	<u>\$ 89,109</u>	<u>\$ 98,623</u>

Gross foreign net operating losses (“NOLs”) were \$149,891 and \$114,727 as of December 31, 2023 and 2022, respectively. Our foreign NOLs can be carried forward indefinitely.

Gross state NOLs available across all jurisdictions in which we operate were \$62,492 and \$73,327 as of December 31, 2023 and 2022, respectively. Our state NOLs expire over varying intervals in the future.

We had gross valuation allowances against certain foreign deferred tax assets of \$160,607 and \$124,609 as of December 31, 2023 and 2022, respectively. The increase in the valuation allowance was primarily due to the recording of a valuation allowance on various foreign tax attributes.

Unrecognized Tax Benefits

A reconciliation of the unrecognized tax benefits was as follows:

	Year ended December 31,		
	2023	2022	2021
Beginning of year	\$ 8,902	\$ 5,262	\$ 10,859
Increase resulting from prior year tax positions	7,561	3,937	180
Decrease resulting from prior year tax positions	(295)	-	(331)
Increase resulting from current year tax positions	783	312	1,387
Settlements with taxing authorities	(6)	-	-
Lapsing of statutes of limitations	(457)	(609)	(6,833)
End of year	<u>\$ 16,488</u>	<u>\$ 8,902</u>	<u>\$ 5,262</u>

Interest expense related to uncertain tax positions is recognized in interest and other income, net on the consolidated statements of income and comprehensive income. Penalties related to uncertain tax positions are recognized in provision for income taxes on the consolidated statements of income and comprehensive income. For the years ended December 31, 2023, 2022 and 2021, we recognized \$1,541, \$384 and \$180, respectively, in interest expense related to uncertain tax positions. These are gross amounts before any tax benefits and are included in other liabilities on the consolidated balance sheets. As of December 31, 2023 and 2022, we have accrued interest of \$2,026 and \$589, respectively.

The Internal Revenue Service (“IRS”) commenced an examination of our U.S. income tax returns for the tax year ended December 31, 2020 in the fourth quarter of 2022. The exam is still in progress. As of December 31, 2023, the IRS has not proposed any adjustments to our tax positions.

Our tax returns are currently under audit by the State of Pennsylvania for the tax years ended December 31, 2019, December 31, 2020 and December 31, 2021. As of December 31, 2023, the State of Pennsylvania has not proposed any adjustments to our tax positions. For the majority of states where we have a significant presence, we are no longer subject to tax examinations by tax authorities for tax years before 2019. Currently, we expect expirations of statutes of limitations, excluding indemnified amounts, on reserves of approximately \$481 within the next twelve months.

It is reasonably possible the amount of the unrecognized benefit with respect to certain unrecognized positions could significantly increase or decrease within the next twelve months and would have an impact on net income.

Inflation Reduction Act of 2022

On August 16, 2022, President Biden signed into law the Inflation Reduction Act of 2022, which includes provisions imposing a 15% alternative corporate minimum tax (“CAMT”), and a 1% excise tax on net stock repurchases made by publicly traded U.S. corporations, which are effective in taxable years beginning after December 31, 2022. The CAMT does not apply to the Company and the excise tax is immaterial to our financial statements as of December 31, 2023.

7. Shareholders’ Equity

We have had a stock repurchase program in place since 2008. As of December 31, 2023, we had \$424,107 authorized for repurchasing shares of our common stock, which includes the \$200,000 additional authorization approved by our Board of Directors on December 14, 2023. Shares we repurchased are being held in treasury stock until they are reissued or retired at the discretion of our Board of Directors.

During the years ended December 31, 2023, 2022, and 2021, shares of common stock at a total cost of \$69,146, \$98,970, and \$79,870, respectively, were netted and surrendered as payment for minimum statutory withholding obligations in connection with the vesting of outstanding stock awards. Shares surrendered by the participants in accordance with the applicable award agreements and plan are deemed repurchased by us but are not part of publicly announced share repurchase programs.

8. Stock-Based Compensation and Employee Benefit Plans

Pursuant to the 2022 Stock Incentive Plan, we grant stock options, SOSARs, RSUs, or PSUs to employees and non-employee directors. We issue shares of common stock upon the exercise of stock options and SOSARs, and the vesting of RSUs and PSUs.

We also have an employee stock purchase plan (“ESPP”), Defined Contribution Plan, and a Deferred Compensation Plan.

Stock-Based Compensation

Under the 2022 Stock Incentive Plan, 2,431 shares of common stock have been authorized and reserved for issuance to eligible participants, of which 2,165 shares were authorized for issuance but not issued or subject to outstanding awards as of December 31, 2023. For purposes of calculating the available shares remaining, each share issuable pursuant to outstanding full value awards, such as RSUs and PSUs, count as two shares, and each share underlying a stock option or SOSAR count as one share.

Total stock-based compensation expense was as follows:

	Year ended December 31,		
	2023	2022	2021
Stock-based compensation	\$ 126,686	\$ 99,821	\$ 178,703
Stock-based compensation, net of income taxes	\$ 107,210	\$ 84,928	\$ 159,972
Total capitalized stock-based compensation included in leasehold improvements, property and equipment, net on the consolidated balance sheets	\$ 2,670	\$ 1,791	\$ 2,311
Excess tax benefit on stock-based compensation recognized in provision for income taxes on the consolidated statements of income and comprehensive income	\$ 25,437	\$ 24,689	\$ 47,958

SOSARs

A summary of SOSAR activity was as follows (in thousands, except years and per share data):

	Shares	Weighted-Average Exercise Price per Share	Weighted-Average Remaining Contractual Life (Years)	Aggregate Intrinsic Value
Outstanding, January 1, 2023	355	\$ 1,053.84		\$ 142,916
Granted	77	1,640.78		
Exercised	(117)	722.87		
Forfeited or cancelled	(20)	1,579.77		
Outstanding, December 31, 2023	<u>295</u>	<u>1,302.60</u>	4.4	290,156
Exercisable, December 31, 2023	115	860.55	2.8	164,574
Vested and expected to vest, December 31, 2023	282	1,288.79	4.3	281,385

The total intrinsic value of SOSARs exercised during the years ended December 31, 2023, 2022, and 2021, was \$142,830, \$77,124, and \$498,399, respectively. Unrecognized stock-based compensation expense for SOSARs as of December 31, 2023 was \$28,196 and is expected to be recognized over a weighted-average period of 1.5 years. SOSARs expire 7 years after the day they were granted.

The weighted-average assumptions utilized in the Black-Scholes option-pricing model to estimate the fair value of SOSARs granted each year were as follows:

	2023	2022	2021
Risk-free interest rate	4.1 %	2.1 %	0.3 %
Expected life (years)	3.6	3.6	3.7
Expected dividend yield	0.0 %	0.0 %	0.0 %
Volatility	36.4 %	36.0 %	35.2 %
Weighted-average Black-Scholes fair value per share at date of grant	\$ 530.22	\$ 456.44	\$ 403.01

The risk-free interest rate is based on U.S. Treasury rates for instruments with similar terms, and the expected life assumption is based on our historical data. We have not paid dividends to date and do not plan to pay dividends in the near future. The volatility assumption is based on our historical data and implied volatility.

Non-Vested Stock Awards (RSUs)

A summary of RSU award activity was as follows (in thousands, except per share data):

	Shares	Weighted- Average Grant Date Fair Value per Share
Outstanding, January 1, 2023	55	\$ 1,396.78
Granted	37	1,666.18
Vested	(23)	1,211.81
Forfeited or cancelled	(9)	1,581.08
Outstanding, December 31, 2023	<u>60</u>	<u>1,604.25</u>
Vested and expected to vest, December 31, 2023	52	1,600.97

The weighted-average grant date fair value per RSU granted during the years ended December 31, 2022 and 2021, was \$1,559.73 and \$1,492.15, respectively. Unrecognized stock-based compensation expense for non-vested RSU stock awards we have determined are probable of vesting was \$33,680 as of December 31, 2023, and is expected to be recognized over a weighted-average period of 1.6 years. The fair value of shares earned as of the vesting date during the years ended December 31, 2023, 2022, and 2021, was \$39,464, \$33,959, and \$73,540, respectively.

Non-Vested Performance Stock Awards (PSUs)

A summary of PSU award activity was as follows (in thousands, except per share data):

	Shares	Weighted-Average Grant Date Fair Value per Share
Outstanding, January 1, 2023	69	\$ 1,194.80
Granted	24	1,606.91
Vested	(33)	857.00
Expired	(4)	1,562.35
Outstanding, December 31, 2023	<u>56</u>	<u>1,562.14</u>
Vested and expected to vest, December 31, 2023*	<u>114</u>	<u>1,557.11</u>

*The vested and expected to vest total above represents outstanding base PSUs, adjusted for expected payout amounts in line with current and future estimated performance levels.

The weighted-average fair value per PSU granted during the years ended December 31, 2022 and 2021, was \$1,569.39 and \$1,479.55, respectively. The unrecognized stock-based compensation expense for non-vested PSU stock awards we have determined are probable of vesting was \$69,610 as of December 31, 2023, and is expected to be recognized over a weighted-average period of 1.9 years. The fair value of shares earned as of the vesting date during the years ended December 31, 2023, 2022, and 2021, was \$110,794, \$177,293, and \$97,496, respectively.

During the year ended December 31, 2023, we awarded performance share awards that are subject to service, market, and performance vesting conditions. The quantity of shares that vest will range from 0% to 300% of the targeted number of shares based on performance factors related to restaurant cash flow dollars earned over a three-year period beginning on January 1, 2023, and gross new restaurant openings over the same three-year period. If the defined minimum targets are not met, then no shares will vest. Further, in no event may more than 100% of the target number of PSUs vest if our 3-year total shareholder return is below the 25th percentile of the constituent companies comprising the S&P 500 on the day of the grant.

During the year ended December 31, 2022, we awarded performance share awards that are subject to service, market, and performance vesting conditions. The quantity of shares that vest will range from 0% to 300% of the targeted number of shares based on performance factors related to restaurant cash flow dollars earned over a three-year period beginning on January 1, 2022. If the defined minimum targets are not met, then no shares will vest. Further, in no event may more than 100% of the target number of PSUs vest if our 3-year total shareholder return is below the 25th percentile of the constituent companies comprising the S&P 500 on the day of the grant.

During the year ended December 31, 2021, we awarded performance share awards that are subject to service, market, and performance vesting conditions. The quantity of shares that vest will range from 0% to 300% of the targeted number of shares based on performance factors related to our growth in comparable restaurant sales and average restaurant margin over a three-year period beginning on January 1, 2021. If the defined minimum targets are not met, then no shares will vest. Further, in no event may more than 100% of the target number of PSUs vest if our 3-year total shareholder return is below the 25th percentile of the constituent companies comprising the S&P 500 on the day of the grant.

On December 30, 2020, we modified the 2018 Performance Share Awards due to the impact that the COVID-19 pandemic had on the growth in comparable restaurant sales and restaurant margin relative to the trajectory of both of these performance factors prior to the pandemic, and also due to the significant shareholder value created over the performance period of the original award, the Compensation Committee of the Board of Directors modified the 2018 PSU award. This modification pertained to all seven recipients of this award, and resulted in incremental compensation expense of \$71,441, of which \$7,255 was recognized during the year ended December 31, 2022, and \$0 remained unamortized as of December 31, 2022. The incremental compensation cost is calculated by multiplying the number of incremental shares generated through the modification by the stock price on the modification date. The stock price on the modification date of December 30, 2020 was \$1,374.17. To receive all incremental shares generated through the modification, the employees had to remain employed through December 31, 2022, and the incremental shares vested in four installments over this period. The first two installments of the modification vested during 2021, which included the vesting of 33 PSUs, and the second two installments of the modification vested during 2022, which included the vesting of 16 PSUs. One employee terminated employment during July 2022, which resulted in the forfeiture of 1 PSU.

On July 27, 2022, we modified certain equity awards of an employee in connection with a separation agreement to allow short-term extension of vesting of these certain equity awards that would have otherwise vested within eight months of the separation date. This modification impacted one individual and resulted in incremental compensation expense of \$6,701, which was recognized in July 2022.

Employee Stock Purchase Plan

We also offer an ESPP. Employees become eligible to participate in the program after one year of service with Chipotle and may contribute up to 15% of their earnings, subject to an annual maximum dollar amount. The ESPP provides a quarterly offering period to purchase our common stock at a price of 92.5% of the lower of the fair market value on the first and last trading days of each offering period. A total of 250 shares were authorized for issuance within the ESPP, of which 248 were available for issuance as of December 31, 2023. For the year ended December 31, 2023, the number of shares issued were one and for the years ended December 31, 2022, and 2021, the number of shares issued each year under the ESPP were less than one.

Employee Benefit Plans

Defined Contribution Plan

We maintain the Chipotle Mexican Grill 401(k) Plan (“401(k) Plan”) for eligible U.S.-based employees. The 401(k) Plan allows participants to make cash contributions from payroll deductions. Employees become eligible to receive matching contributions after one year, and at least 1,000 hours, of service with Chipotle. We match 100% of the first 3% of pay contributed by each eligible employee and 50% on the next 2% of pay contributed each pay period (with an annual true-up) through cash contributions. For the years ended December 31, 2023, 2022, and 2021, matching contributions totaled approximately \$13,821, \$12,923, and \$10,527, respectively and are included in general and administrative expenses and labor dependent on employee classification on the consolidated statements of income and comprehensive income. Certain subsidiaries outside the U.S. also offer other similar benefits and are immaterial to the consolidated statements of income and comprehensive income.

Deferred Compensation Plan

We also maintain the Chipotle Mexican Grill, Inc. Supplemental Deferred Investment Plan (the “Deferred Plan”) for eligible employees. The Deferred Plan is a non-qualified plan that allows participants to make tax-deferred contributions that cannot be made under the 401(k) Plan because of Internal Revenue Service limitations. Participants’ earnings on contributions made to the Deferred Plan fluctuate with the actual earnings and losses of a variety of available investment choices selected by the participant. Total obligations under the Deferred Plan as of December 31, 2023 and 2022 were \$27,178 and \$21,140, respectively, and are included in other liabilities on the consolidated balance sheets and were fully funded as of December 31, 2023. We match 100% of the first 3% of pay contributed by each eligible employee and 50% on the next 2% of pay contributed once the 401(k) contribution limits are reached.

The following table summarizes estimated current and long-term material cash requirements for our deferred compensation plan as of December 31, 2023:

	Payments Due by Fiscal Year				
	Total	2024	2025-2026	2027-2028	Thereafter
Deferred compensation ⁽¹⁾	\$ 27,178	\$ 5,339	\$ 6,523	\$ 5,997	\$ 9,319

(1) Includes scheduled payments from our deferred compensation plan where payment dates are determinable for employed participants in accordance with the account’s election, and the assumption that active participants will retire at the age of 65 and begin distributions from their accounts at that time. This does not include future contributions, investment earnings, or future participants. Timing and amounts of payments may vary significantly.

9. Leases

The weighted-average remaining lease term and discount rate were as follows:

	December 31, 2023	December 31, 2022
Weighted-average remaining lease term (years)	13.7	13.8
Weighted-average discount rate	5.10%	4.77%

The components of lease cost were as follows:

	Classification	Year ended December 31,		
		2023	2022	2021
Operating lease cost	Occupancy, Other operating costs, General and administrative expenses and Pre-opening costs	\$ 436,313	\$ 397,112	\$ 364,314
Short-term lease cost	Other operating costs	519	633	256
Variable lease cost	Occupancy, Other operating costs, General and administrative expenses and Pre-opening costs	111,896	102,636	92,145
Sublease income	General and administrative expenses	(4,765)	(5,444)	(4,930)
Total lease cost		<u>\$ 543,963</u>	<u>\$ 494,937</u>	<u>\$ 451,785</u>

Supplemental disclosures of cash flow information related to leases were as follows:

	Year ended December 31,		
	2023	2022	2021
Cash paid for operating lease liabilities	\$ 421,591	\$ 386,238	\$ 359,391
Operating lease assets obtained in exchange for operating lease liabilities	\$ 521,759	\$ 425,243	\$ 577,273
Derecognition of operating lease assets due to terminations or impairment	\$ 6,862	\$ 14,718	\$ 5,765

Maturities of lease liabilities were as follows as of December 31, 2023:

	Operating Leases
2024	\$ 413,064
2025	450,092
2026	443,845
2027	436,937
2028	422,776
Thereafter	3,576,738
Total lease payments	<u>5,743,452</u>
Less: imputed interest	1,691,827
Operating lease liabilities (Current and Long-Term)	<u>\$ 4,051,625</u>

As of December 31, 2023, the total lease payments include \$2,515,107 related to options to extend lease terms that are reasonably certain of being exercised and exclude approximately \$599,015 of legally binding lease payments for leases signed but not yet commenced and \$12,737 of future sublease income.

We have six sale and leaseback transactions, which do not qualify for sale leaseback accounting due to fixed price renewal options prohibiting sale accounting. These transactions are accounted for under the financing method. Under the financing method, the assets remain on the consolidated balance sheets and the proceeds from the transactions are recorded as a financing liability. A portion of lease payments are applied as payments of deemed principal and imputed interest. The deemed landlord financing liability was \$774 and \$1,158 as of December 31, 2023, and 2022, respectively, with the current portion of the liability included in accrued liabilities, and the remaining portion included in other liabilities on the consolidated balance sheets.

10. Earnings Per Share

The following table sets forth the computations of basic and diluted earnings per share:

	Year ended December 31,		
	2023	2022	2021
Net income	\$ 1,228,737	\$ 899,101	\$ 652,984
Shares:			
Weighted-average number of common shares outstanding (for basic calculation)	27,555	27,851	28,132
Dilutive stock awards	155	211	379
Weighted-average number of common shares outstanding (for diluted calculation)	27,710	28,062	28,511
Basic earnings per share	\$ 44.59	\$ 32.28	\$ 23.21
Diluted earnings per share	\$ 44.34	\$ 32.04	\$ 22.90

The following stock awards were excluded from the calculation of diluted earnings per share:

	Year ended December 31,		
	2023	2022	2021
Stock awards subject to performance conditions	50	54	66
Stock awards that were antidilutive	71	163	34
Total stock awards excluded from diluted earnings per share	121	217	100

11. Commitments and Contingencies

Purchase Obligations

We enter into various purchase obligations in the ordinary course of business, generally of a short-term nature. Those that are binding primarily relate to commitments for food purchases and supplies, capital projects, corporate assets, information technology, marketing initiatives and corporate sponsorships, and other miscellaneous items.

Litigation

We are involved in various claims and legal actions, such as wage and hour, wrongful termination and other employment-related claims, slip and fall and other personal injury claims, advertising and consumer claims, privacy claims, and lease, construction and other commercial disputes, that arise in the ordinary course of business, some of which may be covered by insurance. The outcomes of these actions are not predictable, but we do not believe that the ultimate resolution of any pending or threatened actions of these types will have a material adverse effect on our financial position, results of operations, liquidity, or capital resources. However, if there is a significant increase in the number of these claims, or if we incur greater liabilities than we currently anticipate under one or more claims, it could materially and adversely affect our business, financial condition, results of operations and cash flows.

Accrual for Estimated Liability

In relation to various legal matters, we had an accrued legal liability balance of \$7,640 and \$15,227 included within accrued liabilities on the consolidated balance sheets as of as of December 31, 2023 and 2022, respectively.

12. Debt

As of December 31, 2023, we had a \$500,000 revolving credit facility with JPMorgan Chase Bank (“JPMorgan”) as administrative agent. Borrowings on the credit facility bear interest at a rate equal to the Secured Overnight Financing Rate (“SOFR”) plus 1.475%, which is subject to increase due to changes in our total leverage ratio as defined in the credit agreement. We are also obligated to pay a commitment fee of 0.175% per year for unused amounts under the credit facility, which also may increase due to changes in our total leverage ratio. Further, we are subject to certain covenants defined in the credit agreement, which include maintaining a total leverage ratio of less than 3.0x, maintaining a consolidated fixed charge coverage ratio of greater than 1.5x, and limiting us from incurring additional indebtedness in certain circumstances. We had no outstanding borrowings under the credit facility and were in compliance with all covenants as of December 31, 2023 and December 31, 2022.

13. Related Party Transactions

As of December 31, 2023, we owned approximately 10.2% of the common stock outstanding of Tractor. As we are a significant customer of Tractor and maintain board representation, we are accounting for our investment under the equity method. Accordingly, we have identified Tractor as a related party. We purchase product from the supplier for sale to customers in our restaurants. During the years ended December 31, 2023, 2022 and 2021, purchases from the supplier were \$43,555, \$37,015, and \$29,400, respectively.

During the second quarter of 2023, we made an investment in the Series A preferred shares of Vebu Inc. (“Vebu”), a developer of restaurant automation technology. As we are a significant customer of Vebu and maintain board representation, we have determined that we maintain significant influence over Vebu. During the years ended December 31, 2023, 2022 and 2021, purchases from Vebu were \$991, \$840, and \$0, respectively.

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

None.

ITEM 9A. CONTROLS AND PROCEDURES

We maintain disclosure controls and procedures (as defined in Rule 13a-15(e) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”)) that are designed to ensure that information required to be disclosed in Exchange Act reports is recorded, processed, summarized and reported within the time periods specified in the Securities and Exchange Commission’s rules and forms, and that such information is accumulated and communicated to our management, including our Chief Executive Officer and Chief Financial and Administrative Officer, as appropriate, to allow timely decisions regarding required disclosure.

Evaluation of Disclosure Controls and Procedures

As of December 31, 2023, we carried out an evaluation, under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial and Administrative Officer, of the effectiveness of the design and operation of our disclosure controls and procedures. Based on the foregoing, our Chief Executive Officer and Chief Financial and Administrative Officer concluded that our disclosure controls and procedures were effective as of the end of the period covered by this annual report.

Changes in Internal Control over Financial Reporting

There were no changes during the fiscal quarter ended December 31, 2023 in our internal control over financial reporting (as defined in Rule 13a-15(f) under the Exchange Act) that have materially affected or are reasonably likely to materially affect our internal control over financial reporting.

Management’s Annual Report on Internal Control over Financial Reporting

The management of Chipotle Mexican Grill, Inc. is responsible for establishing and maintaining adequate internal control over financial reporting. Our 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 accounting principles generally accepted in the United States of America. Our internal control over financial reporting 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 our assets; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with accounting principles generally accepted in the United States of America, and that our receipts and expenditures are being made only in accordance with authorizations of our management and directors; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of assets that could have a material effect on our 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.

Management assessed the effectiveness of our internal control over financial reporting as of December 31, 2023, based on the framework set forth by the Committee of Sponsoring Organizations of the Treadway Commission in Internal Control—Integrated Framework (the “2013 framework”). Based on that assessment, management concluded that, as of December 31, 2023, our internal control over financial reporting was effective based on the criteria established in the 2013 framework.

Our independent registered public accounting firm, Ernst & Young LLP, has issued an attestation report on the effectiveness of our internal control over financial reporting as of December 31, 2023. This report follows.

Report of Independent Registered Public Accounting Firm

To the Shareholders and the Board of Directors of Chipotle Mexican Grill, Inc.

Opinion on Internal Control Over Financial Reporting

We have audited Chipotle Mexican Grill, Inc.'s internal control over financial reporting as of December 31, 2023, based on criteria established in Internal Control—Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission (2013 framework) (the COSO criteria). In our opinion, Chipotle Mexican Grill, Inc. (the Company) maintained, in all material respects, effective internal control over financial reporting as of December 31, 2023, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2023 and 2022, the related consolidated statements of income and comprehensive income, shareholders' equity and cash flows for each of the three years in the period ended December 31, 2023, and the related notes and our report dated February 7, 2024 expressed an unqualified opinion thereon.

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/ Ernst & Young LLP

Irvine, California
February 7, 2024

ITEM 9B. OTHER INFORMATION

Adoption or Termination of 10b5-1 Trading Plans

During the fiscal quarter ended December 31, 2023, one Section 16 officer adopted modified or terminated a “Rule 10b5-1 trading arrangement” (as defined in Item 408 of Regulation S-K of the Exchange Act):

Christopher Brandt, Chief Brand Officer, adopted a new trading plan on December 14, 2023 (with the first trade under the plan to occur on or after March 15, 2024). The trading plan will be effective until January 31, 2025 and provides for the exercise of a SOSAR for 4,453 shares and the sale of the net shares if the Company’s stock price reaches a specified limit order.

The Rule 10b5-1 trading arrangement complies with our Insider Trading Policy and actual transactions will be disclosed in Section 16 filings made with the SEC in accordance with applicable securities laws, rules and regulations.

Adoption of an Executive Officer Severance Plan and Letter Agreement with the CEO

On February 6, 2024, the Compensation, People and Culture Committee of the Company’s Board of Directors (the “Committee”) approved the Chipotle Mexican Grill, Inc. Executive Officer Severance Plan, which was effective immediately (the “Severance Plan”). The Severance Plan provides for severance benefits to the “executive officers” of the Company, as defined by Rule 3b-7 under the Securities Exchange Act of 1934, as amended (the “Participants”), if the Participant’s employment is terminated either by the Company without “cause” (excluding termination by the Company due to the Participant’s death or disability) or due to a resignation by the Participant for “good reason” (each as defined in the Severance Plan) that in each case does not entitle the Participant to benefits under the Company’s Change in Control Severance Plan (a “Qualifying Termination”).

Under the Severance Plan, if a Participant experiences a Qualified Termination, the Participant would be eligible to receive (i) cash severance equal to the sum of the Participant’s base salary plus target cash bonus under the Company’s Annual Incentive Plan for the year in which the Qualifying Termination occurs multiplied by two, in the case of the Chief Executive Officer, or one and one-half, in the case of other Participants, which cash severance would be paid in equal installments over 24 months, for the Chief Executive Officer, and 18 months for other Participants, plus (ii) a pro-rated portion of the Participant’s annual bonus under the Company’s Annual Incentive Plan for the year in which the Qualifying Termination occurs, based on the Company’s actual performance, plus (iii) the cash equivalent of the employer portion of the cost of the Company group health plans in which the Participant was participating immediately prior to the Qualifying Termination for 24 months, with respect to the Chief Executive Officer, or for 18 months, with respect to other Participants. In addition, each Participant will vest in a pro rata portion of their unvested equity awards under the Company’s equity compensation plans, with the performance-based equity awards vesting based on the extent of the Company’s achievement of the applicable performance-based metrics. Any SOSARs held by the Participant would be exercisable for 12 months after the Qualifying Termination or if earlier, until the expiration date.

A Participant’s eligibility for payments and benefits under the Severance Plan is subject to such Participant’s timely execution and nonrevocation of a separation and general release agreement, in the form provided by the Company, which contains customary confidentiality, non-solicitation and non-disparagement restrictions.

On February 6, 2024 the Committee also approved a letter agreement with the Company’s Chief Executive Officer providing that, if he is subject to a Qualifying Termination under the Severance Plan, he will receive an additional 12 months of pro-rated vesting credit for any equity awards held by him on the Qualifying Termination Date.

The foregoing description of the Severance Plan and the letter agreement with the Company’s Chief Executive Officer does not purport to be complete and is qualified in its entirety by the full text of the Severance Plan and the letter agreement, which are filed as Exhibit 10.25 and Exhibit 10.26 to this annual report on Form 10-K and are incorporated herein by reference.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

Not applicable.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Incorporated by reference from the definitive proxy statement for our 2024 annual meeting of shareholders, which will be filed no later than 120 days after December 31, 2023.

ITEM 11. EXECUTIVE COMPENSATION

Incorporated by reference from the definitive proxy statement for our 2024 annual meeting of shareholders, which will be filed no later than 120 days after December 31, 2023.

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

Incorporated by reference from the definitive proxy statement for our 2024 annual meeting of shareholders, which will be filed no later than 120 days after December 31, 2023.

	(a) Number of Securities to be Issued Upon Exercise of Outstanding Options and Rights ⁽¹⁾	(b) Weighted-Average Exercise Price of Outstanding Options and Rights ⁽¹⁾	(c) Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (excluding securities reflected in column (a)) ⁽²⁾
Equity Compensation Plans Approved by Security Holders	410,735	\$ 1,302.60	2,412,349
Equity Compensation Plans Not Approved by Security Holders	None	N/A	None
Total	410,735	\$ 1,302.60	2,412,349

(1) Includes shares issuable in connection with awards with performance and market conditions, which will be issued based on achievement of performance criteria associated with the awards, with the number of shares issuable dependent on our level of performance. The weighted-average exercise price in column (b) includes the weighted-average exercise price of SOSARs only.

(2) Includes 2,164,565 shares remaining available under the Chipotle Mexican Grill, Inc. 2022 Stock Incentive Plan, and 247,784 shares remaining available under the Chipotle Mexican Grill, Inc. Employee Stock Purchase Plan. In addition to being available for future issuance upon exercise of SOSARs or stock options that may be granted after December 31, 2023, all of the shares available for grant under the Chipotle Mexican Grill, Inc. 2022 Stock Incentive Plan, may instead be issued in the form of restricted stock, restricted stock units, performance shares or other equity-based awards. Each share underlying a full value award such as restricted stock, restricted stock units or performance shares counts as two shares used against the total number of securities authorized under the plan.

Additional information for this item is incorporated by reference from the definitive proxy statement for our 2024 annual meeting of shareholders, which will be filed no later than 120 days after December 31, 2023.

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

Incorporated by reference from the definitive proxy statement for our 2024 annual meeting of shareholders, which will be filed no later than 120 days after December 31, 2023.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

Incorporated by reference from the definitive proxy statement for our 2024 annual meeting of shareholders, which will be filed no later than 120 days after December 31, 2023.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

1. All Financial statements

The following consolidated financial statements filed as part of this report are included in Part II, Item 8. “Financial Statements and Supplementary Data” of this 10-K:

Consolidated Statements of Income and Comprehensive Income for the years ended December 31, 2023, 2022 and 2021;
 Consolidated Balance Sheets as of December 31, 2023 and 2022;
 Consolidated Statements of Cash Flows for the years ended December 31, 2023, 2022 and 2021;
 Consolidated Statements of Equity for the years ended December 31, 2023, 2022 and 2021;
 Notes to Consolidated Financial Statements; and
 Reports of Independent Registered Public Accounting Firm

2. Financial statement schedules

No schedules are required because either the required information is not present or is not present in amounts sufficient to require submission of the schedule, or because the information required is included in the consolidated financial statements or the notes thereto.

3. Exhibits

Exhibit Number	Exhibit Description	Description of Exhibit Incorporated Herein by Reference			
		Form	File No.	Filing Date	Exhibit Number Filed Herewith
3.1	Amended and Restated Certificate of Incorporation of Chipotle Mexican Grill, Inc.	10-Q	001-32731	October 26, 2016	3.1
3.2	Chipotle Mexican Grill, Inc. Amended and Restated Bylaws	8-K	001-32731	June 1, 2023	3.1
4.1	Form of Stock Certificate for Shares of Common Stock	10-K	001-32731	February 10, 2012	4.1
4.2	Description of Chipotle Securities	10-K	001-32731	February 5, 2020	4.2
10.1†	Change in Control Severance Plan, effective June 1, 2019	10-Q	001-32731	July 24, 2019	10.1
10.2†	Form of Participation and Restrictive Covenant Agreement for Change in Control Severance Plan	10-Q	001-32731	July 24, 2019	10.2
10.3†	Amended and Restated Chipotle Mexican Grill, Inc. 2011 Stock Incentive Plan	8-K	001-32731	May 24, 2018	10.1
10.4†	Amended and Restated Registration Rights Agreement dated January 31, 2006 among Chipotle Mexican Grill, Inc., McDonald’s Corporation and certain shareholders	10-K	001-32731	March 17, 2006	10.6
10.5†	Form of Director and Officer Indemnification Agreement Offer Letter, dated February 11, 2018, between Brian R. Niccol and Chipotle Mexican Grill, Inc.	8-K	001-32731	March 21, 2007	10.1
10.6†	Offer Letter, dated February 11, 2018, between Brian R. Niccol and Chipotle Mexican Grill, Inc.	8-K	001-32731	February 15, 2018	10.1
10.7†	Executive Chairman Agreement dated November 28, 2017 between Chipotle Mexican Grill, Inc. and Steve Ells	8-K	001-32731	December 1, 2017	10.1
10.8†	Form of 2018 Stock Appreciation Rights Agreement Amendment No. 1 dated March 5, 2020 to the Executive Chairman Agreement dated November 28, 2017 between Chipotle Mexican Grill, Inc. and Steve Ells	10-Q	001-32731	April 26, 2018	10.14
10.9†	Form of 2018 Stock Appreciation Rights Agreement Amendment No. 1 dated March 5, 2020 to the Executive Chairman Agreement dated November 28, 2017 between Chipotle Mexican Grill, Inc. and Steve Ells	10-Q	001-32731	April 29, 2020	10.1

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10.10	Revolving Credit Agreement dated April 13, 2021, among Chipotle Mexican Grill, Inc. and JPMorgan Chase Bank, N.A., Administrative Agent, and other lenders party to the Agreement, amended February 1, 2023	-	-	-	-	X
10.11†	Form of 2020 Stock Appreciation Rights Agreement	10-K	001-32731	February 10, 2021	10.36	
10.12†	Form of 2021 Performance Share Unit Agreement	10-Q	001-32731	April 29, 2021	10.2	
10.13†	Form of 2022 Restricted Stock Unit Agreement	10-Q	001-32731	April 28, 2022	10.1	
10.14†	Form of 2022 Stock Appreciation Rights Agreement	10-Q	001-32731	April 28, 2022	10.2	
10.15†	Form of 2022 Performance Share Agreement	10-Q	001-32731	April 28, 2022	10.3	
10.16†	Form of 2022 Stock Option Agreement (Canada)	10-Q	001-32731	April 28, 2022	10.4	
10.17†	Director Compensation Program and Stock Ownership Guidelines (Revised May 25, 2023)	10-Q	001-32731	July 28, 2023	10.1	
10.18†	Chipotle Mexican Grill, Inc. 2022 Stock Incentive Plan	10-Q	001-32731	July 27, 2022	10.2	
10.19†	Form of 2023 Restricted Stock Unit Agreement	10-Q	001-32731	April 27, 2023	10.1	
10.20†	Form of 2023 Stock Appreciation Rights Agreement	10-Q	001-32731	April 27, 2023	10.2	
10.21†	Form of 2023 Performance Share Agreement	10-Q	001-32731	April 27, 2023	10.3	
10.22†	Form of 2023 Stock Option Agreement (Canada)	10-Q	001-32731	April 27, 2023	10.4	
10.23†	Chipotle Mexican Grill, Inc. Employee Stock Purchase Plan	10-Q	001-32731	October 27, 2023	10.3	
10.24†	Supplemental Deferred Investment Plan	10-K	001-32731	February 9, 2023	10.33	
10.25†	Executive Officer Severance Plan	-	-	-	-	X
10.26†	Letter Agreement regarding Severance dated February 6, 2024 between Brian Niccol and Chipotle Mexican Grill, Inc. Subsidiaries of Chipotle Mexican Grill, Inc.	-	-	-	-	X
21.1	Consent of Ernst & Young LLP (as the independent registered public accounting firm of Chipotle Mexican Grill, Inc.)	-	-	-	-	X
31.1	Certification of Chief Executive Officer of Chipotle Mexican Grill, Inc. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	-	-	-	-	X
31.2	Certification of Chief Financial and Administrative Officer of Chipotle Mexican Grill, Inc. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002	-	-	-	-	X
32.1	Certification of Chief Executive Officer and Chief Financial and Administrative Officer of Chipotle Mexican Grill, Inc. pursuant to Section 906 of the Sarbanes-Oxley Act of 2002	-	-	-	-	X
97.1†	Executive Compensation Recovery Policy	-	-	-	-	X
101.INS	Inline XBRL Instance Document (the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document)	-	-	-	-	X
101.SCH	Inline XBRL Taxonomy Extension Schema Document	-	-	-	-	X
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document	-	-	-	-	X
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document	-	-	-	-	X
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document	-	-	-	-	X
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document	-	-	-	-	X
104	Cover Page Interactive Data File (formatted as inline XBRL and contained in Exhibit 101)	-	-	-	-	X

(1) Portions of this exhibit have been omitted as permitted by applicable regulations.

†- Management contracts and compensatory plans or arrangements required to be filed as exhibits.

ITEM 16. FORM 10-K SUMMARY

None.

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.

CHIPOTLE MEXICAN GRILL, INC.

By: /s/ JOHN R. HARTUNG
 Name: John R. Hartung
 Title: Chief Financial and Administrative Officer

Date: February 7, 2024

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

<u>Signature</u>	<u>Date</u>	<u>Title</u>
<u> /s/ BRIAN NICCOL </u> Brian Niccol	February 7, 2024	Chief Executive Officer and Chairman of the Board of Directors (principal executive officer)
<u> /s/ JOHN R. HARTUNG </u> John R. Hartung	February 7, 2024	Chief Financial and Administrative Officer (principal financial and accounting officer)
<u> /s/ ALBERT BALDOCCHI </u> Albert S. Baldocchi	February 7, 2024	Director
<u> /s/ MATTHEW CAREY </u> Matthew Carey	February 7, 2024	Director
<u> /s/ GREGG ENGLS </u> Gregg Engles	February 7, 2024	Director
<u> /s/ PATRICIA FILI-KRUSHEL </u> Patricia Fili-Krushel	February 7, 2024	Director
<u> /s/ LAURA FUENTES </u> Laura Fuentes	February 7, 2024	Director
<u> /s/ MAURICIO GUTIERREZ </u> Mauricio Gutierrez	February 7, 2024	Director
<u> /s/ ROBIN HICKENLOOPER </u> Robin Hickenlooper	February 7, 2024	Director
<u> /s/ SCOTT MAW </u> Scott Maw	February 7, 2024	Director
<u> /s/ MARY WINSTON </u> Mary Winston	February 7, 2024	Director

FIRST AMENDMENT

FIRST AMENDMENT, dated as of February 1, 2023 (this “Amendment”), among Chipotle Mexican Grill, Inc., a Delaware corporation (the “Borrower”), the Lenders party hereto, and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the “Administrative Agent”). Capitalized terms used herein but not otherwise defined have the meanings assigned to such terms in the Credit Agreement (as hereinafter defined).

WITNESSETH:

WHEREAS, the Borrower, the several lenders from time to time party thereto prior to giving effect to this Amendment, the other agents party thereto and JPMorgan Chase Bank, N.A., as Administrative Agent, previously entered into that certain Revolving Credit Agreement, dated as of April 13, 2021 (the “Existing Credit Agreement”, and as amended by this Amendment and as further amended, restated, amended and restated, modified or supplemented from time to time, the “Credit Agreement”);

WHEREAS, existing loans, commitments and/or other extensions of credit under the Credit Agreement denominated in Dollars incur or are permitted to incur interest, fees or other amounts based on the LIBO Rate in accordance with the terms of the Credit Agreement as in effect prior to the First Amendment Effective Date;

WHEREAS, the Administrative Agent, the Borrower and the Required Lenders have elected to trigger an Early Opt-In Election with respect to the Benchmark applicable to Borrowings denominated in Dollars and, pursuant to Section 2.14(b) of the Credit Agreement, the Administrative Agent, the Borrower and the Required Lenders have determined in accordance with the Credit Agreement that LIBO Rate should be replaced with Term SOFR for all purposes under the Credit Agreement (the “Term SOFR Early Opt-in Election”);

WHEREAS, the Borrower has requested, and the Lenders party hereto who constitute the Required Lenders have agreed to make certain amendments to the Existing Credit Agreement, among other things, to provide the Term SOFR Early Opt-in Election, on and subject to the terms and conditions set forth herein; and WHEREAS, each of the undersigned hereby consents to the terms of this Amendment.

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

SECTION 1. Term SOFR Early Opt-In Election

The Borrower, the Administrative Agent and the Required Lenders hereby agree that an Early Opt-in Election has occurred under the Credit Agreement effective as of the First Amendment Effective Date and the applicable proposed amendment incorporating the Benchmark Replacement was posted to the Lenders on and as of January 25, 2023.

SECTION 2. Certain Amendments to the Existing Credit Agreement To give effect to the Term SOFR Early Opt-In Election, effective as of the First Amendment Effective Date:

- (a) the Credit Agreement shall be amended, without additional consent or approval of any other Lender, to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Exhibit A hereto.
 - (b) Exhibit C ([Form of] Borrowing Request) to the Credit Agreement shall be amended and restated by the [Form of] Borrowing Request attached as Exhibit B hereto. (c) Exhibit D ([Form of] Interest
-

Election Request) to the Credit Agreement shall be amended and restated by the [Form of] Interest Election Request attached as Exhibit C hereto.

- (c) Exhibit D ([Form of] Interest Election Request) to the Credit Agreement shall be amended and restated by the [Form of] Interest Election Request attached as Exhibit C hereto.

SECTION 3. Representations and Warranties To induce the other parties hereto to enter into this Amendment, the Borrower hereby represents and warrants to each other party hereto that, as of the First Amendment Effective Date:

- (a) no Default or Event of Default exists after giving effect to this Amendment; and
(b) the representations and warranties contained in Article III of the Credit Agreement are correct in all material respects (or, to the extent subject to materiality or Material Adverse Effect qualifiers, in all respects) on and as of the date hereof (or, if any such representation or warranty is expressly stated to have been made as of a specific date, as of such specific date), before and after giving effect to this Amendment, as though made on and as of such date.

SECTION 4. Conditions of Effectiveness

This Amendment shall become effective on and as of the first date (such date, the "First Amendment Effective Date") when each of the conditions set forth in this Section 4 shall have been satisfied:

- (a) the Administrative Agent shall have received this Amendment, duly executed by the Borrower, the Administrative Agent and Lenders constituting Required Lenders.
(b) The Administrative Agent shall have received reimbursement of its reasonable out-of-pocket expenses in connection with the negotiation, preparation and execution of this Amendment and the transactions contemplated hereby in accordance with Section 9.03 of the Credit Agreement.

SECTION 5 No Other Amendments; References to the Credit Agreement. Other than as specifically provided herein or in the Credit Agreement, this Amendment shall not operate as a waiver or amendment of any right, power or privilege of the Lenders under (and as defined in) the Existing Credit Agreement or any other Loan Document (as such term is defined in the Existing Credit Agreement) or of any other term or condition of the Existing Credit Agreement or any other Loan Document (as such term is defined in the Existing Credit Agreement) nor shall the entering into of this Amendment preclude the Lenders from refusing to enter into any further waivers or amendments with respect to the Existing Credit Agreement. Nothing in this Amendment shall be deemed to prejudice any right or remedy that the Administrative Agent or any Lender may now have or may have in the future under or in connection with the Credit Agreement or any other Loan Document, or any other instrument or agreement referred to therein. All references to the Existing Credit Agreement in any document, instrument, agreement, or writing that is a Loan Document shall from and after the First Amendment Effective Date be deemed to refer to the Credit Agreement, and, as used in the Credit Agreement, the terms "Agreement," "herein," "hereafter," "hereunder," "hereto" and words of similar import shall mean, from and after the First Amendment Effective Date, the Credit Agreement. This Amendment shall be a Loan Document for all purposes under the Credit Agreement and the other Loan Documents.

SECTION 6 Headings. The various headings of this Amendment are inserted for convenience only and shall not affect the meaning or interpretation of this Amendment or any provisions hereof.

SECTION 7. Execution in Counterparts. This Amendment may be executed by one or more of the parties hereto on any number of separate counterparts and all of said counterparts together shall be deemed to constitute one and the same instrument. A counterpart hereof or a signature page hereto delivered by facsimile or electronic transmission (such as a .pdf file) shall be effective as delivery of a manually signed, original counterpart hereof. The parties hereby agree that the Electronic Signatures (as such term is defined in the Existing Credit Agreement) of the parties will have the same force and effect as a manual signature.

SECTION 8. Cross-References. References in this Amendment to any section are, unless otherwise specified or otherwise required by the context, to such section of this Amendment.

SECTION 9 Governing Law. **THIS AMENDMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK.**

SECTION 10 Reaffirmation

(a) The Borrower hereby (i) expressly acknowledges the terms of the Credit Agreement (as amended by this Amendment), (ii) ratifies and affirms its obligations under the Loan Documents executed by the undersigned, (iii) acknowledges, renews and extends its continued liability under all such Loan Documents and agrees such Loan Documents remain in full force and effect and (iv) confirms this Amendment does not represent a novation of any Loan Document.

(b) The Borrower hereby reaffirms, as of the First Amendment Effective Date, the covenants and agreements contained in each Loan Document to which it is a party, including, in each case, such covenants and agreements as in effect immediately after giving effect to this Amendment and the transactions contemplated thereby.

(c) The Borrower hereby acknowledges and agrees that the acceptance by the Administrative Agent and each applicable Lender of this document shall not be construed in any manner to establish any course of dealing on such Person's part, including the providing of any notice or the requesting of any acknowledgment not otherwise expressly provided for in any Loan Document with respect to any future amendment, waiver, supplement or other modification to any Loan Document or any arrangement contemplated by any Loan Document.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed and delivered by their respective authorized officers, as of the date first written above.

CHIPOTLE MEXICAN GRILL,
INC.,
as the Borrower

By: /s/ Jack Hartung_
Name: Jack Hartung
Title: Chief Financial and
Administrative Officer

JPMORGAN CHASE BANK,
N.A.,
as Administrative Agent and a
Lender

By: /s/ Gregory Martin
Name: Gregory Martin
Title: Executive Director

Trust Bank
as a Lender

By: /s/ Alysa Trakas
Name: Alysa Trakas

FIFTH THIRD BANK,
NATIONAL ASSOCIATION as a
Lender

By: /s/ Dan Kurtz
Name: Jonathan
Title: Authorized
Signatory

BANK OF AMERICA, N.A.,
as a Lender

By: /s/ Christopher M.
Holtz
Name: Christopher M.
Holtz
Title: Senior Vice
President

MORGAN STANLEY BANK,
N.A.,
as a Lender
By: /s/ Jack Kuhns
Name: Jack Kuhns
Title: Authorized
Signatory

MUFG BANK, Ltd.,
as a Lender
By: /s/ Jack Lonker
Name: Jack Lonker
Title: Director

ROYAL BANK OF CANADA,
as a Lender
By: /s/ Jason Clay
Name: Jason Clay
Title: Director, Corporate
Client Group-Finance

WELLS FARGO BANK,
NATIONAL ASSOCIATION,
as a Lender
By: /s/ Denise Crouch
Name: Denise Crouch
Title: Vice President

[Signature Page to First Amendment]

Exhibit A

As amended pursuant to the First Amendment, dated as of February 1, 2023

REVOLVING CREDIT AGREEMENT

dated as of

April 13, 2021

among

Chipotle Mexican Grill, Inc.
as the Borrower

The Lenders Party Hereto

and

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent

JPMORGAN CHASE BANK, N.A.,

MORGAN STANLEY MUFG LOAN PARTNERS, LLC, TRUIST BANK, FIFTH THIRD BANK,
NATIONAL ASSOCIATION and CITIBANK, N.A.,

as Joint Bookrunners and Joint Lead Arrangers,

and

MORGAN STANLEY MUFG LOAN PARTNERS, LLC,
TRUIST BANK, FIFTH THIRD BANK, NATIONAL ASSOCIATION and CITIBANK, N.A.,
as Co-Syndication Agents

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Exhibit F-4	U.S. Tax Certificate (For Non-U.S. Lenders that <u>are</u> Partnerships for U.S. Federal Income Tax Purposes)
Exhibit G	Form of Promissory Note

REVOLVING CREDIT AGREEMENT, dated as of April 13, 2021 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, this "Agreement"), among Chipotle Mexican Grill, Inc., a Delaware corporation (the "Borrower"), the Lenders party hereto, and JPMorgan Chase Bank, N.A., as Administrative Agent.

The parties hereto agree as follows:

ARTICLE I

Definitions

SECTION 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"**ABR**", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Alternate Base Rate.

"**Adjusted Daily Simple SOFR**" means an interest rate per annum equal to (a) the Daily Simple SOFR, plus (b) 0.10%; provided that if the Adjusted Daily Simple SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

"**Adjusted Term SOFR Rate**" means, for any Term SOFR Borrowing for any Interest Period, an interest rate per annum equal to (a) the Term SOFR Rate for such Interest Period, plus (b) 0.10%; provided that if the Adjusted Term SOFR Rate as so determined would be less than the Floor, such rate shall be deemed to be equal to the Floor for the purposes of this Agreement.

"**Administrative Agent**" means JPMorgan Chase Bank, N.A. in its capacity as administrative agent for the Lenders hereunder, and any successor appointed pursuant to Section 8.05.

"**Administrative Questionnaire**" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"**Affected Financial Institution**" means (a) any EEA Financial Institution or (b) any UK Financial Institution.

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

"**Agent Indemnitee**" has the meaning assigned to it in Section 9.03(c).

"**Agreement**" has the meaning assigned to it in the preamble hereto.

"**Alternate Base Rate**" means,

for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Adjusted Term SOFR Rate for a one month Interest Period as published two U.S. Government Securities Business Days prior to such day (or if such day is not a U.S. Government Securities Business Day, the immediately preceding U.S. Government Securities Business Day) plus 1%; provided that for the purpose of this definition, the Adjusted Term SOFR Rate for any day shall be based on the Term SOFR Reference Rate at approximately 5:00 a.m. Chicago time on such day (or any amended publication time for the Term SOFR Reference Rate, as specified by the CME Term SOFR Administrator in the Term SOFR Reference Rate methodology). Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted Term SOFR Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted Term SOFR Rate, respectively. If the Alternate Base Rate is being used as an alternate rate of interest pursuant to Section 2.14 (for the avoidance of doubt, only until the Benchmark Replacement has been determined pursuant to Section 2.14(b)),

then the Alternate Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above. For the avoidance of doubt, if the Alternate Base Rate as determined pursuant to the foregoing would be less than 1.00%, such rate shall be deemed to be 1.00% for purposes of this Agreement.

“**Alternative Currency**” means any currencies other than Dollars determined after the Effective Date by mutual agreement of the Borrower, Lenders, Administrative Agent and applicable Issuing Bank; provided, that each such currency is a lawful currency that is readily available, freely transferable and not restricted, able to be converted into Dollars and available in the London interbank deposit market.

“**Ancillary Document**” has the meaning assigned to it in Section 9.06(b).

“**Anti-Corruption Laws**” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of its Subsidiaries from time to time concerning or relating to bribery or corruption.

“**Anti-Money Laundering Laws**” means Laws in any jurisdiction in which any Loan Party is located or doing business that relates to money laundering or terrorism financing, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto.

“**Applicable Parties**” has the meaning assigned to it in Section 8.03(c).

“**Applicable Percentage**” means, with respect to any Lender, the percentage of the total Commitments represented by such Lender’s Commitment; provided, that in the case of Section 2.20 when a Defaulting Lender shall exist, “Applicable Percentage” shall mean the percentage of the total Commitments (disregarding any Defaulting Lender’s Commitment) represented by such Lender’s Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments and to any Lender’s status as a Defaulting Lender at the time of determination.

“**Applicable Rate**” means, for any day, with respect to any ABR Loan or Term Benchmark Revolving Loan, as the case may be, the applicable rate *per annum* set forth below under the caption “Term Benchmark Spread” or “ABR Spread”, as the case may be, based upon the Total Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 5.01(c):

Pricing Level	Total Leverage Ratio	Term Benchmark Spread	ABR Spread
I	Less than 1.00:1.00	1.375%	0.375%
II	Less than 1.50:1.00 but greater than or equal to 1.00:1.00	1.625%	0.625%
III	Less than 2.00:1.00 but greater than or equal to 1.50:1.00	1.875%	0.875%
IV	Greater than or equal to 2.00:1.00	2.125%	1.125%

For purposes of the foregoing, any increase or decrease in the Applicable Rate resulting from a change in the Total Leverage Ratio shall become effective as of the third Business Day following the date a Compliance Certificate is delivered to the Administrative Agent pursuant to Section 5.01(c). If at any time the Borrower fails to deliver the quarterly or annual financial statements or Compliance Certificate required under Section 5.01 on or before the date such financial statements or Compliance Certificate are due, Pricing Level IV shall be deemed applicable for the period commencing three (3) Business Days after such required date of delivery and ending on the date which is three (3) Business Days after such financial statements or Compliance Certificate are actually delivered, after which the Pricing Level shall be determined in accordance with the table above, as applicable.

Notwithstanding the foregoing, Pricing Level I shall be deemed to be applicable until the Administrative Agent's receipt of the applicable financial statements and Compliance Certificate for the first fiscal quarter ending after the Effective Date (unless such financial statements demonstrate that Pricing Level II, III or IV should have been applicable during such period, in which case such other Pricing Level shall be deemed to be applicable during such period) and adjustments to the Pricing Level then in effect shall thereafter be effected in accordance with the preceding paragraph.

"Approved Electronic Platform" has the meaning assigned to it in Section 8.03(a).

"Approved Fund" has the meaning assigned to it in Section 9.04(b).

"Arrangers" means JPMorgan Chase Bank, N.A., Morgan Stanley MUFG Loan Partners, LLC, acting through Morgan Stanley Senior Funding, Inc. and MUFG Bank, Ltd, Truist Bank, Fifth Third Bank, National Association and Citibank, N.A. in their capacities as joint lead arrangers hereunder.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, substantially in the form attached hereto as Exhibit B or any other form (including electronic records generated by the use of an electronic platform) approved by the Administrative Agent.

"Availability Period" means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments in full.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark (or component thereof) or payment period for interest calculated with reference to such Benchmark (or component thereof), as applicable, that is or may be used for determining the length of an Interest Period for any term rate or otherwise, for determining the frequency of making payments of interest calculated pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to clause (e) of Section 2.14.

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

"Bail-In Legislation" means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bankruptcy Event" means, with respect to any Person, such Person becomes the subject of a voluntary or involuntary bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee,

administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment or has had any order for relief in such proceeding entered in respect thereof; provided, that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority, unless such ownership interest results in or provides such Person 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 permits such Person (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

“**Benchmark**” means, initially, the Term SOFR Rate; *provided* that if a Benchmark Transition Event, and the related Benchmark Replacement Date have occurred with respect to the Term SOFR Rate or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (b) of Section 2.14.

“**Benchmark Replacement**” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

(1) the Adjusted Daily Simple SOFR;

(2) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for the then-current Benchmark for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement for the then-current Benchmark for dollar-denominated syndicated credit facilities at such time in the United States and (b) the related Benchmark Replacement Adjustment;

If the Benchmark Replacement as determined pursuant to clause (1) or (2) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

“**Benchmark Replacement Adjustment**” means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Interest Period and Available Tenor for any setting of such Unadjusted Benchmark Replacement

, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower for the applicable Corresponding Tenor giving due consideration to (i) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body on the applicable Benchmark Replacement Date and/or (ii) any evolving or then-prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for dollar-denominated syndicated credit facilities at such time.

“**Benchmark Replacement Conforming Changes**” means, with respect to any Benchmark Replacement and/or any Term Benchmark Loan, any technical, administrative or operational changes (including changes to the definition of “Alternate Base Rate,” the definition of “Business Day,” the definition of “U.S. Government Securities Business Day,” the definition of “Interest Period,” timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides in its reasonable discretion may be appropriate to reflect the adoption and implementation of such Benchmark and to permit the administration thereof by the

Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of such Benchmark exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

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

(1) in the case of clause (1) or (2) of the definition of “Benchmark Transition Event,” the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(2) in the case of clause (3) of the definition of “Benchmark Transition Event,” the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be no longer representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, (i) if the event giving rise to the Benchmark Replacement Date occurs on the same day as, but earlier than, the Reference Time in respect of any determination, the Benchmark Replacement Date will be deemed to have occurred prior to the Reference Time for such determination and (ii) the “Benchmark Replacement Date” will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

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

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

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

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

For the avoidance of doubt, a “Benchmark Transition Event” will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred

with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

“Benchmark Unavailability Period” means, with respect to any Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date pursuant to clauses (1) or (2) of that definition has occurred if, at such time, no Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.14 and (y) ending at the time that a Benchmark Replacement has replaced such then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.14.

“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 any of (a) an **“employee benefit plan”** (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (b) a **“plan”** as defined in Section 4975 of the Code to which Section 4975 of the Code applies, and (c) any Person whose assets include (for purposes of the Plan Asset Regulations or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such **“employee benefit plan”** or **“plan”**.

“BHC Act Affiliate” of a party means an **“affiliate”** (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“Borrower” has the meaning assigned to it in the introductory paragraph to this Agreement.

“Borrowing” means an advance of Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Term Benchmark Loans, as to which a single Interest Period is in effect.

“Borrowing Request” means a request by the Borrower for a Borrowing in accordance with Section 2.03, which shall be substantially in the form attached hereto as Exhibit C (as amended and restated by the First Amendment in the form attached thereto as Exhibit B) or any other form approved by the Administrative Agent.

“Business Day” means, any day (other than a Saturday or a Sunday) on which banks are open for business in New York City; provided that, in addition to the foregoing, a Business Day shall be (a) in relation to Loans referencing the Adjusted Daily Simple SOFR Rate and any interest rate settings, fundings, disbursements, settlements or payments of such Loans referencing the Adjusted Daily Simple SOFR Rate, or any other dealings of such Loans referencing the Adjusted Daily Simple SOFR Rate and (b) in relation to Loans referencing the Adjusted Term SOFR Rate and any interest rate settings, fundings, disbursements, settlements or payments of any such Loans referencing the Adjusted Term SOFR Rate or any other dealings of such Loans referencing the Adjusted Term SOFR Rate, any such day that is only a U.S. Government Securities Business Day.

“Capital Lease Obligations” of any Person means, subject to the last sentence of this definition and Section 1.04, the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases or financing leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP. The term **“Capitalized Lease Obligations”** shall not include any obligations with respect to any lease, concession or license of property that would have been considered an operating lease under GAAP prior to the adoption of Accounting Standards Codification 842 or any successor or similar pronouncement with respect to lease accounting (**“ASC 842”**).

“CFC” shall mean a direct or indirect Subsidiary of the Borrower that is treated as a **“controlled foreign corporation”** within the meaning of Section 957 of the Code for U.S. federal income tax purposes.

“CFC Holding Company” shall mean a direct or indirect Subsidiary of the Borrower (i) substantially all of the assets of which consist of Equity Interests and/or Indebtedness of one or more Foreign Subsidiaries that are CFCs or (ii) that is treated as a disregarded entity for U.S. federal income tax purposes and holds Equity Interests of one or more Foreign Subsidiaries.

“Change in Control” means (a) any “person” or “group” (within the meaning of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the date hereof, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) directly or indirectly becoming the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934) of Equity Interests representing more than 35.0% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of the Borrower or (b) during any period of 12 consecutive months, occupation of a majority of the seats (other than vacant seats) on the board of directors of the Borrower by Persons who were not (i) directors of the Borrower on the first day of such period, (ii) elected, appointed or nominated to the board of directors of the Borrower and was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of the board of directors of the Borrower or (iii) elected, appointed or nominated to the board of directors of the Borrower and approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of the board of directors of the Borrower.

“Change in Law” means the occurrence after the date of this Agreement of (a) the adoption of or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) compliance by any Lender or Issuing Bank (or, for purposes of Section 2.15(b), by any lending office of such Lender or by such Lender’s or Issuing Bank’s holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement; provided, that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith or in the implementation thereof and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall, in each case, be deemed to be a “Change in Law,” regardless of the date enacted, adopted, issued or implemented.

“Charges” has the meaning assigned to it in Section 9.14.

“Class” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing are Revolving Loans.

“CME Term SOFR Administrator” means CME Group Benchmark Administration Limited as administrator of the forward-looking term Secured Overnight Financing Rate (SOFR) (or a successor administrator).

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

“Collateral Account” has the meaning assigned to it in Section 2.06(j).

“Commitment” means, with respect to each Lender, the amount set forth on Schedule 2.01A opposite such Lender’s name, or in the Assignment and Assumption, pursuant to which such Lender shall have assumed its Commitment, as applicable, and giving effect to (a) any reduction in such amount from time to time pursuant to Section 2.09 and (b) any reduction or increase in such amount from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04; provided, that at no time shall the Revolving Credit Exposure of any Lender exceed its Commitment. The initial aggregate amount of the Lenders’ Commitments is \$500,000,000.

“**Commitment Fee Rate**” means, for any day, the applicable rate *per annum* set forth below under the caption “Commitment Fee” based upon the Total Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 5.01(c):

Commitment Fee Level	Total Leverage Ratio	Commitment Fee
I	Less than 1.00:1.00	0.175%
II	Less than 1.50:1.00 but greater than or equal to 1.00:1.00	0.225%
III	Less than 2.00:1.00 but greater than or equal to 1.50:1.00	0.275%
IV	Greater than or equal to 2.00:1.00	0.325%

For purposes of the foregoing, any increase or decrease in the Commitment Fee Rate resulting from a change in the Total Leverage Ratio shall become effective as of the third Business Day following the date a Compliance Certificate is delivered to the Administrative Agent pursuant to Section 5.01(c). If at any time the Borrower fails to deliver the quarterly or annual financial statements or Compliance Certificate required under Section 5.01 on or before the date such financial statements or Compliance Certificate are due, Commitment Fee Level IV shall be deemed applicable for the period commencing three (3) Business Days after such required date of delivery and ending on the date which is three (3) Business Days after such financial statements or Compliance Certificate are actually delivered, after which the Commitment Fee Level shall be determined in accordance with the table above, as applicable.

Notwithstanding the foregoing, Commitment Fee Level I shall be deemed to be applicable until the Administrative Agent’s receipt of the applicable financial statements and Compliance Certificate for the first fiscal quarter ending after the Effective Date (unless such financial statements demonstrate that Commitment Fee Level II, III or IV should have been applicable during such period, in which case such other Commitment Fee Level shall be deemed to be applicable during such period) and adjustments to the Commitment Fee Level then in effect shall thereafter be effected in accordance with the preceding paragraph.

“**Commitment Increase**” has the meaning assigned to it in Section 2.22(a).

“**Commodity Exchange Act**” means the Commodity Exchange Act (7 U.S.C. § 1 et seq.).

“**Communications**” has the meaning assigned to it in Section 8.03(c).

“**Compliance Certificate**” means a certificate delivered pursuant to Section 5.01(c).

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

“**Consolidated EBITDA**” means, for any period, Consolidated Net Income for such period plus, without duplication and to the extent reflected as a charge in the statement of such Consolidated Net Income for

such period, the sum of (a) income tax expense, (b) Consolidated Interest Charges, (c) depreciation and amortization expense, (d) amortization of intangibles (including, but not limited to, goodwill) and organization costs, (e) equity-based compensation expense (to the extent paid in equity and not in cash), (f) any extraordinary, unusual or non-recurring non-cash expenses or losses, (g) to the extent not already included in the Consolidated Net Income, (x) any expenses and charges that are reimbursable by a third party pursuant to indemnification or other similar provisions and actually reimbursed and (y) expenses and reimbursements with respect to liability or casualty events or business interruption, to the extent covered by insurance and actually reimbursed, or, in each case, if not actually reimbursed, so long as the Borrower has a good faith expectation that such amounts will be received within the next four fiscal quarters and only to the extent that such amount is in fact reimbursed within the next four fiscal quarters of the date of the determination by the Borrower that there exists such evidence (with a deduction for any amount so added back to the extent not so reimbursed within the next four fiscal quarters), (h) fees, charges, reserves, costs or expenses related to litigation, restructuring, severance activities, discontinued operations, casualty events and financing, acquisition or divestiture activities, and (i) other non-cash charges and expenses of the Borrower and its Subsidiaries reducing such Consolidated Net Income and minus, (a) to the extent included in the statement of such Consolidated Net Income for such period, the sum of (i) interest income, (ii) any extraordinary, unusual or non-recurring income or gains, (iii) income tax credits (to the extent not netted from income tax expense) and (iv) any other non-cash gains and (b) any cash payments made during such period in respect of items described in clause (e) above subsequent to the fiscal quarter in which the relevant non-cash expenses or losses were reflected as a charge in the statement of Consolidated Net Income, all as determined on a consolidated basis.

“Consolidated Fixed Charge Coverage Ratio” means, as of the last day of each fiscal quarter of the Borrower, for the period of the four immediately preceding fiscal quarters ending on such date, for the Borrower and its Subsidiaries on a consolidated basis, the ratio of (a) the sum of (i) Consolidated EBITDA during such period plus (ii) Operating Lease and Rental Expense during such period to (b) the sum of (x) Consolidated Interest Charges during such period plus, without duplication, (y) Operating Lease and Rental Expense during such period.

“Consolidated Interest Charges” means, for any period, for the Borrower and its Subsidiaries on a consolidated basis, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of the Borrower and its Subsidiaries in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, and (b) the portion of rent expense of the Borrower and its Subsidiaries with respect to such period under capital leases that is treated as interest in accordance with GAAP.

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

“Consolidated Total Assets” means, as of the date of determination, the consolidated assets of the Borrower and its Subsidiaries, determined in accordance with GAAP as of such date.

“Consolidated Total Debt” means, as of any date of determination, the aggregate principal amount of all Indebtedness for borrowed money of the Borrower and its Subsidiaries outstanding at such time, in an amount that would be reflected on the consolidated balance sheet of the Borrower and its Subsidiaries prepared at such date, determined on a consolidated basis in accordance with GAAP; provided, that Consolidated Total

Debt shall not include any letters of credit, including Letters of Credit, except with respect to any unreimbursed disbursements thereunder.

“**Contractual Requirement**” has the meaning assigned to it in Section 3.03.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. The terms “Controlling” and “Controlled” have meanings correlative thereto.

“**Corresponding Tenor**” with respect to any Available Tenor means, as applicable, either a tenor (including overnight) or an interest payment period having approximately the same length (disregarding business day adjustment) as such Available Tenor.

“**Covered Entity**” means any of the following:

- (a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);
- (b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or
- (c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“**Covered Party**” has the meaning assigned to it in Section 9.18.

“**Credit Party**” means the Administrative Agent, each Issuing Bank or any other Lender.

“**Daily Simple SOFR**” means, for any day (a “**SOFR Rate Day**”), a rate per annum equal SOFR for the day (such day “**SOFR Determination Date**”) that is five (5) U.S. Government Securities Business Days prior to (i) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day or (ii) if such SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator’s Website. Any change in Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower.

“**Default**” means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“**Default Right**” has the meaning assigned to 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, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrower or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position is based on such Lender’s good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations as of the date

of certification) to fund prospective Loans and participations in then outstanding Letters of Credit under this Agreement, provided, that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) has become, or has a direct or indirect parent company that has become, the subject of (i) a Bankruptcy Event or (ii) a Bail-In Action.

"Disclosed Matters" means the actions, suits and proceedings and the environmental matters disclosed on Schedule 3.06.

"Disposition" or **"Dispose"** means the sale, transfer, license, lease or other disposition (in one transaction or in a series of transactions and whether effected pursuant to a division or otherwise) of any property by any Person (including any sale and leaseback transaction and any issuance of Equity Interests by a Subsidiary of such Person), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

"Documentation Agent" means Bank of America, N.A.

"Dollar Equivalent" means, for any amount of any currency, at the time of determination thereof, (a) if such amount is expressed in Dollars, such amount, (b) if such amount is expressed in an Alternative Currency, the equivalent of such amount in Dollars determined by using the rate of exchange for the purchase of Dollars with the Alternative Currency last provided (either by publication or otherwise provided to the Administrative Agent) by the applicable Thomson Reuters Corp., Refinitiv, or any successor thereto ("Reuters") source on the Business Day (New York City time) immediately preceding the date of determination or if such service ceases to be available or ceases to provide a rate of exchange for the purchase of Dollars with the Alternative Currency, as provided by such other publicly available information service which provides that rate of exchange at such time in place of Reuters chosen by the Administrative Agent in its sole discretion (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in Dollars as determined by the Administrative Agent using any method of determination, it deems appropriate in its sole discretion) and (c) if such amount is denominated in any other currency, the equivalent of such amount in Dollars as determined by the Administrative Agent using any method of determination it deems appropriate in its sole discretion.

"Dollars" or **"\$"** refers to lawful money of the United States of America.

"Domestic Subsidiary" means each Subsidiary of the Borrower that is organized or existing under the laws of the United States, any state thereof, or the District of Columbia.

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

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

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

"Effective Date" means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02), which date is April 13, 2021.

"Electronic Signature" means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

“Environmental Laws” means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions issued, promulgated or entered into by any Governmental Authority, relating in any way to (i) the environment, (ii) preservation or reclamation of natural resources, (iii) the management, release or threatened release of any Hazardous Material or (iv) health and safety matters.

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

“Equity Interests” means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest, but excluding any debt securities convertible into any of the foregoing.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the rules and regulations promulgated thereunder.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or Section 4001(14) of ERISA or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” means (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30 day notice period is waived); (b) the failure to satisfy the “minimum funding standard” (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal of the Borrower or any of its ERISA Affiliates from any Plan or Multiemployer Plan; or (g) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition upon the Borrower or any of its ERISA Affiliates of Withdrawal Liability or of a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Title IV of ERISA.

“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 assigned to it in Section 7.01.

“Exchange Rate” means with respect to any non-Dollar currency on any date and subject to Section 2.21, (i) if such amount is an Alternative Currency, the equivalent of such amount in Dollars determined by using the rate of exchange for the purchase of the Dollars with such currency in the London foreign exchange market at or about 11:00 A.M. (London time) on a particular day as displayed by ICE Data Services as the “ask price”, or as displayed on such other information service which publishes that rate of exchange from time to time in place of ICE Data Services (or if such service ceases to be available, the equivalent of such amount in Dollars as determined by the Administrative Agent using such other publicly available service for displaying exchange rates as selected by the Administrative Agent in its reasonable discretion in consultation with the Borrower) and

(b) if such amount is denominated in any other currency, the equivalent of such amount in Dollars as determined by the Administrative Agent using a publicly available service for displaying exchange rates as selected by the Administrative Agent in its reasonable discretion in consultation with the Borrower.

“Excluded Subsidiary” mean (i) each Subsidiary, in each case, for so long as any such Subsidiary does not (on a consolidated basis with its Subsidiaries) constitute a Material Subsidiary, (ii) any CFC Holding Company, (iii) any direct or indirect Subsidiary of a CFC, (iv) any Foreign Subsidiary or CFC Holding Company, (v) each Subsidiary that is prohibited by any applicable Contractual Requirement or Requirements of Law from guaranteeing the Obligations at the time such Subsidiary becomes a Subsidiary, or which would require governmental (including regulatory) consent, approval, license or authorization to provide a guarantee (and for so long as such restriction or any replacement or renewal thereof is in effect, but only, in the case of any Contractual Requirement, to the extent such restriction was not entered into in contemplation of such Subsidiary constituting an Excluded Subsidiary), (vi) any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent and the Borrower, as agreed in writing, the cost, burden or other consequences (including adverse tax consequences) of providing a Guarantee of the Obligations shall be excessive in view of the benefits to be obtained by the Lenders therefrom, (vii) each other Subsidiary acquired pursuant to a Permitted Acquisition or other Investment permitted hereunder and financed with assumed secured Indebtedness permitted hereunder, and each Subsidiary acquired in such Permitted Acquisition or other Investment permitted hereunder that guarantees such Indebtedness, in each case to the extent that, and for so long as, the documentation relating to such Indebtedness to which such Subsidiary is a party prohibits such Subsidiary from guaranteeing the Obligations and such prohibition was not created in contemplation of such Permitted Acquisition or other Investment permitted hereunder, (viii) each Subsidiary that is not wholly owned directly by (x) the Borrower or (y) one or more of the Borrower’s wholly owned Subsidiaries and (ix) each special purpose funding vehicle that has entered into any securitization facility not prohibited hereunder, not for profit Subsidiary and captive insurance company.

“Excluded Swap Obligation” means, with respect to any Guarantor, any Swap Obligation (a) if, and to the extent that, and only for so long as, all or a portion of the guarantee of such Guarantor of such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant,” as defined in the Commodity Exchange Act and the regulations thereunder at the time the guarantee of such Guarantor becomes or would become effective with respect to such Swap Obligation or (b) upon the designation as such in any agreement with respect to such Swap Obligations between the relevant Guarantor and counterparty applicable to such Swap Obligations; provided that if a Swap Obligation arises under a master agreement governing more than one Swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swaps for which such guarantee is or becomes illegal.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan, Letter of Credit or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan, Letter of Credit or Commitment (other than pursuant to an assignment request by the Borrower under Section 2.19(b)) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 2.17, amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender acquired the applicable interest in a Loan, Letter of Credit or Commitment or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient’s failure to comply with Section 2.17(f) and (d) any withholding Taxes imposed under FATCA.

“**FATCA**” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities and implementing such Sections of the Code.

“**FCA**” has the meaning assigned to such term in Section 1.05.

“**Federal Funds Effective Rate**” means, for any day, the rate calculated by the NYFRB based on such day’s federal funds transactions by depository institutions, as determined in such manner as shall be set forth on the Federal Reserve Bank of New York’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; provided, that if the Federal Funds Effective Rate as so determined would be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement.

“**Federal Reserve Bank of New York’s Website**” means the website of the NYFRB at <http://www.newyorkfed.org>, or any successor source.

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

“**Financial Officer**” means the chief executive officer, chief financial officer, principal accounting officer, treasurer or controller of the Borrower.

“**First Amendment**” means that certain First Amendment, dated as of February 1, 2023, among the Borrower, the Lenders party thereto and Administrative Agent.

“**First Amendment Effective Date**” has the meaning assigned to such term in the First Amendment.

“**Floor**” means the benchmark rate floor, if any, provided in this Agreement initially (as of the execution of this Agreement, the modification, amendment or renewal of this Agreement or otherwise) with respect to the Adjusted Term SOFR Rate or the Adjusted Daily Simple SOFR, as applicable. For the avoidance of doubt the initial Floor for each of Adjusted Term SOFR Rate or the Adjusted Daily Simple SOFR shall be 0%.

“**Foreign Subsidiary**” shall mean each Subsidiary of the Borrower that is not a Domestic Subsidiary or is, directly or indirectly, a Subsidiary of a Foreign Subsidiary.

“**Foreign Lender**” means (a) if the Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if the Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which the Borrower is resident for tax purposes.

“**GAAP**” means generally accepted accounting principles in the United States of America.

“Governmental Authority” means the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“**Guarantee**” of or by any Person (the “**guarantor**”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “**primary obligor**”) in any manner, whether directly or indirectly, and including any other obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain

working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or other obligation; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business or customary and reasonable indemnity obligations or product warranties in effect on the Effective Date or entered into in the ordinary course of business or in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness).

“**Guarantee Agreement**” means the Guarantee Agreement to be executed and delivered by the Borrower and each Guarantor, substantially in the form attached hereto as Exhibit A.

“**Guarantor**” means (i) each Subsidiary of the Borrower that is party to the Guarantee on the Effective Date and (ii) each Subsidiary of the Borrower that becomes a party to the Guarantee after the Effective Date pursuant to Section 5.10 or otherwise, in each case, unless and until such Person ceases to be a Guarantor in a transaction not prohibited by the Loan Documents; provided, that in no event shall any Excluded Subsidiary be required to be a Guarantor (unless such Subsidiary is no longer an Excluded Subsidiary).

“**Hazardous Materials**” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated as hazardous, toxic, a contaminant or words of similar meaning pursuant to any Environmental Law.

“**Hedging Agreement**” means any interest rate protection agreement, foreign currency exchange agreement, commodity price protection agreement or other interest or currency exchange rate or commodity price hedging arrangement.

“**Hedging Obligations**” means the due and punctual payment and performance of any and all obligations of each Loan Party (whether absolute or contingent and however and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor)) arising in respect of Hedging Agreements that (a) are owed to the Administrative Agent, the Arrangers or an Affiliate of any of the foregoing, or to any Person that, at the time such obligations were incurred, was the Administrative Agent, an Arranger or an Affiliate of any of the foregoing, (b) were owed on the Effective Date to a Person that was a Lender or an Affiliate of a Lender as of the Effective Date or (c) are owed to a Person that was a Lender or an Affiliate of a Lender at the time such obligations were incurred; provided that Hedging Obligations shall not include any Excluded Swap Obligations.

“**IBA**” has the meaning assigned to it in Section 1.05.

“**Increased Amount Date**” has the meaning assigned to it in Section 2.22(b).

“**Incremental Lender**” means any Lender or other financial institution with respect to a Commitment Increase.

“**Indebtedness**” of any Person means, without duplication, (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding (i) accounts payable incurred in the ordinary course of business, (ii) earn-outs, hold-backs and similar deferred payment of consideration in acquisitions (but only to the extent that no payment is then owed thereunder) and (iii) deferred compensation payable to directors, officers and employees of the Borrower or any Subsidiary), (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (f) all Guarantees by such Person of Indebtedness of others, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such

Person as an account party in respect of letters of credit and letters of guaranty and (i) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor. Notwithstanding the foregoing, any Indebtedness that has been defeased in accordance with GAAP or defeased pursuant to the deposit of cash or Permitted Investments (in an amount sufficient to satisfy all such obligations relating to such Indebtedness at maturity or redemption, as applicable, and all payments of interest and premium, if any) in a trust or account created or pledged for the benefit of the holders of such Indebtedness, and subject to the other applicable terms of the instrument governing such Indebtedness, shall, to the extent so defeased, not constitute or be deemed "**Indebtedness**".

"Indemnified Taxes" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a) hereof, Other Taxes.

"**Indemnitee**" has the meaning assigned to it in Section 9.03(b).

"**Ineligible Institution**" has the meaning assigned to it in Section 9.04(b).

"**Information**" has the meaning assigned to it in Section 9.12.

"**Interest Election Request**" means a request by the Borrower to convert or continue a Borrowing in accordance with Section 2.08, which shall be substantially in the form attached hereto as Exhibit D (as amended and restated by the First Amendment in the form attached thereto as Exhibit C) or any other form approved by the Administrative Agent.

"**Interest Payment Date**" means (a) with respect to any ABR Loan, the last day of each March, June, September and December and the Maturity Date and (b) with respect to any Term Benchmark Loan, the last day of each Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Term Benchmark Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period, and (c) with respect to any Daily Simple SOFR Loan, each date that is on the numerically corresponding day in each calendar month that is one month after the Borrowing of such Loan (or, if there is no such numerically corresponding day in such month, then the last day of such month) and the Maturity Date.

"**Interest Period**" means with respect to any Term Benchmark Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter (in each case, subject to the availability for the Benchmark applicable to the relevant Loan or Commitment), as the Borrower may elect; provided, that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period and (iii) no tenor that has been removed from this definition pursuant to Section 2.14(e) shall be available for specification in such Borrowing Request or Interest Election Request. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"**Investment**" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or Indebtedness of another Person, (b) a loan, advance or capital contribution (excluding accounts receivable, trade credit, advances to customers, commission, travel, and similar advances to officers and employees, in each case made in the ordinary

course of business) to, Guarantee or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person; provided, that Investments shall not include, in the case of the Borrower and the Subsidiaries, intercompany loans (including guarantees), advances, or Indebtedness arising from cash management, tax and/or accounting operations made in the ordinary course of business consistent with past practices.

“**IRS**” means the United States Internal Revenue Service.

“**ISDA Definitions**” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

“**Issuing Bank**” means JPMorgan Chase Bank, N.A., Truist Bank, Fifth Third Bank, National Association, Citibank, N.A., Morgan Stanley Bank, N.A., MUFG Union Bank, N.A. and any other Lender that agrees to act as an Issuing Bank, each in its capacity as the issuer of Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.06(i). Any Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate (it being agreed that such Issuing Bank shall, or shall cause such Affiliate to, comply with the requirements of Section 2.06 with respect to such Letters of Credit). Each reference herein to the “Issuing Bank” in connection with a Letter of Credit or other matter shall be deemed to be a reference to the relevant Issuing Bank with respect thereto.

“**LC Disbursement**” means a payment made by an Issuing Bank pursuant to a Letter of Credit.

“**LC Exposure**” means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time, plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the LC Exposure at such time. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Article 29(a) of the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce Publication No. 600 (or such later version thereof as may be in effect at the applicable time) or Rule 3.13 or Rule 3.14 of the International Standby Practices, International Chamber of Commerce Publication No. 590 (or such later version thereof as may be in effect at the applicable time) or similar terms of the Letter of Credit itself, or if compliant documents have been presented but not yet honored, such Letter of Credit shall be deemed to be “outstanding” and “undrawn” in the amount so remaining available to be drawn, and the obligations of the Borrower and each Lender shall remain in full force and effect until the Issuing Bank and the Lenders shall have no further obligations to make any payments or disbursements under any circumstances with respect to any Letter of Credit.

“**Lender Parent**” means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

“**Lender Presentation**” means the Lender Presentation, dated March 25, 2021, relating to the Borrower and the Transactions.

“**Lender-Related Person**” has the meaning assigned to it in Section 9.03(d).

“**Lenders**” means the Persons listed on Schedule 2.01A and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term “Lenders” includes the Issuing Banks.

“**Letter of Credit**” means any letter of credit issued and outstanding pursuant to this Agreement.

“**Letter of Credit Agreement**” has the meaning assigned to it in Section 2.06(b).

“**Letter of Credit Commitment**” means, with respect to each Issuing Bank, the commitment of such Issuing Bank to issue Letters of Credit hereunder. The initial amount of each Issuing Bank’s Letter of Credit Commitment is set forth on Schedule 2.01C, or if an Issuing Bank has entered into an Assignment and Assumption or has otherwise assumed a Letter of Credit Commitment after the Effective Date, the amount set forth for such Issuing Bank as its Letter of Credit Commitment in the Register maintained by the Administrative Agent. The Letter of Credit Commitment of an Issuing Bank may be modified from time to time by agreement between such Issuing Bank and the Borrower, and notified to the Administrative Agent.

“**Letter of Credit Sublimit**” means \$20,000,000.

“**Liabilities**” means any losses, claims (including intraparty claims), demands, damages or liabilities of any kind.

“**Lien**” means, with respect to any asset, (a) any mortgage, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“**LLC**” means any Person that is a limited liability company under the laws of its jurisdiction of formation.

“**Loan Documents**” means, collectively, this Agreement, including schedules and exhibits hereto, the Guarantee Agreement, each Promissory Note, any Letter of Credit, the First Amendment and any other document expressly designated by the Administrative Agent or a Lender and any Loan Party as a “**Loan Document**”.

“**Loan Parties**” means the Borrower and each Guarantor.

“**Loans**” means the loans made by the Lenders to the Borrower pursuant to this Agreement.

“**Material Adverse Effect**” means a material adverse effect on (a) the business, assets, operations or financial condition, of the Borrower and its Subsidiaries taken as a whole, (b) the ability of the Borrower and the Guarantors (taken as a whole) to perform their payment obligations under the Loan Documents or (c) the rights and remedies of the Lenders under this Agreement or any other Loan Document.

“**Material Indebtedness**” means Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and its Material Subsidiaries in an aggregate principal amount exceeding \$75,000,000.

“**Material Subsidiary**” means any Subsidiary of the Borrower (a) listed on Schedule 1.01A and (b) which, after the Effective Date, owns assets that account for greater than 5.0% of Consolidated Total Assets as of the date of the last financial statements delivered pursuant to this Agreement.

“**Maturity Date**” means the date which is 5 years after the Effective Date; provided, however, that, if such date is not a Business Day, the Maturity Date shall be the immediately preceding Business Day.

“**Maximum Rate**” has the meaning assigned to it in Section 9.14.

“**Moody’s**” means Moody’s Investors Service, Inc. (or any successor thereto).

“**Multiemployer Plan**” means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“**NYFRB**” means the Federal Reserve Bank of New York.

“**NYFRB Rate**” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided, that if none of such rates are published for any day that is a Business Day, the term “**NYFRB Rate**” means the rate for a federal funds transaction quoted at 11:00 a.m., New York City time on such day received by the Administrative Agent from a federal funds broker of recognized standing selected by it, acting reasonably; provided, further, that if any of the aforesaid rates as so determined would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“**Obligations**” means the Loans and all other amounts owing by the Borrower to the Administrative Agent, any Lender, any Affiliate of any of them, of every type and description (whether by reason of an extension of credit, loan, guarantee, indemnification or otherwise), present or future, arising under this Agreement, any other Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assignment), absolute or contingent, due or to become due, now existing or hereafter arising and however acquired and whether or not evidenced by any note, guarantee or other instrument or for the payment of money, including all fees, interest, charges, expenses, attorneys’ fees and disbursements and other sums chargeable to the Borrower under this Agreement, any other Loan Document or otherwise with respect to any Loan or Letter of Credit, including interest and fees that accrue after the commencement by or against the Borrower or any Affiliate thereof of any proceeding under any debtor relief laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed or allowable claims in such proceeding.

“**Organizational Document**” shall mean (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (including any unanimous shareholder declaration or agreement applicable to such corporation), (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating or limited liability company agreement and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture, trust or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“**Operating Lease and Rental Expense**” means, for any period, all operating lease expense and all other rental expense incurred by the Borrower and its Subsidiaries during such period but shall exclude lease termination expenses and lease exit costs (whether accounted for as restructuring costs, lease expense or otherwise) incurred during such period.

“**Other Connection Taxes**” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan, Letter of Credit or Loan Document).

“**Other Taxes**” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.19).

“**Overnight Bank Funding Rate**” means, for any day, the rate comprised of both overnight federal funds and overnight eurodollar transactions denominated in Dollars by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on the Federal Reserve Bank of New York’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate.

“**Participant**” has the meaning assigned to it in Section 9.04(c).

“**Participant Register**” has the meaning assigned to it in Section 9.04(c).

“**Patriot Act**” has the meaning assigned to it in Section 9.16.

“**Payment**” has the meaning assigned to it in Section 8.06(c).

“**Payment Notice**” has the meaning assigned to it in Section 8.06(c).

“**PBGC**” means the Pension Benefit Guaranty Corporation established under Section 4002 of ERISA and any successor entity performing similar functions.

“**Permitted Acquisition**” means an Investment by any Loan Party in a Person that is engaged in a Similar Business if, as a result of such Investment, (a) such Person becomes a Loan Party or (b) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, a Loan Party and, in each case, any Investment held by such Person; provided, that the Total Leverage Ratio calculated on a pro forma basis would be no greater than the maximum Total Leverage Ratio permitted under Section 6.07.

“**Permitted Encumbrances**” means:

(a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.04;

(b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s, landlord’s and other like Liens arising in the ordinary course of business and securing obligations that are not overdue by more than sixty (60) days (or if more than 60 days overdue, are unfiled and no other action has been taken to enforce such Liens) or are being contested in compliance with Section 5.04, in each case so long as such Liens do not individually or in the aggregate have a Material Adverse Effect;

(c) pledges and deposits made in the ordinary course of business in connection with (i) workers’ compensation, unemployment insurance, retirement and other social security laws or regulations and (ii) public utility services provided to the Borrower or any Subsidiary;

(d) Liens arising out of pledges or deposits to secure (i) the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature, in each case in the ordinary course of business and (ii) liability to insurance carriers under insurance or self-insurance arrangements;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under Section 7.01(k);

(f) easements, zoning restrictions, rights-of-way and other similar encumbrances affecting real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower and its Subsidiaries, taken as a whole;

(g) leases, licenses, subleases or sublicenses (including any such agreements related to intellectual property) granted to third parties in the ordinary course of business and not interfering in any material respect with the ordinary conduct of business of the Borrower and its Subsidiaries, taken as a whole;

(h) Liens in favor of a banking or other financial institution arising as a matter of law or in the ordinary course of business under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of set-off) and that are within the general parameters customary in the banking industry or arising pursuant to such banking institution’s general terms and conditions;

(i) Liens on specific items of inventory or other goods (other than fixed or capital assets) and proceeds thereof of any Person securing such Person's obligations in respect of bankers' acceptances or letters of credit issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or other goods in the ordinary course of business;

(j) 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 in the ordinary course of business;

(k) Liens deemed to exist in connection with Permitted Investments or encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts, other brokerage accounts or merchant processing accounts incurred in the ordinary course of business and not for speculative purposes;

(l) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods entered in the ordinary course of business;

(m) Liens on any cash earnest money deposits made in connection with any letter of intent or purchase agreement for an acquisition;

(n) in the case of (i) any Subsidiary that is not a wholly owned Subsidiary of the Borrower or (ii) the Equity Interests in any Person that is not a Subsidiary, any encumbrance or restriction, including any put and call arrangements, related to Equity Interests in such Subsidiary or such other Person set forth in the Organizational Documents of such Subsidiary or such other Person or any related joint venture, shareholders' or similar agreements and any Liens on the Equity Interests in such Person to secure Indebtedness incurred by such Person;

(o) financing statements with respect to a lessor's rights in and to personal property leased to such Person in the ordinary course of such Person's business;

(p) any interest or title of a lessor, sublessor, licensor or sublicensor under leases or licenses permitted by this Agreement that are entered into in the ordinary course of business;

(q) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks or other financial institutions not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Borrower or any Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and the Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any Subsidiary in the ordinary course of business;

(r) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;

(s) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(t) Liens in connection with the sale or transfer of the Equity Interests in a Subsidiary not prohibited under this Agreement and customary rights and restrictions contained in agreements relating to such sale or transfer, in each case, pending the completion thereof; and

(u) Liens on cash, cash equivalents or marketable securities of the Borrower or any Subsidiary securing obligations of the Borrower or any Subsidiary under Swap Agreements not incurred for speculative purposes.

"Permitted Investments" means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (or by any agency thereof to the extent such

obligations are backed by the full faith and credit of the United States of America, including treasuries and government sponsored enterprises), in each case maturing within three (3) years from the date of acquisition thereof;

(b) investments in commercial paper maturing (i) within 270 days from the date of acquisition thereof and having, at such date of acquisition, the highest credit rating obtainable from S&P or from Moody's or (ii) within ninety (90) days from the date of acquisition thereof and rated, at such date of acquisition, at least A-2 by S&P or at least P-2 by Moody's;

(c) investments in certificates of deposit, banker's acceptances and time deposits maturing within twelve (12) months from the date of acquisition thereof issued or guaranteed by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than \$500,000,000;

(d) fully collateralized repurchase agreements with a term of not more than thirty (30) days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(e) money market funds that (i) comply with the criteria set forth in SEC Rule 2a-7 under the Investment Company Act of 1940, (ii) at the date of acquisition are rated AAA by S&P and Aaa by Moody's and (iii) have portfolio assets of at least \$5,000,000,000; and

(f) securities with maturities of three (3) years or less from the date of acquisition which (or the issuer of which) are rated at least A or A-1 by S&P or A2 or P-1 by Moody's.

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

"Plan" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Plan Asset Regulations" means 29 CFR § 2510.3-101 *et seq.*, as modified by Section 3(42) of ERISA, as amended from time to time.

"Prime Rate" means the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the Federal Reserve Board in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the Federal Reserve Board (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

"Projections" has the meaning assigned to it in Section 4.01(h).

"Promissory Note" has the meaning assigned to it in Section 2.10(e).

"PTE" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

"QFC Credit Support" has the meaning assigned to it in Section 9.18.

“**Recipient**” means (a) the Administrative Agent, (b) any Lender and (c) any Issuing Bank, as applicable.

“**Reference Time**” with respect to any setting of the then-current Benchmark means (1) if such Benchmark is the Term SOFR Rate, 5:00 a.m. (Chicago time) on the day that is two U.S. Government Securities Business Days preceding the date of such setting, (2) if such Benchmark is Daily Simple SOFR, then four Business Days prior to such setting or (3) if such Benchmark is none of the Term SOFR Rate or Daily Simple SOFR, the time determined by the Administrative Agent in its reasonable discretion.

“**Register**” has the meaning assigned to it in Section 9.04(b)(iv).

“**Regulation D**” means Regulation D of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

“**Regulation T**” means Regulation T of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

“**Regulation U**” means Regulation U of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

“**Regulation X**” means Regulation X of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

“**Related Parties**” means, with respect to any specified Person, (1) such Person’s Affiliates and the controlling persons, (2) their respective directors, officers, employees or partners of such Persons described in clause (1) and (3) the respective advisors, agents and other representatives of such Person or any of its controlling person or Affiliates, in the case of this clause (3) acting at the instructions of such Person or its Related Parties described in clause (2) of this definition.

“**Relevant Governmental Body**” means the Federal Reserve Board and/or the NYFRB, or a committee officially endorsed or convened by the Federal Reserve Board and/or the NYFRB or, in each case, any successor thereto.

“**Representatives**” has the meaning assigned to it in Section 9.12.

“**Required Lenders**” means, subject to Section 2.20, (a) at any time prior to the earlier of the Loans becoming due and payable pursuant to Section 7.01 or the Commitments terminating or expiring, Lenders having Revolving Credit Exposures and Unfunded Commitments representing more than 50.0% of the sum of the Total Revolving Credit Exposure and Unfunded Commitments at such time, provided, that solely for purposes of declaring the Loans to be due and payable pursuant to Section 7.01 the Unfunded Commitment of each Lender shall be deemed to be zero; and (b) for all purposes after the Loans become due and payable pursuant to Section 7.01 or the Commitments expire or terminate, Lenders having Revolving Credit Exposures representing more than 50.0% of the sum of the Total Revolving Credit Exposure at such time.

“**Requirements of Law**” shall mean, as to any Person, the Organizational Documents of such Person, and any law, treaty, rule, or regulation or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or assets or to which such Person or any of its property or assets is subject.

“**Resolution Authority**” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“**Responsible Officer**” means the president, Financial Officer or other executive officer of any Person.

“**Restricted Payment**” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Subsidiary, or any payment (whether

in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in the Borrower or any Subsidiary or any option, warrant or other right to acquire any such Equity Interests in the Borrower or any Subsidiary.

“**Reuters**” has the meaning assigned to it in the definition of “Dollar Equivalent.”

“**Revaluation Date**” means each of the following: (i) the date on which such Letter of Credit is issued, (ii) the first Business Day of each calendar month and (iii) the date of any amendment of such Letter of Credit that has the effect of increasing the face amount thereof.

“**Revolving Credit Exposure**” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Loans and its LC Exposure at such time.

“**Revolving Loan**” means a Loan made pursuant to Section 2.03.

“**S&P**” means Standard & Poor’s Rating Services, a Standard & Poor’s Financial Services LLC business (or any successor thereto).

“**Sale Leaseback**” shall mean any arrangement with any Person providing for the leasing by the Borrower or any Subsidiary of any real or tangible personal property, which property has been or is to be sold or transferred by the Borrower or such Subsidiary to such Person in contemplation of such leasing.

“**Sanctioned Country**” means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the First Amendment Effective Date, the so-called Donetsk People’s Republic, the so-called Luhansk People’s Republic, the Crimea, Zaporizhzhia and Kherson Regions of Ukraine, Cuba, Iran, North Korea and Syria).

“**Sanctioned Person**” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, the United Nations Security Council, the European Union, any European Union member state, Her Majesty’s Treasury of the United Kingdom or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any government that is itself the subject or target of Sanctions or (d) any Person owned 50% or more, individually or in the aggregate, by any such Person or Persons described in the foregoing clauses (a), (b) or (c).

“**Sanctions**” means all economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or His Majesty’s Treasury of the United Kingdom.

“**SEC**” means the Securities and Exchange Commission of the United State of America.

“**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 of 1933, as amended, as in effect on the Effective Date.

“**Similar Business**” means any business in which the Borrower and its Subsidiaries are engaged on the date of this Agreement or that is reasonably related, similar, incidental, complementary or ancillary thereto or that is a reasonable extension thereof.

“**SOFR**” means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

“**SOFR Administrator**” means the NYFRB (or a successor administrator of the secured overnight financing rate).

“**SOFR Administrator’s Website**” means the NYFRB’s website, currently at <http://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“**SOFR Determination Date**” has the meaning specified in the definition of “Daily Simple SOFR”.

“**SOFR Rate Day**” has the meaning specified in the definition of “Daily Simple SOFR”.

“**Solvent**” means, as to any Person as of any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts, including contingent debts, as they become absolute and matured taking into account refinancing alternatives, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities, including contingent debts and liabilities, beyond such Person’s ability to pay such debts and liabilities as they mature and (d) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person’s property would constitute an unreasonably small capital. The amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“**subsidiary**” means, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be consolidated with those of the parent in the parent’s consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled by the parent and/or one or more subsidiaries of the parent.

“**Subsidiary**” means any subsidiary of the Borrower.

“**Supported QFC**” has the meaning assigned to it in Section 9.18.

“**Swap**” has the meaning assigned to such term in Section 1a(47) of the Commodity Exchange Act.

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

“**Swap Obligation**” means, with respect to any Guarantor, any obligation to pay or perform under any Swap Agreement.

“**Taxes**” means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), value added taxes, or any other goods and services, use or sales taxes, assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“**Term Benchmark**” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted Term SOFR Rate.

“**Term SOFR Determination Day**” has the meaning assigned to it under the definition of Term SOFR Reference Rate.

“**Term SOFR Rate**” means, with respect to any Term Benchmark Borrowing and for any tenor comparable to the applicable Interest Period, the Term SOFR Reference Rate at approximately 5:00 a.m., Chicago time, two U.S. Government Securities Business Days prior to the commencement of such tenor comparable to the applicable Interest Period, as such rate is published by the CME Term SOFR Administrator.

“**Term SOFR Reference Rate**” means, for any day and time (such day, the “**Term SOFR Determination Day**”), with respect to any Term Benchmark Borrowing denominated in Dollars and for any tenor comparable to the applicable Interest Period, the rate per annum published by the CME Term SOFR Administrator and identified by the Administrative Agent as the forward-looking term rate based on SOFR. If by 5:00 pm (New York City time) on such Term SOFR Determination Day, the “Term SOFR Reference Rate” for the applicable tenor has not been published by the CME Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Rate has not occurred, then, so long as such day is otherwise a U.S. Government Securities Business Day, the Term SOFR Reference Rate for such Term SOFR Determination Day will be the Term SOFR Reference Rate as published in respect of the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate was published by the CME Term SOFR Administrator, so long as such first preceding U.S. Government Securities Business Day is not more than five (5) U.S. Government Securities Business Days prior to such Term SOFR Determination Day.

“**Test Period**” means, for any determination under this Agreement, the four consecutive fiscal quarters of the Borrower most recently ended on or prior to such date of determination and for which financial statements shall have been delivered (or were required to be delivered) to the Administrative Agent pursuant to Section 5.01 (or, before the first delivery of financial statements pursuant to Section 5.01, the most recent period of four fiscal quarters at the end of which financial statements are available).

“**Total Leverage Ratio**” means, as at the last day of any period, the ratio of (a) Consolidated Total Debt on such day to (b) Consolidated EBITDA for such period.

“**Total Revolving Credit Exposure**” means, at any time, the sum of (a) the outstanding principal amount of the Revolving Loans at such time and (b) the total LC Exposure at such time.

“**Transactions**” means the execution, delivery and performance by the Borrower of this Agreement, the Borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“**Type**”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted Term SOFR Rate, the Alternate Base Rate or the Adjusted Daily Simple SOFR (subject to Section 2.14).

“**UK Financial Institution**” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“**UK Resolution Authority**” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

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

“**Unfunded Commitment**” means, with respect to each Lender, the Commitment of such Lender less its Revolving Credit Exposure.

“**U.S. Government Securities Business Day**” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

“**U.S. Person**” means a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“**U.S. Special Resolution Regime**” has the meaning assigned to it in Section 9.18.

“**U.S. Tax Compliance Certificate**” has the meaning assigned to it in Section 2.17(f)(ii)(B)(3).

“**Withdrawal Liability**” means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“**Write-Down and Conversion Powers**” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

SECTION 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a “Revolving Loan”) or by Type (e.g., a “Term Benchmark Loan”) or by Class and Type (e.g., a “Term Benchmark Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Borrowing”) or by Type (e.g., a “Term Benchmark Borrowing”).

SECTION 1.03. 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, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein), (c) the words “herein”, “hereof” and “hereunder”, and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference to any law, rule or regulation herein shall, unless otherwise specified, refer to such law, rule or regulation as amended, modified or supplemented from time to time (including by succession of comparable successor laws) and (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 1.04. Accounting Terms; GAAP; Pro Forma Calculations.

(a) Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the date hereof in GAAP or in the application thereof on the operation of

such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Except as otherwise expressly provided herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, without giving effect to (i) any election under Financial Accounting Standards Board Accounting Standards Codification 825 (or any other Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any Subsidiary at "fair value", as defined therein, (ii) any change in GAAP occurring after the date hereof as a result of the adoption of any proposals set forth in the Proposed Accounting Standards Update, Leases (Topic 840), issued by the Financial Accounting Standards Board on August 17, 2010, or any other proposals issued by the Financial Accounting Standards Board in connection therewith, in each case if such change would require treating any lease (or similar arrangement conveying the right to use) as a capital lease where such lease (or similar arrangement) would not have been required to be so treated under GAAP as in effect on the date hereof and (iii) any treatment of Indebtedness under Accounting Standards Codification 470-20 or 2015-03 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

(b) For the purpose of calculating Consolidated EBITDA for any Test Period, (i) if during such Test Period the Borrower or any Subsidiary shall have made any disposition, Consolidated EBITDA for such Test Period shall be calculated after giving effect thereto on a pro forma basis, and (ii) if during such Test Period the Borrower or any Subsidiary shall have made an acquisition, Consolidated EBITDA for such Test Period shall be calculated after giving effect thereto on a pro forma basis; provided, that Borrower shall not be required to calculate Consolidated EBITDA on a pro forma basis with respect to any acquisition and disposition if the Borrower determines in its sole discretion that it does not have reasonably and readily identifiable information to make such pro forma calculation. Notwithstanding the foregoing, if for SEC reporting purposes the Borrower is required to prepare pro forma financial statements in connection with an acquisition or disposition of the Borrower or its Subsidiaries, then the Borrower will calculate Consolidated EBITDA on a pro forma basis with respect to such acquisition and/or disposition.

SECTION 1.05. Interest Rates; Benchmark Notification. The interest rate on a Loan denominated in Dollars or an Alternative Currency may be derived from an interest rate benchmark that is, or may in the future become, the subject of regulatory reform. March December June December June Upon the occurrence of a Benchmark Transition Event, Section 2.14(b) provides a mechanism for determining an alternative rate of interest. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, the administration, submission, performance or any other matter related to any interest rate used in this Agreement, or with respect to any alternative or successor rate thereto, or replacement rate thereof, including without limitation, whether the composition or characteristics of any such alternative, successor or replacement reference rate will be similar to, or produce the same value or economic equivalence of, the existing interest rate being replaced or have the same volume or liquidity as did any existing interest rate prior to its discontinuance or unavailability. The Administrative Agent and its affiliates and/or other related entities may engage in transactions that affect the calculation of any interest rate used in this Agreement or any alternative, successor or alternative rate (including any Benchmark Replacement) and/or any relevant adjustments thereto, in each case, in a manner adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any interest rate used in this Agreement, any component thereof, or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

SECTION 1.06. Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the amount of such Letter of Credit available to be drawn at such time; provided, that with respect to any Letter of Credit that, by its terms or the terms of any Letter of Credit Agreement related thereto, provides for one or more automatic increases in the available amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum amount is available to be drawn at such time.

SECTION 1.07. Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized and acquired on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II

The Credits

SECTION 2.01. Commitments.

Subject to the terms and conditions set forth herein, each Lender agrees to make Revolving Loans denominated in Dollars to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result (after giving effect to any application of proceeds of such Borrowing pursuant to Section 2.10) in (A) such Lender's Revolving Credit Exposure exceeding such Lender's Commitment or (B) the Total Revolving Credit Exposure exceeding the total Commitments. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

SECTION 2.02. Loans and Borrowings.

(a) Each Revolving Loan shall be made as part of a Borrowing consisting of Revolving Loans made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided, that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.14, each Borrowing shall be comprised entirely of ABR Loans or Term Benchmark Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided, that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Term Benchmark Borrowing that is made to the Borrower, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000; provided, that an ABR Borrowing may be in an aggregate amount that is equal to the entire unused balance of the total Commitments or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e). Borrowings of more than one Type and Class may be outstanding at the same time; provided, that there shall not at any time be more than a total of 10 Term Benchmark Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03. Requests for Borrowings. To request a Borrowing, the Borrower shall notify the Administrative Agent of such request by submitting a Borrowing Request (a) in the case of a Term Benchmark

Borrowing, not later than 2:00 p.m., New York City time, three (3) U.S. Government Securities Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 1:00 p.m., New York City time, on the date of the proposed Borrowing; provided, that any such notice of an ABR Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(e) may be given not later than 1:00 p.m., New York City time, on the date of the proposed Borrowing. Each such Borrowing Request shall be irrevocable and shall be signed by a Responsible Officer of a Borrower. Each such Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the aggregate principal amount of the requested Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be an ABR Borrowing or a Term Benchmark Borrowing;
- (iv) in the case of a Term Benchmark Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (v) the location and number of the Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.07.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Term Benchmark Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04.[Reserved].

SECTION 2.05.[Reserved].

SECTION 2.06.Letters of Credit.

(a) General. Subject to the terms and conditions set forth herein, the Borrower may request any Issuing Bank to issue Letters of Credit as the applicant thereof for the support of the Borrower's or its Subsidiaries' obligations, in a form reasonably acceptable to such Issuing Bank, at any time and from time to time during the Availability Period, in the aggregate amount up to but not exceeding the Letter of Credit Sublimit.

(b) Notice of Issuance, Amendment, Extension, Certain Conditions. To request the issuance of a Letter of Credit (or the amendment or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or fax (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Bank) to an Issuing Bank selected by it and to the Administrative Agent (reasonably in advance of the requested date of issuance, amendment or extension, but in any event no less than three (3) Business Days) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended or extended, and specifying the date of issuance, amendment or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with clause (c) of this Section), the amount and currency of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be reasonably necessary to enable the applicable Issuing Bank to prepare, amend or extend such Letter of Credit. In addition, as a condition to any such Letter of Credit issuance, the Borrower shall have entered into a continuing agreement (or other letter of credit agreement) for the issuance of letters of credit and/or shall submit a letter of credit application, in each case, as required by the respective Issuing Bank and using such Issuing Bank's standard form (each, a "**Letter of Credit Agreement**"). In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any Letter of Credit Agreement, the terms and conditions of this Agreement shall control. A Letter of Credit shall be issued, amended or extended only if (and upon issuance, amendment or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment or extension (i) (x) the aggregate undrawn amount of all

outstanding Letters of Credit issued by any Issuing Bank at such time plus (y) the aggregate amount of all LC Disbursements made by such Issuing Bank that have not yet been reimbursed by or on behalf of the Borrower at such time shall not exceed its Letter of Credit Commitment, (ii) the LC Exposure shall not exceed the total Letter of Credit Commitments, (iii) no Lender's Revolving Credit Exposure shall exceed its Commitment and (iv) the Total Revolving Credit Exposure shall not exceed the total Commitments. The Borrower may, at any time and from time to time, reduce the Letter of Credit Commitment of any Issuing Bank with the consent of such Issuing Bank; provided, that the Borrower shall not reduce the Letter of Credit Commitment of any Issuing Bank if, after giving effect of such reduction, the conditions set forth in clauses (i) through (iv) above shall not be satisfied.

An Issuing Bank shall not be under any obligation to issue any Letter of Credit if:

(i) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing such Letter of Credit, or any law applicable to such Issuing Bank shall prohibit, or require that such Issuing Bank refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Bank with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense that was not applicable on the Effective Date and that such Issuing Bank in good faith deems material to it;

(ii) the issuance of such Letter of Credit would violate one or more policies of such Issuing Bank applicable to letters of credit generally; or

(iii) the Letter of Credit is denominated in a currency other than Dollars or an Alternative Currency.

(c) Expiration Date. Each Letter of Credit shall expire (or be subject to termination by notice from the applicable Issuing Bank to the beneficiary thereof) at or prior to the close of business on the date that is five (5) Business Days prior to the Maturity Date.

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) and without any further action on the part of the applicable Issuing Bank or the Lenders, such Issuing Bank that issued such Letter of Credit hereby grants to each Lender, and each Lender hereby acquires from such Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage from time to time of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the respective Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by such Issuing Bank and not reimbursed by the Borrower on the date due as provided in clause (e) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason, including after the Maturity Date. Each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this clause in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments.

(e) Reimbursement. Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable Issuing Bank shall notify the Borrower and the Administrative Agent thereof. If an Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement not later than 2:00 p.m., New York City time, first Business Day following the date that such LC Disbursement was made; provided, that if such LC Disbursement is not less than \$1,000,000, the Borrower may, subject to the conditions to Borrowing set forth herein, request in accordance with Section 2.03 that such payment be financed with an ABR Borrowing in an equivalent amount and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting

ABR Borrowing. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.07 with respect to Loans made by such Lender (and Section 2.07 shall apply, *mutatis mutandis*, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this clause, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Lenders have made payments pursuant to this clause to reimburse such Issuing Bank, then to such Lenders and such Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this clause to reimburse an Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(f) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in clause (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit, any Letter of Credit Agreement or this Agreement, or any term or provision therein or herein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by the respective Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Administrative Agent, the Lenders nor any Issuing Bank, nor any of their respective Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms, any error in translation or any consequence arising from causes beyond the control of the respective Issuing Bank; provided, that the foregoing shall not be construed to excuse any Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by such Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of an Issuing Bank (as finally determined by a court of competent jurisdiction), such Issuing Bank shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, an Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. The Issuing Bank for any Letter of Credit shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under such Letter of Credit issued by it. Such Issuing Bank shall promptly after such examination notify the Administrative Agent and the Borrower by telephone (confirmed by fax or electronic mail) of such demand for payment if such Issuing Bank has made or will make an LC Disbursement thereunder; provided, that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse such Issuing Bank and the Lenders of their obligations with respect to any such LC Disbursement.

(h) Interim Interest. If the Issuing Bank for any Letter of Credit shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the reimbursement is due and payable at the rate *per annum* then applicable to ABR Revolving Loans and such interest shall be due and payable on the date when such reimbursement is payable; provided, that if the Borrower fails to reimburse such LC Disbursement when due pursuant to clause (e) of this Section, then Section 2.13(d) shall apply. Interest accrued pursuant to this clause shall be paid to the Administrative Agent for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to clause (e) of this Section to reimburse such Issuing Bank for such LC Disbursement shall be for the account of such Lender to the extent of such payment.

(i) Replacement and Resignation of an Issuing Bank.

(i) An Issuing Bank may be replaced at any time by written agreement among the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Lenders of any such replacement of an Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.12(b). From and after the effective date of any such replacement, (x) the successor Issuing Bank shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued by it thereafter and (y) references herein to the term "Issuing Bank" shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit then outstanding and issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit or extend or otherwise amend any existing Letter of Credit.

(ii) Subject to the appointment and acceptance of a successor Issuing Bank, any Issuing Bank may resign as an Issuing Bank at any time upon thirty (30) days' prior written notice to the Administrative Agent, the Borrower and the Lenders, in which case, such resigning Issuing Bank shall be replaced in accordance with Section 2.06(i)(i) above.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders (or, if the maturity of the Loans has been accelerated, Lenders with LC Exposure representing greater than 50.0% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this clause, the Borrower shall deposit in respect of each outstanding Letter of Credit issued for the Borrower's account in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders (the "Collateral Account"), an amount in Dollars equal to 103% of the LC Exposure attributable to such Letters of Credit as of such date plus any accrued and unpaid interest thereon; provided, that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in Section 7.01(h) or (i). Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement.

The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Monies in such account shall be applied by the Administrative Agent to reimburse the applicable Issuing Bank for LC Disbursements for which it has not been reimbursed, together with related fees, costs and customary processing charges, and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing greater than

50.0% of the total LC Exposure), be applied to satisfy other Obligations. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three (3) Business Days after all such Events of Default have been cured or waived.

(k) Letters of Credit Issued for Account of Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder supports any obligations of, or is for the account of, a Subsidiary, or states that a Subsidiary is the “account party,” “applicant,” “customer,” “instructing party,” or the like of or for such Letter of Credit, and without derogating from any rights of the applicable Issuing Bank (whether arising by contract, at law, in equity or otherwise) against such Subsidiary in respect of such Letter of Credit, the Borrower (i) shall reimburse, indemnify and compensate the applicable Issuing Bank hereunder for such Letter of Credit (including to reimburse any and all drawings thereunder) as if such Letter of Credit had been issued solely for the account of the Borrower and (ii) irrevocably waives any and all defenses that might otherwise be available to it as a guarantor or surety of any or all of the obligations of such Subsidiary in respect of such Letter of Credit (other than the defense of payment and performance in full in cash). The Borrower hereby acknowledges that the issuance of such Letters of Credit for their respective Subsidiaries inures to the benefit of the Borrower, and that the Borrower’s business derives substantial benefits from the businesses of such Subsidiaries.

SECTION 2.07.Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof solely by wire transfer of immediately available funds, by 2:00 p.m., New York City time (or, in the case of a notice for a same day ABR Borrowing, 3:00 p.m., New York City time), to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. Except in respect of the provisions of this Agreement covering the reimbursement of Letters of Credit, the Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received in the aforesaid account of the Administrative Agent to an account of the Borrower designated by the Borrower in the applicable Borrowing Request; provided, that ABR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(e) shall be remitted by the Administrative Agent to the Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender’s share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with clause (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the greater of the NYFRB Rate and a rate reasonably determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender’s Loan included in such Borrowing.

SECTION 2.08. Interest Elections.

(a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Term Benchmark Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Term Benchmark Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such Interest Election Request shall be irrevocable and shall be signed by a Responsible Officer of a Borrower.

(c) Each Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Term Benchmark Borrowing; and

(iv) if the resulting Borrowing is a Term Benchmark Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "**Interest Period**".

If any such Interest Election Request requests a Term Benchmark Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Term Benchmark Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period, such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Term Benchmark Borrowing and (ii) unless repaid, each Term Benchmark Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

SECTION 2.09. Termination and Reduction of Commitments.

(a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) The Borrower may at any time terminate, or from time to time reduce, the Commitments; provided, that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$5,000,000 and not less than \$25,000,000 and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.11, (A) any Lender's Revolving Credit Exposure would exceed its Commitment or (B) the Total Revolving Credit Exposure would exceed the total Commitments.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under clause (b) of this Section at least three (3) Business Days (or such lesser period as the Administrative Agent agrees) prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided, that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice

may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

SECTION 2.10.Repayment of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to clause (b) or (c) of this Section shall be *prima facie* evidence of the existence and amounts of the obligations recorded therein absent manifest error; provided, that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note (a "Promissory Note"). In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender and its registered assigns substantially in the form attached hereto as Exhibit G hereto. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form.

SECTION 2.11.Prepayment of Loans.

(a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part without premium or penalty (except as provided in Section 2.16) and any such payment shall be applied as directed by Borrower, subject to prior notice in accordance with clause (b) of this Section.

(b) The Borrower shall notify the Administrative Agent by telephone (confirmed by fax or electronic mail) of any prepayment of a Borrowing hereunder (i) in the case of prepayment of a Term Benchmark Borrowing, not later than 2:00 p.m., New York City time, three (3) Business Days before the date of prepayment or (ii) in the case of prepayment of an ABR Borrowing, not later than 2:00 p.m., New York City time, on the date of such prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided, that any notice of prepayment is delivered by the Borrower may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of an advance of a Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued and unpaid interest to the extent required by Section 2.13 and any break funding payments required by Section 2.16.

SECTION 2.12.Fees.

(a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender, in accordance with its Applicable Percentage, a commitment fee, which shall accrue at the Commitment Fee Rate on the daily amount by which the aggregate Commitments exceed the Total Revolving Credit Exposure during the period from and including the Effective Date to but excluding the date on which such Commitment terminates. Commitment fees accrued through and including the last day of March, June, September and December of each year shall be payable in arrears on the 15th day following such last day and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in each outstanding Letter of Credit, which shall accrue on the daily maximum amount then available to be drawn under such Letter of Credit at the same Applicable Rate used to determine the interest rate applicable to Term Benchmark Revolving Loans, during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to each Issuing Bank for its own account a fronting fee with respect to each Letter of Credit issued by such Issuing Bank, which shall accrue at the rate of 0.125% *per annum* on the Dollar Equivalent of the daily maximum amount then available to be drawn under such Letter of Credit, during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any LC Exposure with respect to Letters of Credit issued by such Issuing Bank, as well as such Issuing Bank's standard fees with respect to the issuance, amendment or extension of any Letter of Credit and other processing fees, and other standard costs and charges, of such Issuing Bank relating to the Letters of Credit as from time to time in effect. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable in Dollars on the 15th day following such last day, commencing on the first such date to occur after the Effective Date; provided, that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to an Issuing Bank pursuant to this clause shall be payable within ten (10) days after written demand therefor. All participation fees and fronting fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in Dollars in immediately available funds, to the Administrative Agent (or to an Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

SECTION 2.13. Interest.

(a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Term Benchmark Borrowing shall bear interest in the case of a Term Benchmark Revolving Loan, at the Adjusted Term SOFR Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) [reserved].

(d) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due (after giving effect to any applicable grace periods), whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after

as well as before judgment, at a rate *per annum* equal to (i) in the case of overdue principal of any Loan, 2.00% plus the rate otherwise applicable to such Loan as provided in the preceding clauses of this Section or (ii) in the case of any other amount, 2.00% per annum plus the rate applicable to ABR Loans as provided in clause (a) of this Section.

(e) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and, in the case of Revolving Loans, upon termination of the applicable Commitments; provided, that (i) interest accrued pursuant to clause (d) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Term Benchmark Revolving Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(f) Interest computed by reference to the Term SOFR Rate or Daily Simple SOFR and the Alternate Base Rate hereunder shall be computed on the basis of a year of 360 days. Interest computed by reference to the Alternate Base Rate only at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year). In each case interest shall be payable for the actual number of days elapsed (including the first day but excluding the last day). All interest hereunder on any Loan shall be computed on a daily basis based upon the outstanding principal amount of such Loan as of the applicable date of determination. A determination of the applicable Alternate Base Rate, Adjusted Term SOFR Rate, Term SOFR Rate, Adjusted Daily Simple SOFR or Daily Simple SOFR shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

SECTION 2.14. Alternate Rate of Interest.

(a) Subject to clauses (b), (c), (d), (e) and (f) of this Section 2.14, if:

(i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) (A) prior to the commencement of any Interest Period for a Term Benchmark Borrowing, that adequate and reasonable means do not exist for ascertaining the Adjusted Term SOFR Rate (including because the Term SOFR Reference Rate is not available or published on a current basis), for such Interest Period or (B) at any time, that adequate and reasonable means do not exist for ascertaining the applicable Adjusted Daily Simple SOFR; or

(ii) the Administrative Agent is advised by the Required Lenders that (A) prior to the commencement of any Interest Period for a Term Benchmark Borrowing, the Adjusted Term SOFR Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing for such Interest Period or (B) at any time, Adjusted Daily Simple SOFR will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) included in such Borrowing;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone, telecopy or electronic mail as promptly as practicable thereafter and, until (x) the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) the Borrower delivers a new Interest Election Request in accordance with the terms of Section 2.08 or a new Borrowing Request in accordance with the terms of Section 2.03, any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Term Benchmark Borrowing and any Borrowing Request that requests a Term Benchmark Borrowing shall instead be deemed to be an Interest Election Request or a Borrowing Request, as applicable, for (x) a Daily Simple SOFR Borrowing so long as the Adjusted Daily Simple SOFR is not also the subject of Section 2.14(a)(i) or (ii) above or (y) an ABR Borrowing if the Adjusted Daily Simple SOFR also is the subject of Section 2.14(a)(i) or (ii) above; provided that if the circumstances giving rise to such notice affect only one Type of Borrowings, then all other Types of Borrowings shall be permitted. Furthermore, if any Term Benchmark Loan or Daily Simple SOFR

Loan is outstanding on the date of the Borrower's receipt of the notice from the Administrative Agent referred to in this Section 2.14(a) with respect to Adjusted Term SOFR or Adjusted Daily Simple SOFR, then until (x) the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) the Borrower delivers a new Interest Election Request in accordance with the terms of Section 2.08 or a new Borrowing Request in accordance with the terms of Section 2.03, any Term Benchmark Loan shall on the last day of the Interest Period applicable to such Loan, be converted by the Administrative Agent to, and shall constitute, (x) a Daily Simple SOFR Borrowing so long as the Adjusted Daily Simple SOFR is not also the subject of Section 2.14(a)(i) or (ii) above or (y) an ABR Loan if the Adjusted Daily Simple SOFR also is the subject of Section 2.14(a)(i) or (ii) above, on such day.

(b) Notwithstanding anything to the contrary herein or in any other Loan Document (and any Swap Agreement shall be deemed not to be a "Loan Document" for purposes of this Section 2.14), if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause (1) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause (2) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders.

(c) Notwithstanding anything to the contrary herein or in any other Loan Document, the Administrative Agent will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(d) The Administrative Agent will promptly notify the Borrower and the Lenders of (i) any occurrence of a Benchmark Transition Event, (ii) the implementation of any Benchmark Replacement, (iii) the effectiveness of any Benchmark Replacement Conforming Changes, (iv) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (f) below and (v) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 2.14, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.14.

(e) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including the Term SOFR Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of "Interest Period" for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is

not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(f) Upon the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower may revoke any request for a Term Benchmark Borrowing or Daily Simple SOFR Borrowing of, conversion to or continuation of Term Benchmark Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any request for a Term Benchmark Borrowing into a request for a Borrowing of or conversion to (A) a Daily Simple SOFR Borrowing so long as the Adjusted Daily Simple SOFR is not the subject of a Benchmark Transition Event or (B) an ABR Borrowing if the Adjusted Daily Simple SOFR is the subject of a Benchmark Transition Event. During any Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of ABR based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of ABR. Furthermore, if any Term Benchmark Loan or Daily Simple SOFR Loan is outstanding on the date of the Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a Benchmark applicable to such Term Benchmark Loan or Daily Simple SOFR Loan, then until such time as a Benchmark Replacement is implemented pursuant to this Section 2.14, any Term Benchmark Loan shall on the last day of the Interest Period applicable to such Loan, be converted by the Administrative Agent to, and shall constitute, (x) a Daily Simple SOFR Borrowing so long as the Adjusted Daily Simple SOFR is not the subject of a Benchmark Transition Event or (y) an ABR Loan if the Adjusted Daily Simple SOFR is the subject of a Benchmark Transition Event, on such day.

SECTION 2.15. Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, liquidity or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender or Issuing Bank;

(ii) impose on any Lender or Issuing Bank or the applicable offshore interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, continuing, converting or maintaining any Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender, such Issuing Bank or such other Recipient of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender, such Issuing Bank or such other Recipient hereunder (whether of principal, interest or otherwise), then the Borrower will pay to such Lender, such Issuing Bank or such other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, such Issuing Bank or such other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration

such Lender's or Issuing Bank's policies and the policies of such Lender's or Issuing Bank's holding company with respect to capital adequacy and liquidity), then from time to time the Borrower will pay to such Lender or Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Bank or such Lender's or Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or Issuing Bank describing the Change in Law in reasonable detail and setting forth the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, as the case may be, as specified in clause (a) or (b) of this Section including in reasonable detail a description of the basis for such claim for compensation and an explanation of how such amount or amounts were determined, shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender or Issuing Bank, as the case may be, the amount shown as due on any such certificate within thirty (30) days after receipt thereof.

(d) Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided, that the Borrower shall not be required to compensate a Lender or Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; provided, further, that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof. Any claim made by a Lender under this Section 2.15 shall be generally consistent with such Lender's treatment of other customers of such Lender that such Lender considers, in its reasonable discretion, to (i) be similarly situated to the Borrower and (ii) have generally similar provisions in their credit agreements with such Lender.

SECTION 2.16. Break Funding Payments. In the event of (a) the payment of any principal of any Term Benchmark 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 Term Benchmark Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Term Benchmark Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.11(b) and is revoked in accordance therewith) or (d) the assignment of any Term Benchmark Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.19, then, in any such event, the Borrower shall compensate each Lender (other than, in the case of a claim for compensation based on the failure to borrow as specified in clause (c) above, any Lender whose failure to make a Loan required to be made by it hereunder has resulted in such failure to borrow) for the loss, cost and expense attributable to such event. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section 2.16, shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within ten (10) Business Days after receipt thereof.

SECTION 2.17. Withholding of Taxes; Gross-Up.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by the Borrower. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for, Other Taxes.

(c) Evidence of Payments. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Loan Parties. The Loan Parties shall jointly and severally indemnify each Recipient, within ten (10) days after written demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any reasonable and documented expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to setoff and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this clause (e).

(f) Status of Lenders.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.17(f)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing:

(A) any Lender that is a U.S. Person shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time

thereafter upon the reasonable request of the Borrower or the Administrative Agent), an executed copy of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, an executed copy of IRS Form W-8BEN-E or IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E or IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(2) in the case of a Foreign Lender claiming that its extension of credit will generate U.S. effectively connected income, an executed copy of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form attached hereto as Exhibit F-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) an executed copy of IRS Form W-8BEN-E or IRS Form W-8BEN; or

(4) to the extent a Foreign Lender is not the beneficial owner, an executed copy of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E, IRS Form W-8BEN, a U.S. Tax Compliance Certificate substantially in the form attached hereto as Exhibit F-2 or Exhibit F-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 attached hereto as Exhibit F-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrower or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Each Lender (or Participant) agrees that if any form or certification it previously

delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent (or, in the case of a Participant, the Lender who granted the participation) in writing of its legal inability to do so. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower and the Administrative Agent in writing of its legal inability to do so.

(g) 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 (including by the payment of additional amounts pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this clause (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this clause (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this clause (g) 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 clause shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(i) Survival. Each party's obligations under this Section shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(j) Defined Terms. For purposes of this Section, the term "Lender" includes any Issuing Bank and the term "applicable law" includes FATCA.

SECTION 2.18. Payments Generally; Pro Rata Treatment; Sharing of Setoffs

(a) The Borrower shall make each payment or prepayment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.15, 2.16 or 2.17, or otherwise) prior to 2:00 p.m., New York City time, on the date when due or the date fixed for any prepayment hereunder, in immediately available funds, without setoff, recoupment or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 383 Madison Avenue, New York, New York, except payments to be made directly to Issuing Banks as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in Dollars.

(b) At any time that payments are not required to be applied in the manner required by Section 7.03, if at any time insufficient funds are received by and available to the Administrative Agent to pay fully all

amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties.

(c) If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Revolving Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and participations in LC Disbursements and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Revolving Loans and participations in LC Disbursements of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Revolving Loans and participations in LC Disbursements; provided, that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this clause shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (as to which the provisions of this clause shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower's rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(d) Unless the Administrative Agent shall have received, prior to any date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Banks pursuant to the terms hereof or any other Loan Document (including any date that is fixed for prepayment by notice from the Borrower to the Administrative Agent pursuant to Section 2.11(b)), notice from the Borrower that the Borrower will not make such payment or prepayment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Banks, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.06(b), 2.17(d) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof) (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid, and/or (ii) hold such amounts in a segregated account over which the Administrative Agent shall have exclusive control as cash collateral for, and application to, any future funding obligations of such Lender under any such Section, in the case of each of clause (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

SECTION 2.19. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, then such Lender shall use reasonable efforts to designate a different

lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Sections 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable and documented costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.15, or if the Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, if any Lender becomes Defaulting Lender, or in connection with any proposed amendment, modification, waiver or termination requiring the consent of all the Lenders or all affected Lenders, the consent of the Required Lenders is obtained but the consent of any Lender whose consent is required is not obtained, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04 or pursuant to procedures agreed upon by the Administrative Agent and the Borrower), all its interests, rights (other than its existing rights to payments pursuant to Sections 2.15 or 2.17) and obligations under this Agreement and the other Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided, that (i) the Borrower shall have received the prior written consent of the Administrative Agent with respect to any assignee that is not already a Lender hereunder (and if a Commitment is being assigned, the Issuing Banks), which consent shall not unreasonably be withheld, (ii) subject to the Borrower's rights with respect to Defaulting Lenders hereunder, such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply. Each party hereto agrees that (i) an assignment required pursuant to this clause may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee (or, to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and such parties are participants), and (ii) the Lender required to make such assignment need not be a party thereto in order for such assignment to be effective and shall be deemed to have consented to and be bound by the terms thereof; provided, that following the effectiveness of any such assignment, the other parties to such assignment agree to execute and deliver such documents necessary to evidence such assignment as reasonably requested by the applicable Lender; provided, that any such documents shall be without recourse to or warranty by the parties thereto.

SECTION 2.20. Defaulting Lenders.

Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender pursuant to Section 2.12;

(b) any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 7.03 or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any Issuing Bank

hereunder; *third*, to cash collateralize LC Exposure with respect to such Defaulting Lender in accordance with this Section; *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) cash collateralize future LC Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with this Section; *sixth*, to the payment of any amounts owing to the Lenders or the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender or the Issuing Banks against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement or under any other Loan Document; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided, that if (x) such payment is a payment of the principal amount of any Loans or LC Disbursements in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and LC Disbursements owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or LC Disbursements owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in the Borrower's obligations corresponding to such Defaulting Lender's LC Exposure are held by the Lenders pro rata in accordance with the Commitments without giving effect to clause (d) below. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post cash collateral pursuant to this Section shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(c) the Commitment and Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 9.02); provided, that this clause (c) shall not apply to the vote of a Defaulting Lender in the case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender affected thereby;

(d) if any LC Exposure exists at the time such Lender becomes a Defaulting Lender then:

(i) all or any part of the LC Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent that such reallocation does not, as to any non-Defaulting Lender, cause such non-Defaulting Lender's Revolving Credit Exposure to exceed its Commitment;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within three (3) Business Days following notice by the Administrative Agent cash collateralize for the benefit of the applicable Issuing Banks only the Borrower's obligations corresponding to such Defaulting Lender's LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.06(j) for so long as such LC Exposure is outstanding;

(iii) if the Borrower cash collateralizes any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.12(b) with respect to such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if the LC Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Section 2.12(a) and Section 2.12(b) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor cash collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of any Issuing Bank or any other Lender hereunder, all commitment fees that otherwise would have been payable to such Defaulting Lender (solely with respect to the portion of such Defaulting Lender's Commitment that was utilized by such LC Exposure) and letter of credit fees payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Banks until and to the extent that such LC Exposure is reallocated and/or cash collateralized; and

(e) so long as such Lender is a Defaulting Lender, no Issuing Bank shall be required to issue, amend or increase any Letter of Credit, unless it is satisfied that the related exposure and the Defaulting Lender's then outstanding LC Exposure will be 100% covered by the Commitments and the Letter of Credit Commitments, as applicable, of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrower in accordance with Section 2.20(d), and LC Exposure related to any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.20(d)(i) (and such Defaulting Lender shall not participate therein).

If (i) a Bankruptcy Event or a Bail-In Action with respect to a Lender Parent shall occur following the date hereof and for so long as such event shall continue or (ii) any Issuing Bank has a good faith belief that any Lender has defaulted in fulfilling its obligations under one or more other agreements in which such Lender commits to extend credit, no Issuing Bank shall be required to issue, amend or increase any Letter of Credit, unless the Issuing Banks shall have entered into arrangements with the Borrower or such Lender, satisfactory to such Issuing Bank, as the case may be, to defease any risk to it in respect of such Lender hereunder.

In the event that each of the Administrative Agent, the Borrower and each Issuing Bank agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the LC Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

SECTION 2.21.Exchange Rates.

(a) No later than 1:00 P.M. (New York City time) on each Revaluation Date, the Administrative Agent shall determine the Exchange Rate as of such Revaluation Date with respect to each applicable Alternative Currency, provided, that upon receipt of a Borrowing Request pursuant to Section 2.03, the Administrative Agent shall determine the Exchange Rate with respect to the relevant Alternative Currency on the related Revaluation Date (it being acknowledged and agreed that the Administrative Agent shall use such Exchange Rate for the purposes of determining compliance with Section 2.01 with respect to such Borrowing Request). The Exchange Rates so determined shall become effective on the relevant Revaluation Date, shall remain effective until the next succeeding Revaluation Date and shall for all purposes of this Agreement be the Exchange Rates employed in converting any amounts between Dollars and any Alternative Currency.

(b) No later than 5:00 P.M. (New York City time) on each Revaluation Date, the Administrative Agent shall determine the aggregate amount of the Dollar Equivalents of the LC Exposure denominated in any Alternative Currency then outstanding.

(c) The Administrative Agent shall promptly notify the Borrower of each determination of an Exchange Rate hereunder.

SECTION 2.22.Increase in Commitment.

(a) The Borrower may, at its option any time before the Maturity Date, seek to increase the Commitments (any such increase, a "**Commitment Increase**") upon written notice to the Administrative Agent; provided that, the aggregate principal amount of all Commitment Increases shall not exceed \$250,000,000.

(b) Any such notice delivered to the Administrative Agent in connection with a Commitment Increase may be delivered at a time when no Default or Event of Default has occurred and is continuing and shall specify (i) the amount of such Commitment Increase (which shall not be less than \$50,000,000 (unless otherwise agreed by the Administrative Agent in its reasonable discretion) or, if less, the maximum amount of Commitment Increase remaining to be established hereunder) sought by the Borrower, (ii) the date (each, an ***“Increased Amount Date”***) on which the Borrower proposes that such Commitment Increase shall be effective, which shall be a date not less than ten Business Days after the date on which such notice is delivered to the Administrative Agent (unless otherwise agreed by the Administrative Agent in its reasonable discretion) and (iii) the identity of each Incremental Lender to whom the Borrower proposes any portion of such Commitment Increase be allocated and the amounts of such allocations. The Administrative Agent, subject to the consent of the Borrower (which shall not be unreasonably withheld) may allocate the Commitment Increase (which may be declined by any Lender (in its sole discretion)) on either a ratable basis to the Lenders or on a non pro-rata basis to one or more Lenders and/or other Persons (other than Ineligible Institutions) reasonably acceptable to each of the Administrative Agent, each Issuing Bank and the Borrower which have expressed a desire to accept the Commitment Increase. The Administrative Agent will then notify each existing Lender and Incremental Lender of such revised allocations of the Commitments, including the desired increase. No Commitment Increase shall become effective until each of the Incremental Lenders extending such Commitment Increase and the Borrower shall have delivered to the Administrative Agent a document in form reasonably satisfactory to the Administrative Agent pursuant to which any such Incremental Lender states the amount of its Commitment Increase and agrees to assume and accept the obligations and rights of a Lender hereunder, and the Borrower accepts such new Commitments.

(c) Notwithstanding the foregoing, no Commitment Increase shall be established unless (i) no Default or Event of Default shall exist on such Increased Amount Date before or after giving effect to such Commitment Increase; (ii) all fees and expenses, if any, owing in respect of such increase to the Administrative Agent and the Lenders will have been paid; (iii) the Borrower shall be in pro forma compliance with each of the covenants set forth in Section 6.07 and 6.08 as of the last day of the most recently ended Test Period after giving effect to the making of any Revolving Loans pursuant to such Commitment Increase on the effective date and other customary and appropriate pro forma adjustment events, including any acquisitions or dispositions after the beginning of the relevant Test Period but on or prior to or simultaneous with the establishment of such Commitment Increase; and (iv) the Borrower shall deliver or cause to be delivered any customary legal opinions or other customary closing documents reasonably requested by the Administrative Agent in connection with any such Commitment Increase.

(d) Upon the effectiveness of any Commitment Increase of any Incremental Lender that is not already a Lender pursuant to this Section 2.22(d), (i) such Incremental Lender shall be deemed to be a “Lender” hereunder, and henceforth shall be entitled to all the rights of, and benefits accruing to, Lenders hereunder and shall be bound by all agreements, acknowledgements and other obligations of Lenders hereunder and (ii) Schedule 2.01A hereto shall be deemed to have been amended to reflect the Commitment of such Incremental Lender. After giving effect to any Commitment Increase, all Loans and all such other credit exposure shall be held ratably by the Lenders in proportion to their respective Commitments, as revised to reflect the increase in the Commitments. The terms of any such Commitment Increase and the extensions of credit made pursuant thereto shall be identical to those of the other Commitments and the extensions of credit made pursuant thereto. Each Commitment Increase shall be deemed for all purposes a Commitment and each Loan made thereunder shall be deemed, for all purposes, a Loan. The Administrative Agent may elect or decline to arrange the increase in Commitment sought by the Borrower but is under no obligation to arrange or consummate any such increase. The Borrower will cooperate with the Administrative Agent in such efforts.

(e) In connection with any increase in the Commitments under this Section 2.22, the Administrative Agent and the Borrower may, without the consent of any Lender, effect such technical amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section 2.22; provided that the Administrative

Agent shall post such amendment to the Lenders (which may be posted to an Approved Electronic Platform) reasonably promptly after the effectiveness thereof.

ARTICLE III

Representations and Warranties

The Borrower represents and warrants to the Lenders on the Effective Date and as of each other date the representations and warranties are required or deemed to be made pursuant to this Agreement, that:

SECTION 3.01. Organization; Powers. Each Loan Party is duly organized or formed, validly existing and in good standing (to the extent such concept is applicable in the relevant jurisdiction) under the laws of the jurisdiction of its organization or formation, has all requisite power and authority to carry on its business as now conducted and is qualified to do business in, and is in good standing (to the extent such concept is applicable in the relevant jurisdiction) in, every jurisdiction where such qualification is required, except, in each case, where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.02. Authorization; Enforceability. The Transactions are within the Borrower's corporate or other organizational powers and have been duly authorized by all necessary corporate or other organizational action. This Agreement has been duly executed and delivered by the Borrower and constitutes, and each other Loan Document to which any Loan Party is to be a party, when executed and delivered by such Loan Party, will constitute, a legal, valid and binding obligation of the Borrower or such Loan Party, as the case may be, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

SECTION 3.03. Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except (i) any reports required to be filed by the Borrower with the SEC pursuant to the Securities Exchange Act of 1934, (ii) those that may be required from time to time in the ordinary course of business that may be required to comply with certain covenants contained in the Loan Documents or (iii) such as have been obtained or made and are in full force and effect, (b) will not violate the charter, by-laws or other organizational documents of the Borrower or any other Loan Party, (c) will not violate any applicable law or regulation of the Borrower or any other Loan Party or any order of any Governmental Authority, (d) will not violate, terminate or result in a default under any indenture, agreement or other instrument binding upon the Borrower or any other Loan Party or its assets (any such term, covenant, condition or provision, a "**Contractual Requirement**") other than any such breach, default, termination or creation or imposition of Lien and (e) will not result in the creation or imposition of, or the requirement to create, any Lien on any asset of the Borrower or any other Loan Party, except in the case of clauses (a), (c), (d) and (e) above for any such violations or defaults that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

SECTION 3.04. Financial Condition; No Material Adverse Effect.

(a) The Borrower has heretofore furnished to the Lenders its consolidated balance sheet and statements of income, stockholders equity and cash flows as of and for the fiscal years ended December 31, 2019 and December 31, 2020, reported on by Ernst & Young LLP, independent public accountants, certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to normal year-end audit adjustments and the absence of certain footnotes.

(b) Since December 31, 2020, there has been no Material Adverse Effect on the Borrower and its Subsidiaries, taken as a whole.

SECTION 3.05. Properties.

(a) Each Loan Party has good title to, or valid leasehold interests in, all its real and personal property material to its business, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes or where the failure to have such title or interest would not reasonably be expected to have a Material Adverse Effect.

(b) Each Loan Party owns, or is licensed to use, all trademarks, trade names, copyrights, patents and other intellectual property material to its business, and the use thereof by such Loan Party, to the best of knowledge of the Borrower, does not infringe upon the rights of any other Person, except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

SECTION 3.06. Litigation and Environmental Matters.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened in writing against or affecting the Borrower or any other Loan Party (i) as to which there is a reasonable expectation of an adverse determination and that, if adversely determined, would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters or as disclosed in filings made by the Borrower with the SEC on or before the date hereof) or (ii) that involve this Agreement or the Transactions.

(b) Except for the Disclosed Matters and except with respect to any other matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of other Loan Parties (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (ii) to the knowledge of the Borrower, have become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

(c) Since the date of this Agreement, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate, has resulted in, or materially increased the likelihood of, a Material Adverse Effect, except as disclosed in filings made by the Borrower with the SEC on or before the date hereof.

SECTION 3.07. Compliance with Laws and Agreements. Each of the Loan Parties are in compliance with all laws, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

SECTION 3.08. Investment Company Status. No Loan Party is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended.

SECTION 3.09. Taxes. Each Loan Party has timely filed or caused to be filed all Tax returns and reports required to have been filed and has paid or caused to be paid all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which such Loan Party, as applicable, has set aside on its books adequate reserves or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.10. ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards Codification No. 715) did not, as of the date of the most recent financial statements reflecting such amounts, exceed the fair market value of the assets of such Plan, and the present value of all accumulated benefit obligations of all underfunded Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards Codification No. 715) did not, as of the date of the most recent financial statements

reflecting such amounts, exceed the fair market value of the assets of all such underfunded Plans, except in each case as would not reasonably be expected to have a Material Adverse Effect.

SECTION 3.11. Disclosure. Neither the Lender Presentation, the Projections nor any of the other reports, financial statements, certificates or other written factual information (other than Projections, forward-looking statements and information of a general economic or industry nature) furnished by or on behalf of the Borrower or any other Loan Party to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished), when taken as a whole, contains as of the date such reports, financial statements, certificates or other written information were so furnished, any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; provided, that with respect to projected financial information and other forward-looking statements (including the Projections), the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time; it being recognized by the Lenders that such projections and other forward-looking statements are as to future events and are not to be viewed as facts and that actual results during the period or periods covered by any such projections or other forward-looking statements may differ significantly from the projected results and such differences may be material.

SECTION 3.12. Anti-Corruption Laws and Sanctions. The Borrower has implemented and maintains in effect policies and procedures reasonably designed to promote compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions, and the Borrower, its Subsidiaries and their respective officers and directors and to the knowledge of the Borrower its employees and agents, are in compliance with applicable Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions in all material respects. None of (a) the Borrower, any Subsidiary, any of their respective directors or officers or to the knowledge of the Borrower or such Subsidiary, employees, or (b) to the knowledge of the Borrower, any agent of the Borrower or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Borrowing or Letter of Credit, use of proceeds or the Transactions will violate any Anti-Corruption Law, Anti-Money Laundering Laws or applicable Sanctions.

SECTION 3.13. Plan Assets; Prohibited Transactions. None of the Borrower or any of its Subsidiaries is an entity deemed to hold "plan assets" (within the meaning of the Plan Asset Regulations), and, assuming no "plan assets" are used by any Lender in making of any Loan and the issuance of any Letter of Credit hereunder, neither the execution, delivery nor performance of the transactions contemplated under this Agreement, including the making of any Loan and the issuance of any Letter of Credit hereunder, will give rise to a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code.

SECTION 3.14. [Reserved].

SECTION 3.15. Labor Matters. Except as, in the aggregate, would not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes against the Borrower or any of its Subsidiaries pending or, to the knowledge of the Borrower or any of its Subsidiaries, threatened; (b) hours worked by and payment made to employees of Borrower and each of its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable law dealing with such matters; and (c) all payments due from Borrower or any of its Subsidiaries on account of employee health and welfare insurance have been paid or accrued as a liability on the books of the relevant Person.

SECTION 3.16. Subsidiaries. As of the Effective Date, Schedule 3.16 sets forth the name and jurisdiction of incorporation of each Subsidiary and, as to each such Subsidiary, the percentage of each class of Equity Interests owned directly or indirectly by the Borrower.

SECTION 3.17. Insurance. Each of the Borrower and the other Loan Parties maintains, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are

customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

SECTION 3.18. Use of Proceeds and Letters of Credit. The proceeds of the Loans will be used only for general corporate purposes of the Borrower and its Subsidiaries (including Acquisitions, Investments and Restricted Payments permitted hereunder). No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the regulations of the Federal Reserve Board, including Regulations T, U and X. Letters of Credit will be issued only to support the Borrower and its Subsidiaries. The Borrower will not request any Borrowing or Letter of Credit, and the Borrower shall not use, and shall procure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Borrowing or Letter of Credit (x) 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 applicable Anti-Corruption Laws or Anti-Money Laundering Laws, (y) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, except to the extent permitted for a Person required to comply with applicable Sanctions, or (z) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

ARTICLE IV

Conditions

SECTION 4.01. Effective Date. The obligations of the Lenders to make Loans and of the Issuing Banks to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received (i) from each party hereto either (A) a counterpart of this Agreement signed on behalf of such party or (B) written evidence satisfactory to the Administrative Agent (which may include fax or electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement and (ii) from each party to the Guarantee Agreement either (A) a counterpart of the Guarantee Agreement signed on behalf of such party or (B) written evidence satisfactory to the Administrative Agent (which may include fax or electronic transmission of a signed signature page of the Guarantee Agreement) that such party has signed a counterpart of the Guarantee Agreement.

(b) The Administrative Agent shall have received (i) a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Skadden, Arps, Slate, Meagher & Flom LLP, counsel for the Loan Parties and (ii) a written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Berg Hill Greenleaf Ruscitti, Colorado counsel for the Loan Parties, in each case, covering such other matters relating to the Loan Parties, this Agreement, the other Loan Documents or the Transactions as the Administrative Agent shall reasonably request.

(c) The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Effective Date, with appropriate insertions and attachments, including the certificate of incorporation or formation, as applicable, of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party, and (ii) a certificate of compliance, certificate of status or other applicable certificate of good standing certificate (to the extent such concept is applicable in the relevant jurisdiction) as of a recent date for each Loan Party from its jurisdiction of organization.

(d) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by a Responsible Officer of the Borrower, confirming compliance with the conditions set forth in clauses (a) and (b) of Section 4.02.

(e) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including, to the extent invoiced at least two (2) Business Days prior to the Effective Date, reimbursement or payment of all reasonable and documented out-of-pocket expenses required to be reimbursed or paid by the Borrower hereunder.

(f) The Administrative Agent shall have received the audited financial statements and the unaudited quarterly financial statements of the Borrower referred to in Section 3.04(a). The Administrative Agent hereby acknowledges receipt of the financial statements required in this clause (f) with respect to the fiscal years ended December 31, 2019 and December 31, 2020.

(g) (i) The Administrative Agent shall have received, at least three (3) days prior to the Effective Date, all documentation and other information regarding the Borrower requested in connection with applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act, to the extent requested in writing of the Borrower at least ten (10) days prior to the Effective Date and (ii) to the extent the Borrower qualifies as a “legal entity customer” under the requirements of the Beneficial Ownership Regulation, at least three (3) days prior to the Effective Date, any Lender that has requested, in a written notice to the Borrower at least ten (10) days prior to the Effective Date, a Beneficial Ownership Certification in relation to the Borrower shall have received such Beneficial Ownership Certification (provided, that upon the execution and delivery by such Lender of its signature page to this Agreement, the condition set forth in this clause (ii) shall be deemed to be satisfied).

(h) The Administrative Agent shall have received satisfactory financial statement projections (the “Projections”) of the Borrower through and including the fiscal year ending December 31, 2025, which shall be accompanied by a detailed description of the key assumptions used in preparing such Projections. The Administrative Agent hereby acknowledges receipt of the Projections required in this clause (h) with respect to the period through and including the fiscal year ending December 31, 2025.

The Administrative Agent shall notify the Borrower and the Lenders of the Effective Date, and such notice shall be conclusive and binding upon all parties hereto.

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing (excluding, for the avoidance of doubt, any conversion or continuation of a Loan), and of each Issuing Bank to issue, amend or extend any Letter of Credit, is subject to receipt of the request therefor in accordance herewith and to the satisfaction of the following conditions:

(a) The representations and warranties of the Borrower set forth in this Agreement shall be true and correct in all material respects on and as of the date of such Borrowing or the date of issuance, amendment or extension of such Letter of Credit, as applicable; provided, that any representation and warranty (x) that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects and (y) which by its terms is made as of a specified date shall be required to be true and correct in all material respects (or, in the case of any representation or warranty qualified by “materiality,” “Material Adverse Effect” or similar language, in all respects) only as of such specified date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment or extension of such Letter of Credit, as applicable, no Default or Event of Default shall have occurred and be continuing.

Each Borrowing (excluding any conversion or continuation of any existing Loan) and each issuance, amendment or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in clauses (a) and (b) of this Section.

ARTICLE V

Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or been terminated (or have been cash collateralized in accordance with Section 2.06), in each case, without any pending draw, and all LC Disbursements shall have been reimbursed, the Borrower covenant and agree with the Lenders that:

SECTION 5.01. Financial Statements; Ratings Change and Other Information. The Borrower will furnish to the Administrative Agent for transmission to each Lender:

(a) within ninety (90) days after the end of each fiscal year of the Borrower (commencing with the fiscal year ended December 31, 2021), its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by Ernst & Young LLP or other independent public accountant firm of recognized national or regional standing reasonably acceptable to the Administrative Agent (without a "going concern" or like qualification or exception (other than any qualification or exception, that is expressly solely with respect to, or expressly resulting solely from, (i) an upcoming maturity date under any Indebtedness under the Loan Documents or (ii) any actual or potential inability to satisfy a financial maintenance covenant at such time or on a future date or in a future period) and without any qualification or exception as to the scope of such audit in any material respects) to the effect that such consolidated financial statements present fairly, in all material respects, the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower (commencing with the fiscal quarter ended June 30, 2021), its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures as of the end of and for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes (which certification requirement shall be deemed satisfied by the execution by a Financial Officer of the certification required to be filed with the SEC pursuant to Item 601 of Regulation S-K);

(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate executed by a Financial Officer of the Borrower (i) certifying as to whether a Default has occurred and, if a Default has occurred and, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations of the Total Leverage Ratio demonstrating compliance with Section 6.07, (iii) setting forth reasonably detailed calculations of the Consolidated Fixed Charge Coverage Ratio demonstrating compliance with Section 6.08 and (iv) stating whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.04 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(d) concurrently with any delivery of financial statements under clause (a) above, customary management discussion and analysis of the important operational and financial developments during the fiscal period covered by such financial statements (which shall be deemed satisfied by any management discussion and analysis disclosed in filings made by the Borrower with the SEC); and

(e) promptly following any request therefor, (x) such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request and (y) information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation; provided, that, with respect to clause (x), none of the Borrower or any of the Subsidiaries will be required to provide information constituting attorney work product, subject to attorney/client privilege or confidentiality obligations not created in contemplation of this Agreement.

Documents and information required to be delivered pursuant to Section 5.01(a), (b) or (d) may be delivered electronically and, if so delivered, shall be deemed to have been delivered on the date on which such

documents or information (i) are posted on the Borrower's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether made available by the Administrative Agent) or (ii) shall be available on the website of the SEC at <http://www.sec.gov>; provided, that: (A) upon written request by the Administrative Agent (or any Lender acting through the Administrative Agent) to the Borrower, the Borrower shall deliver paper copies of such documents to the Administrative Agent or such Lender and (B) the Borrower shall notify the Administrative Agent and each Lender (by fax or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request by a Lender for delivery, and each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such document to it and maintaining its copies of such documents.

SECTION 5.02. Notices of Material Events. The Borrower will furnish to the Administrative Agent for distribution to each Lender prompt written notice of the following, promptly after a Responsible Officer of the Borrower having knowledge thereof:

- (a) the occurrence of any Default or Event of Default;
- (b) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower or any of its Material Subsidiaries, including pursuant to any applicable Environmental Laws, that, if adversely determined, would reasonably be expected to result in a Material Adverse Effect;
- (c) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, would reasonably be expected to result in a Material Adverse Effect;
- (d) notice of any action arising under any Environmental Law or of any noncompliance by the Borrower or any Subsidiary with any Environmental Law or any permit, approval, license or other authorization required thereunder that, if adversely determined, would reasonably be expected to result in a Material Adverse Effect;
- (e) any material change in accounting or financial reporting practices by the Borrower or any Subsidiary;
- (f) [reserved];
- (g) any other development that results in, or would reasonably be expected to result in, a Material Adverse Effect; and
- (h) any change in the information provided in the Beneficial Ownership Certification delivered to such Lender that would result in a change to the list of beneficial owners identified in such certification.

Documents and information required to be delivered pursuant to Section 5.02(b), (c) or (d) may be delivered electronically and, if so delivered, shall be deemed to have been delivered on the date on which such documents or information shall be available on the website of the SEC at <http://www.sec.gov>; provided, that: (A) upon written request by the Administrative Agent (or any Lender acting through the Administrative Agent) to the Borrower, the Borrower shall deliver paper copies of such documents to the Administrative Agent or such Lender and (B) the Borrower shall notify the Administrative Agent and each Lender (by fax or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents.

SECTION 5.03. Existence; Conduct of Business. The Borrower will, and will cause each of its Material Subsidiaries to, do or cause to be done all things reasonably necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business, taken as a whole, (other than the preservation of the existence of the Borrower) except to

the extent that failure to do so, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect; provided, that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03.

SECTION 5.04. Payment of Taxes. The Borrower will, and will cause each of its Subsidiaries to, pay its obligations, including Tax liabilities, that, if not paid, could result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.05. [Reserved].

SECTION 5.06. Books and Records; Inspection Rights. The Borrower will, and will cause each of its Material Subsidiaries to, keep proper books of record and account in which full, true and correct entries in all material respects, are made of all dealings and transactions in relation to its business and activities, and are in conformity with GAAP. The Borrower will, and will cause each other Loan Party to, permit any representatives designated by the Administrative Agent or any Lender, upon at least five (5) Business Days' prior notice, to visit and inspect, during normal business hours at reasonable times, its offices and other facilities, properties, to examine and make extracts from its books and records, to discuss its affairs, finances and condition with its officers and independent accountants (it being agreed that, the foregoing will be coordinated through the Borrower and the Administrative Agent); provided, that unless an Event of Default has occurred and is continuing at the time such inspection commences, only one visit or inspection shall be permitted in any 12 consecutive calendar months. Notwithstanding anything to the contrary in this Section 5.06, none of the Borrower or any of its Material Subsidiaries will be required to disclose, permit the inspection, examination or making copies or abstracts of, or discussion of, any document, information or other matter that (i) constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives) is prohibited by applicable law or any binding agreement not entered into in contemplation of avoiding such inspection and disclosure rights, (iii) is subject to attorney-client or similar privilege or constitutes attorney work product, or (iv) in respect of which the Borrower or any Material Subsidiary owes confidentiality obligations to any third party not entered into in contemplation of avoiding such inspection and disclosure rights.

SECTION 5.07. Compliance with Laws. The Borrower will, and will cause each of its Subsidiaries to, comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect and enforce policies and procedures reasonably designed to promote compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with applicable Anti-Corruption Laws, Anti-Money Laundering Laws and applicable Sanctions in all material respects.

SECTION 5.08. [Reserved].

SECTION 5.09. [Reserved].

SECTION 5.10. Additional Guarantors. With respect to any new Material Subsidiary (other than an Excluded Subsidiary) organized or acquired after the Effective Date by any Loan Party and any existing Subsidiary that becomes a Material Subsidiary after the Effective Date that, promptly, but in any event within sixty (60) days (or such longer period as may be agreed upon by the Administrative Agent), cause such Subsidiary (a) to become a party to the Guarantee Agreement, (b) to deliver to the Administrative Agent such documents and certificates as the Administrative Agent may reasonably request relating to the organization, existence and good standing of such Subsidiary, the authorization of the entering into the Guarantee Agreement and the transactions related thereto, all in form and substance satisfactory to the Administrative Agent and (c) if reasonably requested

by the Administrative Agent, to deliver to the Administrative Agent legal opinions relating to the matters described above.

SECTION 5.11. Line of Business. The Borrower will, and will cause any of its Subsidiaries to refrain from entering into any business, either directly or through any Subsidiary, except for those businesses in which the Borrower and its Subsidiaries are engaged on the date of this Agreement or that are reasonably related, similar, incidental, complementary or ancillary thereto or that is a reasonable extension thereof.

ARTICLE VI

Negative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or been terminated, in each case, without any pending draw, and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

SECTION 6.01. Subsidiary Indebtedness. The Borrower will not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Indebtedness, except:

- (a) Indebtedness created under the Loan Documents;
 - (b) Indebtedness existing on the date hereof and set forth on Schedule 6.01 and refinancings, extensions, renewals or replacements of any such Indebtedness; provided, that the amount of such Indebtedness is not increased at the time of such refinancing, extension, renewal or replacement except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder;
 - (c) Indebtedness of any Subsidiary to the Borrower or any other Subsidiary;
 - (d) Guarantees by any Subsidiary of Indebtedness of the Borrower or any other Subsidiary;
 - (e) Indebtedness of any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof; provided, that such Indebtedness is incurred prior to or within 270 days after such acquisition or the completion of such construction or improvement;
 - (f) Indebtedness of any Person that becomes a Subsidiary after the date hereof in connection with a Permitted Acquisition; provided, that such initial Indebtedness exists at the time such Person becomes a Subsidiary and is not created in contemplation of or in connection with such Person becoming a Subsidiary and any refinancings, extensions, renewals or replacements of such Indebtedness does not increase the outstanding principal amount thereof (except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder);
 - (g) Indebtedness of the Borrower or any Subsidiary as an account party in respect of trade letters of credit;
 - (h) other Indebtedness in an aggregate principal amount not to exceed the greater of \$400,000,000 and 7.5% of the Consolidated Total Assets at any time outstanding; provided that (i) such Indebtedness shall have a final maturity no earlier than the Maturity Date, (ii) the weighted average life to maturity of such Indebtedness shall be no shorter than that of the facility hereunder, (iii) such Indebtedness shall have covenants no more restrictive on the Borrower and its Subsidiaries, when taken as a whole than the covenants hereunder, as reasonably determined by the Borrower and (iv) the aggregate principal amount of secured
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Indebtedness permitted by this clause (h) shall not exceed the greater of \$50,000,000 and 1.0% of the Consolidated Total Assets; and

(i) Hedging Obligations (excluding Hedging Obligations entered into for speculative purposes).

SECTION 6.02. Liens. The Borrower will not, and will not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, except:

(a) Permitted Encumbrances;

(b) any Lien on any property or asset of the Borrower or any Subsidiary existing on the date hereof and set forth on Schedule 6.02 and any refinancings, extensions, renewals and replacements thereof; provided, that (i) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary, other than improvements and accessions to the subject assets and proceeds thereof, and (ii) the amount of such Lien is not increased at the time of such refinancing, extension, renewal or replacement except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder;

(c) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided, that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Subsidiary and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof (except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder);

(d) Liens on fixed or capital assets (including Capital Lease Obligations and purchase money Liens) acquired, constructed or improved by the Borrower or any Subsidiary; provided, that (i) such security interests secure Indebtedness permitted by clause (e) of Section 6.01, (ii) the Indebtedness secured thereby does not exceed 100.0% of the cost of acquiring, constructing or improving such fixed or capital assets and (iii) such security interests shall not apply to any other property or assets of the Borrower or any Subsidiary;

(e) Liens on cash collateral provided by the Borrower to an Issuing Bank in respect of any cash collateralized Letter of Credit as contemplated by Section 2.06(j);

(f) Liens on cash collateral or government securities to secure obligations under Hedging Agreement; and

(g) other Liens securing an aggregate principal amount of outstanding Indebtedness or other obligations not to exceed the greater of \$50,000,000 and 1.0% of the Consolidated Total Assets.

SECTION 6.03. Fundamental Changes. (a) The Borrower will not, and will not permit any of its Subsidiaries to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or otherwise Dispose of all or substantially all of the assets of the Borrower and its Subsidiaries on a consolidated basis, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall have occurred and be continuing (i) any Person may merge or consolidate with or into the Borrower in a transaction in which the Borrower is the surviving corporation, (ii) any Person may merge or consolidate with or into any Subsidiary in a transaction in which the surviving entity is a Subsidiary, (iii) any Subsidiary may Dispose of its assets to the Borrower or to another Subsidiary and (iv) any Subsidiary may liquidate or dissolve or if the Borrower determines in good faith that such liquidation or

dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders; provided that the Borrower will not merge into or consolidate with any other Person, except as permitted by clause (i) above, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution).

(b) The Borrower will not change its method for determining (i) the end of its fiscal year or (ii) its fiscal quarters without providing prior written notice to the Administrative Agent.

SECTION 6.04. [Reserved].

SECTION 6.05. Restricted Payments. The Borrower will not, and will not permit any of its Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except (a) the Borrower may declare and pay dividends with respect to its Equity Interests payable solely in additional shares of its common stock, (b) Subsidiaries may declare and pay dividends ratably with respect to their Equity Interests, (c) the Borrower may make Restricted Payments pursuant to and in accordance with stock option plans or other benefit plans for management or employees of the Borrower and its Subsidiaries, (d) the Borrower and its Subsidiaries may make any other Restricted Payment (other than Restricted Payments to repurchase Equity Interests) not to exceed \$25,000,000 in the aggregate in any fiscal year so long as no Event of Default has occurred and is continuing prior to making such Restricted Payment or would arise after giving effect thereto; provided that any unused amounts in any fiscal year may be carried over to the next fiscal year and (e) the Borrower and its Subsidiaries may make any other Restricted Payment so long as (i) no Event of Default has occurred and is continuing prior to making such Restricted Payment or would arise after giving effect thereto and (ii) the Total Leverage Ratio does not exceed 2.50:1.00 after giving effect thereto on a pro forma basis.

SECTION 6.06. Transactions with Affiliates. The Borrower will not, and will not permit any of its Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, in excess of \$25,000,000, except

(a) transactions at prices and on terms and conditions, when taken as a whole, not materially less favorable to the Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties;

(b) transactions between or among the Borrower and its Subsidiaries (or between or among two or more Subsidiaries) not involving any other Affiliate;

(c) transactions otherwise permitted under this Agreement;

(d) payment of directors' fees and reimbursement of actual out-of-pocket expenses incurred in connection with attending meetings of the governing body of the Borrower;

(e) employment arrangements with officers and other employees of the Borrower and its Subsidiaries entered into in the ordinary course of business; and

(f) transactions entered into in connection with any accounts receivable financing.

SECTION 6.07. Total Leverage Ratio. The Borrower will not permit the Total Leverage Ratio as of the last day of any Test Period to be greater than 3.00 to 1.00.

SECTION 6.08. Consolidated Fixed Charge Coverage Ratio. The Borrower will not permit the Consolidated Fixed Charge Coverage Ratio as of the last day of any Test Period to be less than 1.50 to 1.00.

SECTION 6.09. [Reserved].

SECTION 6.10. Sanctions. The Borrower will not request any Loan or Letter of Credit, and the Loan Parties will not use, and will procure that their Subsidiaries and their respective directors, officers, employees and agents will not use, the proceeds of the Loans or Letters of Credit (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any

Person in violation of any Anti-Corruption Laws, (B) to fund, finance or facilitate any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, except to the extent permitted for a Person required to comply with applicable Sanctions, or (C) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

ARTICLE VII

Events of Default

SECTION 7.01. Events of Default. If any of the following events (each, an “*Event of Default*”) shall occur:

(a) the Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise;

(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Section 7.01) payable under this Agreement or any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of three (3) Business Days;

(c) any representation or warranty made or deemed made by or on behalf of any Loan Party in or in connection with this Agreement, any other Loan Document, or any amendment or modification hereof or thereof or waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement, any other Loan Document, or any amendment or modification hereof or thereof or waiver hereunder or thereunder, shall prove to have been incorrect in any material respect (or, in the case of any representation or warranty qualified by “materiality,” “Material Adverse Effect” or similar language, in any respect) when made or deemed made;

(d) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a), 5.03 (with respect to the Borrower’s existence) or in Article VI;

(e) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d) of this Section 7.01) or any other Loan Document, and such failure shall continue unremedied for a period of thirty (30) days after notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of any Lender);

(f) the Borrower or any Loan Party that is a Material Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable, and such failure shall continue after any applicable grace period;

(g) any default occurs in respect of any Material Indebtedness that results in such Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g)(i) shall not apply to any Indebtedness that becomes due as a result of any sale, lease, transfer or other disposition of property or assets securing such Indebtedness;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any Significant Subsidiary or its debts, or of a substantial part of its assets, under any federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Significant Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed, uncharged or

unbonded for sixty (60) consecutive days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any Significant Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Section 7.01, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Significant Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) the Borrower or any Material Subsidiary shall admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of \$75,000,000 to the extent not covered by independent third-party insurance or indemnity (other than standard deductibles) as to which the insurer or indemnitor has been notified of such judgment and has not denied coverage thereof) shall be rendered against the Borrower, any Material Subsidiary or any combination thereof and the same shall remain undischarged for a period of sixty (60) consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any Material Subsidiary to enforce any such judgment;

(l) an ERISA Event shall have occurred that results in liability of the Borrower or any Material Subsidiary, that when taken together with all other ERISA Events that have occurred, would reasonably be expected to result in a Material Adverse Effect;

(m) a Change in Control shall occur; or

(n) any material provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all Obligations, ceases to be in full force and effect; or the Borrower or any other Person contests in writing the validity or enforceability of any provision of any Loan Document; or the Borrower denies in writing that it has any or further liability or obligation under any Loan Document, or purports in writing to revoke, terminate or rescind any Loan Document.

SECTION 7.02. Remedies Upon an Event of Default. If an Event of Default occurs (other than an event with respect to the Borrower described in Sections 7.01(h) or 7.01(i)), and at any time thereafter during the continuance of such Event of Default, the Administrative Agent may with the consent of the Required Lenders, and shall at the request of the Required Lenders, by notice to the Borrower, take any or all of the following actions, at the same or different times:

(a) terminate any outstanding Commitments, and thereupon the Commitments shall terminate immediately;

(b) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder and under any other Loan Document, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower;

(c) require that the Borrower provides cash collateral as required in Section 2.06(j);
and

(d) exercise on behalf of itself, the Lenders and the Issuing Banks all rights and remedies available to it, the Lenders and the Issuing Banks under the Loan Documents and applicable law.

If an Event of Default described in Sections 7.01(h) or 7.01(i) occurs with respect to the Borrower, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder and under any other Loan Document including any break funding payment, shall automatically become due and payable, and the obligation of the Borrower to cash collateralize the LC Exposure as provided in clause (c) above shall automatically become effective, in each case, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

SECTION 7.03. Application of Payments. Notwithstanding anything herein to the contrary, following the exercise of remedies provided for in Section 7.01 and notice thereof to the Administrative Agent by the Borrower or the Required Lenders:

(a) all payments received on account of the Obligations shall, subject to Section 2.20, be applied by the Administrative Agent as follows:

(i) first, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts payable to the Administrative Agent (including fees and disbursements and other charges of counsel to the Administrative Agent payable under Section 9.03 and amounts pursuant to Section 2.12(c) payable to the Administrative Agent in its capacity as such);

(ii) second, to payment of that portion of the Obligations constituting fees, expenses, indemnities and other amounts (other than principal, reimbursement obligations in respect of LC Disbursements, interest and Letter of Credit fees) payable to the Lenders and the Issuing Banks (including fees and disbursements and other charges of counsel to the Lenders and the Issuing Banks payable under Section 9.03) arising under the Loan Documents, ratably among them in proportion to the respective amounts described in this clause (ii) payable to them;

(iii) third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit fees and charges and interest on the Loans and unreimbursed LC Disbursements, ratably among the Lenders and the Issuing Banks in proportion to the respective amounts described in this clause (iii) payable to them;

(iv) fourth, (A) to payment of that portion of the Obligations constituting unpaid principal of the Loans and unreimbursed LC Disbursements and (B) to cash collateralize that portion of LC Exposure comprising the undrawn amount of Letters of Credit to the extent not otherwise cash collateralized by the Borrower pursuant to Section 2.06 or 2.20, ratably among the Lenders and the Issuing Banks in proportion to the respective amounts described in this clause (iv) payable to them; provided, that (x) any such amounts applied pursuant to subclause (B) above shall be paid to the Administrative Agent for the ratable account of the applicable Issuing Banks to cash collateralize Obligations in respect of Letters of Credit, (y) subject to Section 2.06 or 2.20, amounts used to cash collateralize the aggregate amount of Letters of Credit pursuant to this clause (iv) shall be used to satisfy drawings under such Letters of Credit as they occur and (z) upon the expiration of any Letter of Credit (without any pending drawings), the pro rata share of cash collateral shall be distributed to the other Obligations, if any, in the order set forth in this Section 7.03;

(v) fifth, to the payment in full of all other Obligations, in each case ratably among the Administrative Agent, the Lenders and the Issuing Banks based upon the respective aggregate amounts of all such Obligations owing to them in accordance with the respective amounts thereof then due and payable; and

(vi) finally, the balance, if any, after all Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by law; and

(b) if any amount remains on deposit as cash collateral after all Letters of Credit have either been fully drawn or expired (without any pending drawings), such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

ARTICLE VIII

The Administrative Agent

SECTION 8.01. Authorization and Action. (a) Each Lender and each Issuing Bank hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors and assigns to serve as the administrative agent under the Loan Documents and each Lender and each Issuing Bank authorizes the Administrative Agent to take such actions as agent on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Administrative Agent under such agreements and to exercise such powers as are reasonably incidental thereto. Without limiting the foregoing, each Lender and each Issuing Bank hereby authorizes the Administrative Agent to execute and deliver, and to perform its obligations under, each of the Loan Documents to which the Administrative Agent is a party, and to exercise all rights, powers and remedies that the Administrative Agent may have under such Loan Documents.

(b) As to any matters not expressly provided for herein and in the other Loan Documents (including enforcement or collection), the Administrative Agent shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the written instructions of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, pursuant to the terms in the Loan Documents), and, unless and until revoked in writing, such instructions shall be binding upon each Lender and each Issuing Bank; provided, however, that the Administrative Agent shall not be required to take any action that (i) the Administrative Agent in good faith believes exposes it to liability unless the Administrative Agent receives an indemnification and is exculpated in a manner satisfactory to it from the Lenders and the Issuing Banks with respect to such action or (ii) is contrary to this Agreement or any other Loan Document or applicable law, including any action that may be in violation of the automatic stay under any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any requirement of law relating to bankruptcy, insolvency or reorganization or relief of debtors; provided, further, that the Administrative Agent may seek clarification or direction from the Required Lenders prior to the exercise of any such instructed action and may refrain from acting until such clarification or direction has been provided. Except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower, any Subsidiary or any Affiliate of any of the foregoing that is communicated to or obtained by the Person serving as Administrative Agent or any of its Affiliates in any capacity. Nothing in this Agreement shall require the Administrative Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(c) In performing its functions and duties hereunder and under the other Loan Documents, the Administrative Agent is acting solely on behalf of the Lenders and the Issuing Banks (except in limited circumstances expressly provided for herein relating to the maintenance of the Register), and its duties are entirely mechanical and administrative in nature. Without limiting the generality of the foregoing:

(i) the Administrative Agent does not assume and shall not be deemed to have assumed any obligation or duty or any other relationship as the agent, fiduciary or trustee of or for any Lender, Issuing Bank or holder of any other obligation other than as expressly set forth herein and in the other Loan Documents, regardless of whether a Default or an Event of Default has occurred and is continuing (and it is understood and agreed that the use of the term "agent" (or any similar term) herein or in any other Loan Document with reference to the Administrative Agent is not intended to connote any fiduciary duty or other implied (or express) obligations arising under agency doctrine of any applicable law, and that such term is used as a matter of market custom and

is intended to create or reflect only an administrative relationship between contracting parties); additionally, each Lender agrees that it will not assert any claim against the Administrative Agent based on an alleged breach of fiduciary duty by the Administrative Agent in connection with this Agreement and/or the transactions contemplated hereby; and

(ii) nothing in this Agreement or any Loan Document shall require the Administrative Agent to account to any Lender for any sum or the profit element of any sum received by the Administrative Agent for its own account;

(d) The Administrative Agent may perform any of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any of their respective duties and exercise their respective rights and powers through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities pursuant to this Agreement. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agent except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agent.

(e) None of any Documentation Agent nor any Arranger shall have obligations or duties whatsoever in such capacity under this Agreement or any other Loan Document and shall incur no liability hereunder or thereunder in such capacity, but all such persons shall have the benefit of the indemnities provided for hereunder.

(f) In case of the pendency of any proceeding with respect to any Loan Party under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, the Administrative Agent (irrespective of whether the principal of any Loan or any reimbursement obligation in respect of any LC Disbursement shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(i) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, LC Disbursements and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim under Sections 2.12, 2.13, 2.15, 2.17 and 9.03) allowed in such judicial proceeding; and

(ii) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such proceeding is hereby authorized by each Lender and each Issuing Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders or the Issuing Banks, to pay to the Administrative Agent any amount due to it, in its capacity as the Administrative Agent, under the Loan Documents (including under Section 9.03). Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or Issuing Bank in any such proceeding.

(g) The provisions of this Article are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and, except solely to the extent of the Borrower's rights to consent pursuant to and subject to the conditions set forth in this Article, none of the Borrower or any Subsidiary, or any of their respective Affiliates, shall have any rights as a third party beneficiary under any such provisions.

(a) Neither the Administrative Agent nor any of its Related Parties shall be (i) liable to any Lender for any action taken or omitted to be taken by such party, the Administrative Agent or any of its Related Parties under or in connection with this Agreement or the other Loan Documents (x) with the consent of or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith to be necessary, under the circumstances as provided in the Loan Documents) or (y) in the absence of its own gross negligence or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and non-appealable judgment) or (ii) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document (including, for the avoidance of doubt, in connection with the Administrative Agent's reliance on any Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page) or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party to perform its obligations hereunder or thereunder.

(b) The Administrative Agent shall be deemed not to have knowledge of any (i) notice of any of the events or circumstances set forth or described in Section 5.02 unless and until written notice thereof stating that it is a "notice under Section 5.02" in respect of this Agreement and identifying the specific clause under said Section is given to the Administrative Agent by the Borrower, or (ii) notice of any Default or Event of Default unless and until written notice thereof (stating that it is a "notice of Default" or a "notice of an Event of Default") is given to the Administrative Agent by the Borrower, a Lender or an Issuing Bank. Further, the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document or the occurrence of any Default or Event of Default, (iv) the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items (which on their face purport to be such items) expressly required to be delivered to the Administrative Agent or satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent. Notwithstanding anything herein to the contrary, the Administrative Agent shall not be liable for, or be responsible for any Liabilities, cost or expense suffered by the Borrower, any Subsidiary, any Lender or any Issuing Bank as a result of, any determination of the Revolving Credit Exposure, any of the component amounts thereof or any portion thereof attributable to each Lender or Issuing Bank, or any Exchange Rate or Dollar Equivalent.

(c) Without limiting the foregoing, the Administrative Agent (i) may treat the payee of any promissory note as its holder until such promissory note has been assigned in accordance with Section 9.04, (ii) may rely on the Register to the extent set forth in Section 9.04(b), (iii) may consult with legal counsel (including counsel to the Borrower), independent public accountants and other experts selected by it, and shall not be liable for any action taken or omitted to be taken in good faith by it in accordance with the advice of such counsel, accountants or experts, (iv) makes no warranty or representation to any Lender or Issuing Bank and shall not be responsible to any Lender or Issuing Bank for any statements, warranties or representations made by or on behalf of any Loan Party in connection with this Agreement or any other Loan Document, (v) in determining compliance with any condition hereunder to the making of a Loan, or the issuance of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, may presume that such condition is satisfactory to such Lender or Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or Issuing Bank sufficiently in advance of the making of such Loan or the issuance of such Letter of Credit and (vi) shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any notice, consent, certificate or other instrument or writing (which writing may

be a fax, any electronic message, Internet or intranet website posting or other distribution) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated by the proper party or parties (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).

SECTION 8.03. Posting of Communications.

(a) The Borrower agree that the Administrative Agent may, but shall not be obligated to, make any Communications available to the Lenders and the Issuing Banks by posting the Communications on IntraLinks™, DebtDomain, SyndTrak, ClearPar or any other electronic platform chosen by the Administrative Agent to be its electronic transmission system (the “**Approved Electronic Platform**”).

(b) Although the Approved Electronic Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the Effective Date, a user ID/password authorization system) and the Approved Electronic Platform is secured through a per-deal authorization method whereby each user may access the Approved Electronic Platform only on a deal-by-deal basis, each of the Lenders, each of the Issuing Banks and the Borrower acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure, that the Administrative Agent is not responsible for approving or vetting the representatives or contacts of any Lender that are added to the Approved Electronic Platform, and that there may be confidentiality and other risks associated with such distribution. Each of the Lenders, each of the Issuing Banks and the Borrower hereby approves distribution of the Communications through the Approved Electronic Platform and understands and assumes the risks of such distribution.

(c) THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS ARE PROVIDED “AS IS” AND “AS AVAILABLE”. THE APPLICABLE PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE COMMUNICATIONS, OR THE ADEQUACY OF THE APPROVED ELECTRONIC PLATFORM AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS OR OMISSIONS IN THE APPROVED ELECTRONIC PLATFORM AND THE COMMUNICATIONS. 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 THE APPLICABLE PARTIES IN CONNECTION WITH THE COMMUNICATIONS OR THE APPROVED ELECTRONIC PLATFORM. IN NO EVENT SHALL THE ADMINISTRATIVE AGENT, ANY ARRANGER, ANY DOCUMENTATION AGENT OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, “**APPLICABLE PARTIES**”) HAVE ANY LIABILITY TO ANY LOAN PARTY, ANY LENDER, ANY ISSUING BANK OR ANY OTHER PERSON OR ENTITY 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 THE ADMINISTRATIVE AGENT’S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM.

“**Communications**” means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to this Section, including through an Approved Electronic Platform.

(d) Each Lender and each Issuing Bank agrees that notice to it (as provided in the next sentence) specifying that Communications have been posted to the Approved Electronic Platform shall constitute effective delivery of the Communications to such Lender for purposes of the Loan Documents. Each Lender and Issuing Bank agrees (i) to notify the Administrative Agent in writing (which could be in the form of electronic communication) from time to time of such Lender’s or Issuing Bank’s (as applicable) email address to which the

foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such email address.

(e) Each of the Lenders, each of the Issuing Banks and the Borrower agrees that the Administrative Agent may, but (except as may be required by applicable law) shall not be obligated to, store the Communications on the Approved Electronic Platform in accordance with the Administrative Agent's generally applicable document retention procedures and policies.

(f) Nothing herein shall prejudice the right of the Administrative Agent, any Lender or any Issuing Bank to give any notice or other communication pursuant to any Loan Document in any other manner specified in such Loan Document.

SECTION 8.04. The Administrative Agent Individually. With respect to its Commitment, Loans, Letter of Credit Commitments and Letters of Credit, the Person serving as the Administrative Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Lender or Issuing Bank, as the case may be. The terms "Issuing Banks", "Lenders", "Required Lenders" and any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity as a Lender, Issuing Bank or as one of the Required Lenders, as applicable. The Person serving as the Administrative Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with, the Borrower, any Subsidiary or any Affiliate of any of the foregoing as if such Person was not acting as the Administrative Agent and without any duty to account therefor to the Lenders or the Issuing Banks.

SECTION 8.05. Successor Administrative Agent.

(a) The Administrative Agent may resign at any time by giving thirty (30) days' prior written notice thereof to the Lenders, the Issuing Banks and the Borrower, whether or not a successor Administrative Agent has been appointed. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, subject to the consent of the Borrower, to appoint a successor Administrative Agent; provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. If no successor Administrative Agent shall have been so appointed by the Required Lenders, and shall have accepted such appointment, within thirty (30) days after the retiring Administrative Agent's giving of notice of resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent, which shall be a bank with an office in New York, New York or an Affiliate of any such bank. In either case, such appointment shall be subject to the prior written approval of the Borrower (which approval may not be unreasonably withheld and shall not be required while an Event of Default has occurred and is continuing). Upon the acceptance of any appointment as Administrative Agent by a successor Administrative Agent, such successor Administrative Agent shall succeed to, and become vested with, all the rights, powers, privileges and duties of the retiring Administrative Agent. Upon the acceptance of appointment as Administrative Agent by a successor Administrative Agent, the retiring Administrative Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents. Prior to any retiring Administrative Agent's resignation hereunder as Administrative Agent, the retiring Administrative Agent shall take such action as may be reasonably necessary to assign to the successor Administrative Agent its rights as Administrative Agent under the Loan Documents.

(b) Notwithstanding clause (a) of this Section, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders, the Issuing Banks and the Borrower, whereupon, on the date of effectiveness of such resignation stated in such notice, (i) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (ii) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent; provided, that (A) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly

to such Person and (B) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall directly be given or made to each Lender and each Issuing Bank. Following the effectiveness of the Administrative Agent's resignation from its capacity as such, the provisions of this Article VIII and Section 9.03, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent was acting as Administrative Agent.

SECTION 8.06. Acknowledgements of Lenders and Issuing Banks. (a) Each Lender represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and that it has, independently and without reliance upon the Administrative Agent, any Arranger, any Documentation Agent or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Arranger, any Documentation Agent or any other Lender, or any of the Related Parties of any of the foregoing, and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrower and their Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

(b) Each Lender, by delivering its signature page to this Agreement on the Effective Date, or delivering its signature page to an Assignment and Assumption or any other Loan Document pursuant to which it shall become a Lender hereunder, shall be deemed to have acknowledged receipt of, and consented to and approved, each Loan Document and each other document required to be delivered to, or be approved by or satisfactory to, the Administrative Agent or the Lenders on the Effective Date or the effective date of any such Assignment and Assumption or any other document pursuant to which it shall have become a Lender hereunder.

(c) (i) Each Lender and each Issuing Bank hereby agrees that (x) if the Administrative Agent notifies such Lender or such Issuing Bank, as applicable, that the Administrative Agent has determined in its sole discretion that any funds received by such Lender or such Issuing Bank, as applicable, from the Administrative Agent or any of its Affiliates (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a "**Payment**") were erroneously transmitted to such Lender or such Issuing Bank (whether or not known to such Lender or such Issuing Bank), and demands the return of such Payment (or a portion thereof), such Lender or such Issuing Bank shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender or such Issuing Bank to the date such amount is repaid to the Administrative Agent at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect, and (y) to the extent permitted by applicable law, such Lender and such Issuing Bank shall not assert, and hereby waives, as to the Administrative Agent, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Payments received, including without limitation any defense based on "discharge for value" or any similar doctrine. A notice of the Administrative Agent to any Lender or any Issuing Bank under this Section 8.06(c) shall be conclusive, absent manifest error.

(ii) Each Lender and each Issuing Bank hereby further agree that if it receives a Payment from the Administrative Agent or any of its Affiliates (x) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Administrative Agent (or any of its Affiliates) with respect to such Payment (a "**Payment Notice**") or (y) that was not preceded or accompanied by a Payment Notice, it shall be on notice, in each such case, that an error has been made with respect to such Payment. Each Lender and each Issuing Bank agree that, in each such case, or if it otherwise becomes aware a Payment (or portion thereof) may

have been sent in error, such Lender or such Issuing Bank, as applicable, shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender or such Issuing Bank to the date such amount is repaid to the Administrative Agent at the greater of the NYFRB Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(iii) The Borrower and each other Loan Party hereby agrees that (x) in the event an erroneous Payment (or portion thereof) are not recovered from any Lender or any Issuing Bank that has received such Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender or such Issuing Bank with respect to such amount and (y) an erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party except, in each case, to the extent such erroneous Payment is, and solely with respect to the amount of such erroneous Payment that is, comprised of funds of the Borrower or any other Loan Party.

(iv) Each party's obligations under this Section 8.06(c) shall survive the resignation or replacement of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Lender, an Issuing Bank, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations under any Loan Document.

SECTION 8.07. Guarantee Matters. Except with respect to the exercise of setoff rights in accordance with Section 9.08 or with respect to a Lender's right to file a proof of claim in an insolvency proceeding, no Lender shall have any right individually to enforce any Guarantee of the Obligations, it being understood and agreed that all powers, rights and remedies under the Loan Documents may be exercised solely by the Administrative Agent on behalf of the Lenders in accordance with the terms thereof.

SECTION 8.08. [Reserved].

SECTION 8.09. Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, and each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of the Plan Asset Regulations) of one or more Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of subsections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless subclause (i) in the immediately preceding clause (a) is true with respect to a Lender or such Lender has provided another representation, warranty and covenant as provided in subclause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent, and each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that none of the Administrative Agent, or any Arranger, any Documentation Agent or any of their respective Affiliates is a fiduciary with respect to the assets of such Lender (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related to hereto or thereto).

(c) The Administrative Agent, and each Arranger and Documentation Agent hereby informs the Lenders that each such Person is not undertaking to provide investment advice or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest or other payments with respect to the Loans, the Letters of Credit, the Commitments, this Agreement and any other Loan Documents (ii) may recognize a gain if it extended the Loans, the Letters of Credit or the Commitments for an amount less than the amount being paid for an interest in the Loans, the Letters of Credit or the Commitments by such Lender or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Loan Documents or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent fees or collateral agent fees, utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker’s acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

ARTICLE IX

Miscellaneous

SECTION 9.01. Notices.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to clause (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax or electronic mail, as follows:

(i) if to the Borrower, to the Borrower at:

Chipotle Mexican Grill, Inc. 610
Newport Center Drive Newport Beach, CA 92660
Attention: Jack Hartung, Chief Financial Officer

Email: JHartung@chipotle.com

(ii) if to the Administrative Agent, to it at:

JPMorgan Chase Bank, N.A.
10 S Dearborn St.
Chicago, IL 60603
Attention: Alexis Johnson
Facsimile: 844-490-5663
Email: Alexis.Johnson@chase.com and Jpm.agency.cri@jpmorgan.com

(iii) if to an Issuing Bank, to it at, in the case of JPMorgan Chase Bank, N.A.:

JPMorgan Chase Bank, N.A.
10 S Dearborn St.
Chicago, IL 60603
Attention: LC Team
Facsimile: 214-307-6874
Email: Chicago.LC.Agency.Activity.Team@jpmchase.com; and

(iv) if to any other Lender, to it at its address (or fax number or electronic mail address) set forth in its Administrative Questionnaire.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through Approved Electronic Platforms, to the extent provided in clause (b) below, shall be effective as provided in said clause (b).

(b) Notices and other communications to the Lenders and the Issuing Banks hereunder may be delivered or furnished by using Approved Electronic Platforms pursuant to procedures approved by the Administrative Agent; provided, that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided, that approval of such procedures may be limited to particular notices or communications.

(c) Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its e-mail address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided, that for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day for the recipient.

(d) Any party hereto may change its address or fax number for notices and other communications hereunder by notice to the other parties hereto.

SECTION 9.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent, any Issuing Bank or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise

of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by clause (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Subject to Section 2.14(b) and Section 9.02(c) below, neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders; provided, that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon (other than interest accruing pursuant to Section 2.13(d) or a waiver thereof), or reduce any fees payable hereunder, without the written consent of each Lender affected thereby; provided that any modification, waiver or amendment to the financial covenant definitions or financial ratios or any component thereof or the waiver of any other covenant shall not constitute a reduction of interest or fees payable hereunder, (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon (other than interest accruing pursuant to Section 2.13(d) or a waiver thereof), or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, (iv) change Section 2.09(c) or 2.18(b) or (c) in a manner that would alter the ratable reduction of Commitments or the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) change the payment waterfall provisions of Section 2.20(b) or 7.03 without the written consent of each Lender, (vi) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender or (vii) release all or substantially all of the Guarantors from their obligations under the Guarantee Agreement (other than pursuant to Section 9.19 hereof), in each case, without the written consent of each Lender; provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent or the Issuing Banks hereunder without the prior written consent of the Administrative Agent or the Issuing Banks, as the case may be; and provided, further, that no such agreement shall amend or modify the provisions of Section 2.06 without the prior written consent of the Administrative Agent and the Issuing Banks. Notwithstanding the foregoing, no consent with respect to any amendment, waiver or other modification of this Agreement shall be required of any Defaulting Lender, except with respect to any amendment, waiver or other modification referred to in clause (i), (ii) or (iii) of the first proviso of this clause (b) and then only in the event such Defaulting Lender shall be affected by such amendment, waiver or other modification.

(c) If the Administrative Agent and the Borrower acting together identify any ambiguity, omission, mistake, inconsistency, typographical error or other defect in any provision of this Agreement or any other Loan Document, then the Administrative Agent and the Borrower shall be permitted to amend, modify or supplement such provision to cure such ambiguity, omission, mistake, inconsistency, typographical error or other defect, and such amendment shall become effective without any further action or consent of any other party to this Agreement.

SECTION 9.03. Expenses; Limitation of Liability; Indemnity; etc.

(a) Expenses. The Borrower shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, which shall be limited, in the case of legal fees and expenses, to the reasonable and documented fees, disbursements and other charges of one primary counsel, and, if reasonably necessary, one local counsel in each relevant jurisdiction, to such persons, taken as a whole

(and, solely in the case of an actual or potential conflict of interest where any person affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, one additional counsel for each affected person, taken as a whole, and one additional local counsel for such affected person, taken as a whole, in each relevant material jurisdiction (which may include a single firm of local counsel acting in multiple jurisdictions)), in connection with the syndication of the credit facilities provided for herein, the preparation and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof, (ii) all reasonable and documented out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, any Issuing Bank or any Lender, including the fees, charges and disbursements of one counsel for the Administrative Agent, any Issuing Bank or any Lender, taken as a whole, and, if reasonably necessary, of a single local counsel and any specialist counsel in each relevant material jurisdiction and in the case of an actual or potential conflict of interest where any person affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, of another primary counsel per applicable material jurisdiction for such affected person taken as a whole) in connection with the enforcement or protection of its rights in connection with this Agreement and the other Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnity. The Borrower shall indemnify the Administrative Agent, each Arranger, each Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an “*Indemnitee*”) against, and hold each Indemnitee harmless from, any and all Liabilities and related expenses, including expenses for any Indemnitee, which shall be limited, in the case of legal fees and expenses, to the reasonable and documented out-of-pocket fees, disbursements and other charges of one primary counsel, and one local counsel in each applicable jurisdiction, for the Administrative Agent, and not more than one outside counsel, and if reasonably necessary, one local counsel in each applicable jurisdiction, for all of the other Indemnitees taken as a whole (and, solely in the case of an actual or potential conflict of interest where any person affected by such conflict informs the Borrower of such conflict and thereafter retains its own counsel, one additional counsel for each affected Indemnitee and one additional local counsel in each relevant material jurisdiction (which may include a single firm of local counsel acting in multiple jurisdictions)), incurred by or asserted against any Indemnitee by any third party or by the Borrower or any other Loan Party arising out of or in connection with (i) the execution or delivery of this Agreement, any other Loan Document, or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the Transactions or any other transactions contemplated hereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by an Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit) or (iii) any actual or prospective claim, litigation, investigation, arbitration or proceeding relating to any of the foregoing, whether or not such claim, litigation, investigation, arbitration or proceeding is brought by the Borrower or any other Loan Party or its or their respective equity holders, Affiliates, creditors or any other third-party and whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; provided, that the foregoing indemnity will not, as to any Indemnitee, apply to losses, claims, damages, liabilities or related expenses to the extent they arise from (i) the willful misconduct, bad faith or gross negligence of such Indemnitee (or its Related Parties) as determined in a final, non-appealable judgment of a court of competent jurisdiction, (ii) the breach in bad faith of an Indemnitee’s funding obligations or any other material breach of its (or its Related Parties’) obligations hereunder or any other Loan Document, as determined in a final, non-appealable judgment of a court of competent jurisdiction or (iii) any disputes brought by an Indemnitee against any other Indemnitee that do not involve an act or omission by the Borrower, its Subsidiaries or any of their respective Affiliates (other than any claims against an Indemnitee in its capacity as the Administrative Agent or an Arranger). This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims or damages arising from any non-Tax claim.

(c) Lender Reimbursement. Each Lender severally agrees to pay any amount required to be paid by the Borrower under clause (a) or (b) of this Section 9.03 to the Administrative Agent and each Issuing Bank, and each Related Party of any of the foregoing Persons (each, an “Agent Indemnitee”) (to the extent not reimbursed by the Borrower and without limiting the obligation of the Borrower to do so), ratably according to their respective Applicable Percentage in effect on the date on which indemnification is sought under this Section (or, if indemnification is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Applicable Percentage immediately prior to such date), from and against any and all Liabilities and related expenses, including the fees, charges and disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent Indemnitee in any way relating to or arising out of the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent Indemnitee under or in connection with any of the foregoing; provided, that the unreimbursed expense or Liability or related expense, as the case may be, was incurred by or asserted against such Agent Indemnitee in its capacity as such; provided, further, that no Lender shall be liable for the payment of any portion of such Liabilities, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted from such Agent Indemnitee’s gross negligence, bad faith or willful misconduct. The agreements in this Section shall survive the termination of this Agreement and the payment of the Loans and all other amounts payable hereunder.

(d) Limitation of Liability. To the extent permitted by applicable law (i) the Borrower shall not assert, and the Borrower hereby waives, any claim against the Administrative Agent, any Arranger, any Documentation Agent, any Issuing Bank and any Lender, and any Related Party of any of the foregoing Persons (each such Person being called a “**Lender-Related Person**”) for any Liabilities arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including an Approved Electronic Platform or otherwise via the Internet) other than Liabilities that are determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of such Lender-Related Person (it being understood that all information and materials so transmitted shall continue to be subject to the confidentiality provisions set forth herein and in the Approved Electronic Platform), and (ii) no party hereto shall assert, and each such party hereby waives, any Liabilities against any other party hereto, on any theory of liability, for special, indirect, exemplary, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document, or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; provided, that nothing in this clause (d)(ii) shall relieve the Borrower of any obligation they may have to indemnify an Indemnitee, as provided in this Section 9.03, against special, indirect, exemplary, consequential or punitive damages asserted against such Indemnitee by a third party.

(e) All amounts due under this Section 9.03 shall be payable promptly after written demand therefor (together with reasonable documentation supporting such reimbursement request).

SECTION 9.04. Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of an Issuing Bank that issues any Letter of Credit), except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void), (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section and (iii) as provided by the terms of this Agreement. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of an Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in clause (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative

Agent, the Issuing Banks and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in clause (b)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment, participations in Letters of Credit and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Borrower; provided, that the Borrower shall be deemed to have consented to an assignment of all or a portion of the Revolving Loans and Commitments unless the Borrower shall have objected thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof; provided, that no consent of the Borrower shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default under Sections 7.01(h) or 7.01(i) with respect to the Borrower has occurred and is continuing, any other assignee;

(B) the Administrative Agent; provided, that no consent of the Administrative Agent shall be required for an assignment of any Commitment to an assignee that is a Lender (other than a Defaulting Lender) with a Commitment immediately prior to giving effect to such assignment; and

(C) each Issuing Bank.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 unless each of the Borrower and the Administrative Agent otherwise consent; provided, that no such consent of the Borrower shall be required if an Event of Default under Sections 7.01(h) or 7.01(i) with respect to the Borrower has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided, that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent (x) an Assignment and Assumption or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, together with a processing and recordation fee of \$3,500; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower, the Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws.

For the purposes of this Section 9.04(b), the terms "**Approved Fund**" and "**Ineligible Institution**" have the following meanings:

"**Approved Fund**" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Ineligible Institution” means (a) a natural person, (b) a Defaulting Lender or its Lender Parent, (c) a company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof or (d) the Borrower or any of their Affiliates; provided, that with respect to clause (c), such company, investment vehicle or trust shall not constitute an Ineligible Institution if it (x) has not been established for the primary purpose of acquiring any Loans or Commitments, (y) is managed by a professional advisor, who is not such natural person or a relative thereof, having significant experience in the business of making or purchasing commercial loans, and (z) has assets greater than \$25,000,000 and a significant part of its activities consist of making or purchasing commercial loans and similar extensions of credit in the ordinary course of its business.

(iii) Subject to acceptance and recording thereof pursuant to clause (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount (and stated interest) of the Loans and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the **Register** shall be conclusive absent manifest error, and the Borrower, the Administrative Agent, the Issuing Banks and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, any Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of (x) a duly completed Assignment and Assumption executed by an assigning Lender and an assignee or (y) to the extent applicable, an agreement incorporating an Assignment and Assumption by reference pursuant to an Approved Electronic Platform as to which the Administrative Agent and the parties to the Assignment and Assumption are participants, the assignee’s completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b) of this Section and any written consent to such assignment required by clause (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided, that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Sections 2.06(d) or (e), 2.07(b), 2.18(d) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this clause.

(c) Any Lender may, without the consent of, or notice to, the Borrower, the Administrative Agent or the Issuing Banks, sell participations to one or more banks or other entities (a **“Participant”**), other than an Ineligible Institution, in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided, that (A) such Lender’s obligations under this Agreement shall remain unchanged; (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations; and (C) the Borrower, the Administrative Agent, the Issuing Banks and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement or instrument pursuant to which

a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided, that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. The Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 (subject to the requirements and limitations therein, including the requirements under Sections 2.17(f) (it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender and the information)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section; provided, that such Participant (A) agrees to be subject to the provisions of Section 2.19 as if it were an assignee under clause (b) of this Section; and (B) shall not be entitled to receive any greater payment under Section 2.15 or 2.17, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrower's request and expense, to use reasonable efforts to cooperate with the Borrower to effectuate the provisions of Section 2.19(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender; provided, that such Participant agrees to be subject to Section 2.18(c) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Loan Documents (the "**Participant Register**"); provided, that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided, that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

SECTION 9.05.Survival. All covenants, agreements, representations and warranties made by the Borrower herein and in the other Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Documents shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or been terminated. The provisions of Sections 2.15, 2.16, 2.17 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

SECTION 9.06.Counterparts; Integration; Effectiveness; Electronic Execution. (a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of

which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to (i) fees payable to the Administrative Agent and (ii) the reductions of the Letter of Credit Commitment of any Issuing Bank constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) Delivery of an executed counterpart of a signature page of (x) this Agreement, (y) any other Loan Document and/or (z) any document, amendment, approval, consent, information, notice (including, for the avoidance of doubt, any notice delivered pursuant to Section 9.01), certificate, request, statement, disclosure or authorization related to this Agreement, any other Loan Document and/or transactions contemplated hereby and/or thereby (each an “**Ancillary Document**”) that is an Electronic Signature transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement, such other Loan Document or such Ancillary Document, as applicable.. The words “execution,” “signed,” “signature,” “delivery,” and words of like import in or relating to this Agreement, any other Loan Document and/or any Ancillary Document shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form (including deliveries by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page), 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; provided that nothing herein shall require the Administrative Agent to accept Electronic Signatures in any form or format without its prior written consent and pursuant to procedures approved by it; provided further, without limiting the foregoing, (i) to the extent the Administrative Agent has agreed to accept any Electronic Signature, the Administrative Agent and each of the Lenders shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of the Borrower or any other Loan Party without further verification thereof and without any obligation to review the appearance or form of any such Electronic Signature and (ii) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, the parties hereto, as applicable, hereby (i) agree that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Administrative Agent, the Lenders and the Loan Parties, Electronic Signatures transmitted by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page and/or any electronic images of this Agreement, any other Loan Document and/or any Ancillary Document shall have the same legal effect, validity, and enforceability as any paper original, (ii) agree that the Administrative Agent and each of the Lenders may, at its option, create one or more copies of this Agreement, any other Loan Document and/or any Ancillary Document in the form of an imaged electronic record in any format, which shall be deemed created in the ordinary course of such Person’s business, and destroy the original paper document (and all such electronic records shall be considered an original for all purposes and shall have the same legal effect, validity and enforceability as a paper record), (iii) waive any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document and/or any Ancillary Document based solely on the lack of paper original copies of this Agreement, such other Loan Document and/or such Ancillary Document, respectively, including with respect to any signature pages thereto and (iv) waive any claim against any Lender-Related Person for any Liabilities arising solely from the Administrative Agent’s and/or any Lender’s reliance on or use of Electronic Signatures and/or transmissions by telecopy, emailed pdf. or any other electronic means that reproduces an image of an actual executed signature page, including any Liabilities arising as a result of the failure of the Borrower to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

SECTION 9.07. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity,

illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08. Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank, and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to setoff and apply any and all deposits (general or special, time or demand, provisional or final) at any time held, and other obligations at any time owing, by such Lender, such Issuing Bank or any such Affiliate, to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or such Issuing Bank or their respective Affiliates, irrespective of whether or not such Lender, Issuing Bank or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmaturred or are owed to a branch office or Affiliate of such Lender or such Issuing Bank different from the branch office or Affiliate holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so setoff shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.20 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks, and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each Issuing Bank and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Bank or their respective Affiliates may have. Each Lender and Issuing Bank agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided, that the failure to give such notice shall not affect the validity of such setoff and application.

SECTION 9.09. Governing Law; Jurisdiction; Consent to Service of Process.

(a) This Agreement and the other Loan Documents shall be construed in accordance with and governed by the law of the State of New York.

(b) Each of the Lenders and the Administrative Agent hereby irrevocably and unconditionally agrees that, notwithstanding the governing law provisions of any applicable Loan Document, any claims brought against the Administrative Agent by any Lender relating to this Agreement, any other Loan Document or the consummation or administration of the transactions contemplated hereby or thereby shall be construed in accordance with and governed by the law of the State of New York.

(c) Each of the parties hereto hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the United States District Court for the Southern District of New York sitting in the Borough of Manhattan (or if such court lacks subject matter jurisdiction, the Supreme Court of the State of New York sitting in the Borough of Manhattan), and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document or the transactions relating hereto or thereto, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may (and any such claims, cross-claims or third party claims brought against the Administrative Agent or any of its Related Parties may only) be heard and determined in such Federal (to the extent permitted by law) or New York State court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement against the Borrower, any Loan Party or its properties in the courts of any jurisdiction.

(d) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of

venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in clause (c) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(e) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10. WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11. Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12. Confidentiality. Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates, officers, directors, employees, legal counsel, independent auditors, professionals and other experts or agents (collectively, "Representatives") on a "need-to-know" basis and who are informed of the confidential nature of such Information and agree to keep Information of this type confidential on terms similar to those contained herein (provided that such Administrative Agent, Issuing Bank or Lender shall be responsible for the compliance of their Representatives, Affiliates and Representatives of its Affiliates with this section), (b) upon the request or demand of any Governmental Authority having jurisdiction over the Administrative Agent, Issuing Bank or Lender or any of their Affiliates or upon the good faith determination by counsel that such information should be disclosed in light of ongoing oversight or review of such Administrative Agent, Issuing Bank or Lender by any such Governmental Authority having jurisdiction over such Administrative Agent, Issuing Bank or Lender or its Affiliates (in which case the Administrative Agent, Issuing Bank or Lender shall, except with respect to any ordinary course audit or examination conducted by accountants or any regulatory authority exercising examination or regulatory authority, promptly notify you, in advance, to the extent lawfully permitted to do so), (c) in any legal, judicial, or administrative proceeding or other compulsory process or otherwise as required by applicable law, rule or regulations or as requested by a Governmental Authority (in which case the Administrative Agent, Issuing Bank or Lender shall, except with respect to any routine or ordinary course audit or examination conducted by accountants or any regulatory authority exercising examination or regulatory authority, promptly notify you, in advance, to the extent lawfully permitted to do so), (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder or under any other Loan Document, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and their obligations, (g) on a confidential basis to (1) subject to the Borrower's prior approval of the Information proposed to be disclosed any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities provided for herein or (2) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of identification numbers

with respect to the credit facilities provided for herein, (h) with the consent of the Borrower or (i) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis from a source other than the Borrower. For the purposes of this Section, "Information" means all information received from the Borrower relating to the Borrower or their business, other than any such information that is available to the Administrative Agent, any Issuing Bank or any Lender on a non-confidential basis prior to disclosure by the Borrower and other than information pertaining to this Agreement routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

SECTION 9.13. Material Non-Public Information.

(a) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 9.12 FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER AND ITS RELATED PARTIES OR ITS SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

(b) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER, THE OTHER LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.

SECTION 9.14. Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "**Charges**"), shall exceed the maximum lawful rate (the "**Maximum Rate**") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the NYFRB Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.15. No Fiduciary Duty, etc.

(a) The Borrower acknowledge and agree, and acknowledges its Subsidiaries' understanding, that no Credit Party will have any obligations except those obligations expressly set forth herein and in the other Loan Documents and each Credit Party is acting solely in the capacity of an arm's length contractual counterparty to the Borrower with respect to the Loan Documents and the transactions contemplated herein and therein and not as a financial advisor or a fiduciary to, or an agent of, the Borrower or any other person. The Borrower agree that they will not assert any claim against any Credit Party based on an alleged breach of fiduciary duty by such

Credit Party in connection with this Agreement and the transactions contemplated hereby. Additionally, the Borrower acknowledge and agree that no Credit Party is advising the Borrower as to any legal, tax, investment, accounting, regulatory or any other matters in any jurisdiction. The Borrower shall consult with their own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated herein or in the other Loan Documents, and the Credit Parties shall have no responsibility or liability to the Borrower with respect thereto.

(b) The Borrower further acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party, together with its Affiliates, is a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Credit Party may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, the Borrower and other companies with which the Borrower may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Credit Party or any of its customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

(c) In addition, the Borrower acknowledges and agrees, and acknowledges its Subsidiaries' understanding, that each Credit Party and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which the Borrower may have conflicting interests regarding the transactions described herein and otherwise. No Credit Party will use confidential information obtained from the Borrower by virtue of the transactions contemplated by the Loan Documents or its other relationships with the Borrower in connection with the performance by such Credit Party of services for other companies, and no Credit Party will furnish any such information to other companies. The Borrower also acknowledge that no Credit Party has any obligation to use in connection with the transactions contemplated by the Loan Documents, or to furnish to the Borrower, confidential information obtained from other companies.

SECTION 9.16. USA PATRIOT Act. Each Lender that is subject to the requirements of the USA PATRIOT Act of 2001 (the "Patriot Act") hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act.

SECTION 9.17. Acknowledgement and Consent to Bail-In of Affected Financial Institutions

. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document 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 entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion Powers of the applicable Resolution Authority.

SECTION 9.18. Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap 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.

SECTION 9.19. Releases of Guarantees.

(a) A Guarantor shall automatically be released and discharged in full from its obligations under the Guarantee Agreement upon the consummation of any transaction permitted by this Agreement as a result of which such Guarantor ceases to be a Subsidiary. In connection with any termination or release pursuant to this Section, the Administrative Agent shall (and is hereby irrevocably authorized by each Lender to) execute and deliver to any Loan Party, at such Loan Party’s expense, all documents that such Loan Party shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section shall be without recourse to or warranty by the Administrative Agent.

(b) Further, the Administrative Agent may (and is hereby irrevocably authorized by each Lender to), upon the request of the Borrower, release any Guarantor from its obligations under the Guaranty if, as of the time such Guarantor is released and immediately after giving effect thereto, the Guaranty of such Guarantor is not required by Section 5.10.

(c) Notwithstanding anything to the contrary contained herein or in any other Loan Document, the Administrative Agent is hereby irrevocably authorized by each Lender (without requirement of notice to or consent of any Lender except as expressly required by Section 9.02) to take any action requested by the Borrower having the effect of releasing any guarantee obligations (i) to the extent necessary to permit consummation of any transaction not prohibited by any Loan Document or that has been consented to in accordance with Section 9.02, or (ii) under the circumstances described in clause (c) below.

(d) At such time as the Loans, the reimbursement obligations in respect of LC Disbursements and the other obligations under the Loan Documents shall have been paid in full, the Commitments have been terminated and no Letters of Credit shall be outstanding (or any Letters of Credit that are outstanding shall have

been cash collateralized or backstopped in a manner reasonably acceptable to the Issuing Bank thereof), the Guarantees and all obligations (other than those expressly stated to survive such termination) of the Administrative Agent and each Loan Party under the Guarantee Agreement shall automatically terminate, all without delivery of any instrument or performance of any act by any Person.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective authorized officers as of the day and year first above written.

CHIPOTLE MEXICAN GRILL,
INC.,
as the Borrower

By
Name:
Title:

JPMORGAN CHASE BANK,
N.A.,
individually and as
Administrative Agent

By
Name:
Title:

[]

By
Name:
Title:

SCHEDULE 2.01A**Commitments**

Lender	Commitment
JPMorgan Chase Bank, N.A.	\$75,000,000.00
Truist Bank	\$75,000,000.00
Fifth Third Bank, National Association	\$75,000,000.00
Citibank, N.A.	\$75,000,000.00
Bank of America, N.A.	\$50,000,000.00
Morgan Stanley Bank, N.A.	\$37,500,000.00
MUFG Union Bank, N.A	\$37,500,000.00
Royal Bank of Canada	\$37,500,000.00
Wells Fargo Bank, National Association	\$37,500,000.00
Total:	\$500,000,000.00

Schedule 2.01C

Letter of Credit Commitments

Issuing Bank	Letter of Credit Commitment
JPMorgan Chase Bank, N.A.	\$4,000,000.00
Truist Bank	\$4,000,000.00
Fifth Third Bank, National Association	\$4,000,000.00
Citibank, N.A.	\$4,000,000.00
Morgan Stanley Bank, N.A.	\$2,000,000.00
MUFG Union Bank, N.A.	\$2,000,000.00
Total:	\$20,000,000.00

Summary report:

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Style name: STB Option 1

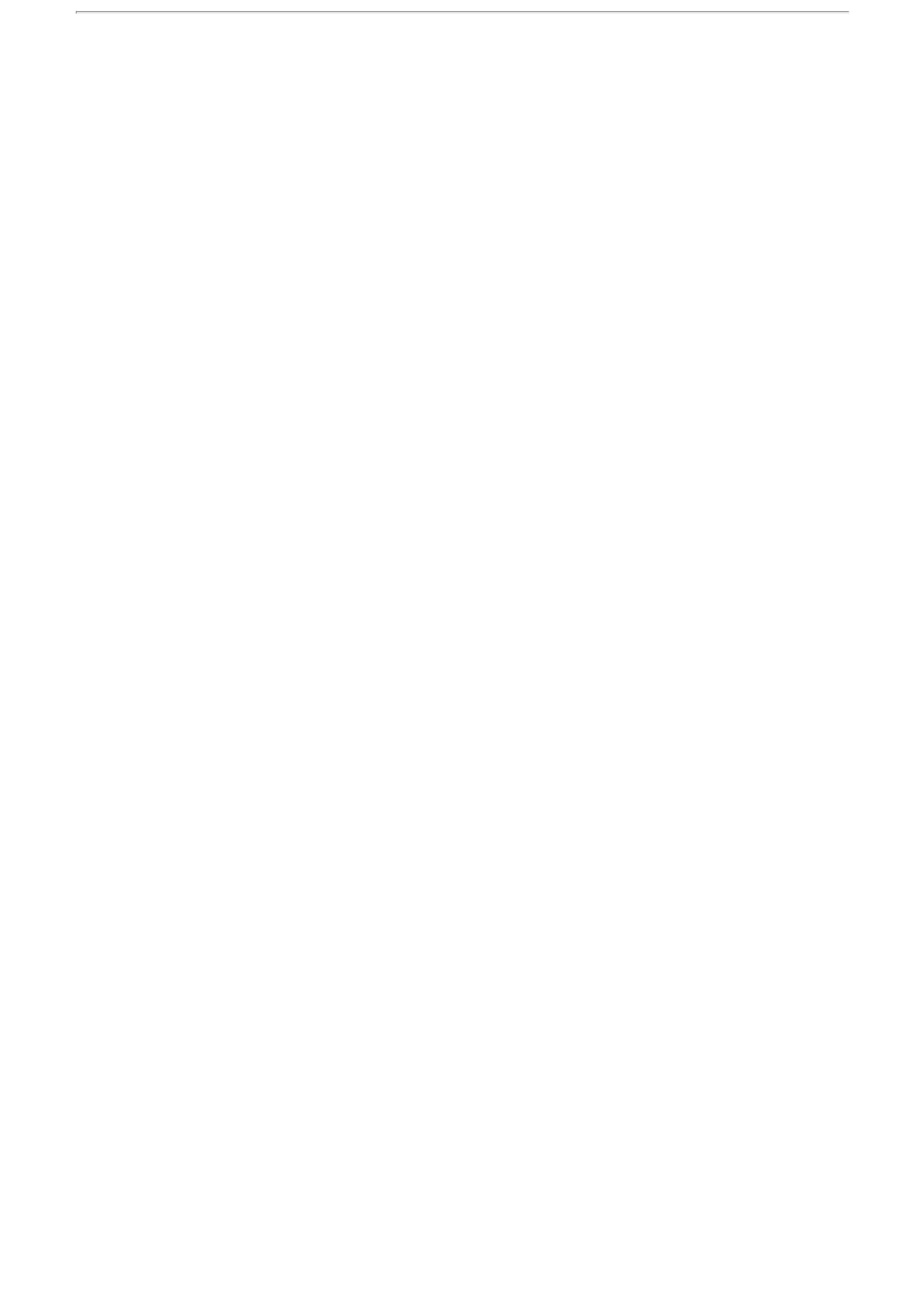
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<u>Table Insert</u>	0
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	532



**CHIPOTLE MEXICAN GRILL, INC.
EXECUTIVE OFFICER SEVERANCE PLAN**

**ARTICLE I
PURPOSE**

This Chipotle Mexican Grill, Inc. Executive Officer Severance Plan (the “**Plan**”) was established by the Company on February 6, 2024 (the “**Effective Date**”) to provide Participants with the opportunity to receive certain severance protections for qualifying terminations of employment that are not in connection with a change in control of the Company. The Plan, as set forth herein, is primarily intended to help retain qualified executives, maintain a stable work environment and provide economic security to eligible executives in the event of qualifying terminations of employment. Capitalized terms used but not otherwise defined herein have the meanings set forth in ARTICLE II.

The Plan is intended is intended to be “a plan which is unfunded and maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensation employees,” within the meaning of Sections 201(2), 301(a)(3) and 401(a)(1) of ERISA.

**ARTICLE II
DEFINITIONS**

“**Accrued Compensation**” means: (i) Base Salary accrued by the Participant through, but not paid to the Participant as of, the Qualifying Termination Date and (ii) any annual bonus under the Annual Incentive Plan earned by the Participant for a prior year but not paid to the Participant as of the Qualifying Termination Date.

“**Administrator**” means the Compensation Committee, provided that the Board in its discretion may determine to act as Administrator under the Plan.

“**Annual Incentive Plan**” means the Company’s annual cash incentive bonus program.

“**Base Salary**” means the Participant’s annual base salary as in effect immediately prior to the Qualifying Termination Date or, if higher, as in effect immediately prior to the occurrence of an event or circumstance constituting Good Reason.

“**Board**” means the Board of Directors of the Company.

“**Cause**” shall have the same meaning as such term is defined under the Incentive Plan, unless otherwise provided in a Participant’s effective employment agreement or other similar written agreement with respect to the termination of Participant’s employment with the Company.

“**Chief Executive Officer**” means the Chief Executive Officer of Chipotle Mexican Grill, Inc.

“**COBRA**” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

“**Code**” means the Internal Revenue Code of 1986, as amended. Any reference to a section of the Code shall be deemed to include a reference to any regulations promulgated thereunder.

“**Company**” means Chipotle Mexican Grill, Inc., a Delaware corporation, and, except as the context otherwise requires, its affiliates and Subsidiaries and any successor by merger, acquisition, consolidation or otherwise that assumes the obligations of the Company under the Plan.

“**Compensation Committee**” means the Compensation, People and Culture Committee of the Board.

“**Effective Date**” has the meaning set forth in ARTICLE I.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended.

“**Exchange Act**” means the Securities and Exchange Act of 1934, as amended.

“**Excise Tax**” means any excise tax imposed under Section 4999 of the Code.

“**Good Reason**” shall have the same meaning as such term is defined under the Incentive Plan, unless otherwise provided in a Participant’s effective employment agreement or other similar written agreement with respect to the termination of Participant’s employment with the Company.

“**Incentive Plan**” shall mean the Chipotle Mexican Grill, Inc. 2022 Stock Incentive Plan or any successor plan.

“**Option**” means an option to purchase shares of the Company’s common stock, \$0.01 par value per share, including stock appreciation rights that settle in shares of the Company’s common stock.

“**Other Severance**” has the meaning set forth in Section 3.02.

“**Participant**” means each individual who is an “executive officer” of the Company, within the meaning of Rule 3b-7 under the Exchange Act, as determined immediately prior to the individual’s termination of employment with the Company without respect to any demotion or other action that constitutes “Good Reason,” or as otherwise determined by the Administrator.

“**Plan**” has the meaning set forth in ARTICLE I.

“**Qualifying Termination**” means the termination of a Participant’s employment either by the Company without Cause (excluding, for the avoidance of doubt, a termination by the Company due to the Participant’s death or disability) or due to a resignation by the Participant for Good Reason. A Participant’s employment shall be deemed to have continued, and a Qualifying Termination shall not have occurred, upon a transfer of the Participant’s employment between the Company and any of its Subsidiaries, or between any two Subsidiaries of the Company.

“**Qualifying Termination Date**” means the date on which a Participant incurs a Qualifying Termination.

“**Release Agreement**” means the Separation and General Release Agreement provided by the Company substantially in the form attached hereto as Exhibit A.

“**Section 409A**” means Section 409A of the Code and the rules other guidance promulgated thereunder.

“**Severance Amount**” has the meaning set forth in Section 3.01(a).

“**Severance Multiple**” means (i) two (2) with respect to the Chief Executive Officer and (ii) one and one-half (1.5) with respect to each other Participant.

“**Severance Period**” means (i) twenty-four (24) months with respect to the Chief Executive Officer and (ii) eighteen (18) months with respect to each other Participant.

“**Subsidiary**” means any “subsidiary” within the meaning of Rule 405 under the Securities Act of 1933, as amended.

“**Target Annual Bonus**” means, with respect to any Participant, such Participant’s annual target bonus opportunity under the Annual Incentive Plan in effect immediately prior to such Participant’s Qualifying Termination Date (or, in the event of the Participant’s resignation for Good Reason, the annual target bonus opportunity in effect immediately prior to the condition giving rise to such resignation if such annual target bonus opportunity is higher than the annual target bonus opportunity in effect immediately prior to such Participant’s Qualifying Termination Date).

“**Total Payments**” has the meaning set forth in Section 5.01.

ARTICLE III SEVERANCE

Section 3.01 Severance Following Qualifying Termination.

(a) **Severance Amount.** If a Participant incurs a Qualifying Termination, then, subject to the Participant’s execution and nonrevocation of the Release Agreement, the Company shall provide the Participant with an amount equal to the product of the Severance Multiple and the sum of the Participant’s (i) Base Salary and (ii) Target Annual Bonus (the “**Severance Amount**”). Subject to Section 8.13, the Severance Amount shall be paid in substantially equal installments over the Severance Period, payable in accordance with the Company’s normal payroll practices, and shall commence on the first regularly scheduled payroll date that occurs immediately following the sixtieth (60th) day following the Qualifying Termination Date (such date, the “**Payment Commencement Date**”). Notwithstanding the foregoing, the portion of the severance amount provided under this Section 3.01 that is payable on the Payment Commencement Date shall include a lump-sum amount equal to the portion of the severance amount that would have been payable commencing on the Qualifying Termination Date and ending on the Payment Commencement Date.

(b) **Pro-Rated Bonus.** If a Participant incurs a Qualifying Termination, then, subject to the Participant’s execution and nonrevocation of the Release Agreement, the Company shall provide the Participant with an amount equal to the pro-rated portion of the Participant’s annual bonus under the Annual Incentive Plan, based on actual performance for the year in which the Qualifying Termination Date occurs and prorated based on the number of days the Participant was employed during the year of termination prior to the Qualifying Termination Date divided by the total number of days in such year, paid in a single lump sum no later than March 15th of the year immediately following the year in which the Qualifying Termination Date occurs.

(c) **Payment in Lieu of Benefits Continuation.** If a Participant incurs a Qualifying Termination, then, subject to the Participant’s execution and nonrevocation of the Release Agreement, in lieu of a contribution by the Company to, or a reimbursement to Participant for, any coverage premiums and any other expenses payable by Participant during the Participant’s Severance Period under all group health plans maintained by the Company in which Participant and Participant’s spouse and other dependents were participating immediately prior to the Qualifying Termination Date, the Company shall pay to Participant an amount equal to the employer portion of the cost of such coverage premiums and

expenses otherwise payable during the Severance Period, which payment shall be taxable as wages to the Participant. Such amount shall be paid to Participant in a single lump sum on the Payment Commencement Date. Following the Qualifying Termination Date, (i) Participant shall not be entitled to participate in any Company employee benefit plans, other than to receive COBRA or similar continuation coverage as required by law and to receive any vested benefits under Company retirement plans, or as provided under the terms of an applicable Company employee benefit plan or as required by applicable law and (ii) Participant shall not be entitled to reimbursement for fringe benefits, including without limitation, dues and expenses related to club memberships, automobile expenses, expenses for professional services and other similar perquisites incurred on or after the Qualifying Termination Date.

(d) Accrued Compensation. The Company shall pay the Accrued Compensation to each Participant who incurs a Qualifying Termination as soon as practicable following the Qualifying Termination Date, but in any event before the earlier to occur of (y) the payment date required by applicable law and (z) March 15th immediately following the year in which the Qualifying Termination Date occurs. In addition, each Participant who incurs a Qualifying Termination will receive any unpaid reimbursable business expenses incurred by the Participant prior to the Qualifying Termination Date in accordance with the Company's policies, paid in accordance with such policies, and any benefits accrued by Executive or in which Executive has vested under any of the Company's retirement benefit plans, paid or provided in accordance with the terms of such benefit plans.

Section 3.02 Other Severance Payments. In the event that the Company is obligated by law or contract to pay a Participant other severance pay, a termination indemnity, notice pay, or similar payments or benefits, or if the Company is obligated by law to provide advance notice of separation and the Participant continues to receive payments and benefit during such notice period ("Other Severance"), then the Severance Amount otherwise payable to such Participant shall be reduced by the amount of any such Other Severance actually paid to the Participant (but not below zero).

Section 3.03 Coordination of Benefits. If a Participant becomes eligible to receive severance payments and benefits under the Chipotle Mexican Grill, Inc. Change in Control Severance Plan, then the Participant shall not be eligible to receive the Severance Amount, or any other payments or benefits provided for under this Plan. Notwithstanding anything set forth herein to the contrary, to the extent that any severance payable under a plan or agreement covering a Participant as of the date such Participant becomes eligible to participate in this Plan constitutes deferred compensation under Section 409A, then to the extent required to avoid accelerated taxation and/or tax penalties under Section 409A, the portion of the benefits payable hereunder equal to such other amount shall instead be provided in the form set forth in such other plan or agreement.

ARTICLE IV EQUITY AWARDS

Section 4.01 Equity Awards.

(a) Vesting: Time-Based Awards. In the event that a Participant incurs a Qualifying Termination, then, subject to the Participant's execution and nonrevocation of the Release Agreement, each then-outstanding, unvested Company equity award granted to such Participant under the Incentive Plan that vests solely with respect to continued employment ("**Time-Based Awards**") shall vest and become exercisable on the Qualifying Termination Date in a pro-rated amount based on the portion of the vesting period prior to the Qualifying Termination Date, which is calculated as the number of days from

the grant date of the applicable Time-Based Award through and including the Qualifying Termination Date divided by the total number of days in the applicable vesting period.

(b) Vesting: Performance-Based Awards. In the event that a Participant incurs a Qualifying Termination, then, subject to the Participant's execution and nonrevocation of the Release Agreement, each then-outstanding, unvested Company equity award granted to such Participant under the Incentive Plan that vests at least in part based on the achievement of performance-based metrics ("Performance-Based Awards") shall remain outstanding and vest and become exercisable, or be forfeited, based on actual performance at the end of the applicable performance period, in a pro-rated amount based on the number of days from the first day of the performance period of the applicable Performance-Based Award through and including the Qualifying Termination Date divided by the number of days in the applicable performance period.

(c) Option Exercise Period. In the event that a Participant incurs a Qualifying Termination, then, subject to the Participant's execution and nonrevocation of the Release Agreement, each then-outstanding Option granted to such Participant under the Incentive Plan that is either already vested and exercisable immediately prior to the Qualifying Termination Date or that vests and becomes exercisable in accordance with Section 4.01(a) or Section 4.01(b) shall, once vested and exercisable, continue to be exercisable and shall expire on the earlier to occur of (i) the first (1st) anniversary of the Qualifying Termination Date (or, in the case of Options that constitute Performance-Based Awards that vest in accordance with Section 4.01(b), the first (1st) anniversary of the last day of the applicable performance period) and (ii) the expiration date of such Option.

(d) Forfeiture. Each then-outstanding equity award held by a Participant that is unvested on the Participant's Qualifying Termination Date and that does not time-vest in accordance with the Time-Based Vesting Schedule shall be forfeited as of the Qualifying Termination Date and, with respect to Performance-Based Awards that do not fully vest in accordance with Section 4.01(b), such Performance-Based Awards shall be deemed to have been forfeited upon the end of the applicable performance period once performance has been determined.

(e) Settlement of Awards. Time-Based Awards shall be settled in accordance with the Incentive Plan and the applicable award agreement but no later than sixty (60) days following the applicable vesting date and Performance-Based Awards shall be settled in accordance with the terms of the Incentive Plan and the applicable award agreement but no later than March 15th following the end of the applicable performance period. Notwithstanding anything in this Section 4.01 to the contrary, if all or a portion of an Company equity award subject to accelerated vesting under the terms of this Section 4.01 constitutes deferred compensation under Section 409A, then to the extent required to avoid accelerated taxation and/or tax penalties under Section 409A, such awards shall vest at the time(s) provided in this Section 4.01, but settlement, distribution or payment, as the case may be, shall be made on the earliest possible date that would not subject such awards to taxation and/or tax penalties under Section 409A.

(f) Coordination of Benefits. If a Participant becomes eligible to receive severance payments and benefits under the Chipotle Mexican Grill, Inc. Change in Control Severance Plan, then the Participant shall not be eligible to receive the benefits set forth above in Sections 4.01(a) through (e), or any other payments or benefits provided for under this Plan, and all Company equity awards granted to the Participant that are outstanding immediately prior to the Qualifying Termination shall be governed by the Chipotle Mexican Grill, Inc. Change in Control Severance Plan. Notwithstanding Sections 4.01(a) through (e), with respect to any Company equity award granted to a Participant that is outstanding immediately prior to a Qualifying Termination, (i) if any written agreement between the Participant and the Company with respect to the termination of a Participant's employment with the Company and which is in effect on the Qualifying Termination Date, or the terms of the Incentive Plan and any applicable

award agreement, provides for greater vesting benefits or a greater exercise period upon a Qualifying Termination than as set forth in Sections 4.01 (a) through (e), then the greater vesting benefits and/or greater exercise period of such plan or agreement shall apply in lieu of the applicable provisions set forth in Sections 4.01(a) through (e) and (ii) there shall be no duplication of vesting benefits or exercise period between the application of Sections 4.01(a) through (e) and the provisions of the Incentive Plan, any applicable award agreement or any other written agreement between the Participant and the Company.

ARTICLE V SECTION 280G

Section 5.01 Treatment of Payments. Notwithstanding any other provision of the Plan to the contrary, in the event that any payment or benefit received or to be received by the Participant (whether pursuant to the terms of the Plan or any other plan, arrangement or agreement) (all such payments and benefits, including the severance benefits payable hereunder, being hereinafter referred to as the “**Total Payments**”) would be subject (in whole or part), to the Excise Tax, then, after taking into account any reduction in the Total Payments provided by reason of Section 280G of the Code in such other plan, arrangement or agreement, the severance benefits payable hereunder shall be reduced to the extent necessary so that no portion of the Total Payments is subject to the Excise Tax but only if (a) the net amount of such Total Payments, as so reduced (and after subtracting the net amount of federal, state and local income taxes on such reduced Total Payments and after taking into account the phase out of itemized deductions and personal exemptions attributable to such reduced Total Payments) is greater than or equal to (b) the net amount of such Total Payments without such reduction (but after subtracting the net amount of federal, state and local income taxes on such Total Payments and the amount of Excise Tax to which the Participant would be subject in respect of such unreduced Total Payments and after taking into account the phase out of itemized deductions and personal exemptions attributable to such unreduced Total Payments).

Section 5.02 Ordering of Reduction. In the case of a reduction in the Total Payments pursuant to Section 5.01, the Total Payments shall be reduced in the following order: (i) payments that are payable in cash the full amount of which are treated as parachute payments under Treasury Regulation Section 1.280G-1, Q&A 24(a) shall be reduced (if necessary, to zero), with amounts that are payable last reduced first; (ii) payments and benefits due in respect of any equity the full amount of which are treated as parachute payments under Treasury Regulation Section 1.280G-1, Q&A 24(a), with the highest values reduced first (as such values are determined under Treasury Regulation Section 1.280G-1, Q&A 24) shall next be reduced; (iii) payments that are payable in cash that are valued at less than full value under Treasury Regulation Section 1.280G-1, Q&A 24, with amounts that are payable last reduced first, shall next be reduced; (iv) payments and benefits due in respect of any equity valued at less than full value under Treasury Regulation Section 1.280G-1, Q&A 24, with the highest values reduced first (as such values are determined under Treasury Regulation Section 1.280G-1, Q&A 24) shall next be reduced; and (v) all other non-cash benefits not otherwise described in clauses (ii) or (iv) shall be next reduced pro-rata.

Section 5.03 Additional Payments. If the Participant receives reduced payments and benefits by reason of this ARTICLE V, and it is established pursuant to a determination of a court of competent jurisdiction which is not subject to review or as to which the time to appeal has expired, or pursuant to an Internal Revenue Service proceeding, that the Participant could have received a greater amount without resulting in any Excise Tax, then the Company shall thereafter pay the Participant the aggregate additional amount which could have been paid without resulting in any Excise Tax as soon as reasonably practicable.

ARTICLE VI CLAIMS PROCEDURES

Section 6.01 Initial Claims. A Participant who believes that the Participant is entitled to a payment under the Plan that has not been received may submit a written claim for benefits to the Plan within one hundred and twenty (120) days after the Participant's Qualifying Termination Date. Claims should be addressed and sent to:

Chipotle Mexican Grill, Inc.
610 Newport Center Drive
Newport Beach, CA 92660
Attention: Corporate Secretary

If the Participant's claim is denied, in whole or in part, the Participant shall be furnished with written notice of the denial within ninety (90) days after the Administrator's receipt of the Participant's written claim, unless special circumstances require an extension of time for processing the claim, in which case a period not to exceed one hundred and eighty (180) days shall apply. If such an extension of time is required, written notice of the extension shall be furnished to the Participant before the termination of the initial ninety (90)-day period and shall describe the special circumstances requiring the extension, and the date on which a decision is expected to be rendered. If written notice of denial of the claim for benefits is not furnished within the specified time, the claim shall be deemed to be denied. The Participant shall then be permitted to appeal the denial in accordance with Section 6.02 below. Written notice of the denial of the Participant's claim shall contain the following information:

- (a) the specific reason or reasons for the denial of the Participant's claim;
- (b) references to the specific Plan provisions on which the denial of the Participant's claim was based;
- (c) a description of any additional information or material required by the Administrator to reconsider the Participant's claim (to the extent applicable) and an explanation of why such material or information is necessary; and
- (d) a description of the Plan's review procedures and time limits applicable to such procedures, including a statement of the Participant's right to bring a civil action under Section 502(a) of ERISA following a benefit claim denial on review.

Section 6.02 Appeal of Denied Claims. If the Participant's claim is denied (or deemed denied) in whole or in part and the Participant wishes to submit a request for a review of the denied claim, the Participant or the Participant's authorized representative must follow the procedures described below:

- (a) Upon receipt of the denied claim, the Participant (or the Participant's authorized representative) may file a request for review of the claim in writing with the Administrator. This request for review must be filed no later than sixty (60) days after the Participant has received written notification of the denial (or no later than sixty (60) days after the claim is deemed denied).
 - (b) The Participant has the right to submit in writing to the Administrator any comments, documents, records or other information relating to the Participant's claim for benefits.
 - (c) The Participant has the right to be provided with, upon request and free of charge, reasonable access to and copies of all pertinent documents, records and other information that is relevant to the Participant's claim for benefits.
 - (d) A request for review must set forth all of the grounds on which it is based, all facts in support of the request and any other matters that the Participant feels are pertinent.
-

(e) The review of the denied claim shall take into account all comments, documents, records and other information that the Participant submitted relating to the Participant's claim, without regard to whether such information was submitted or considered in the initial denial of the Participant's claim.

(f) The Administrator may require the Participant to submit additional facts, documents or other material as the Administrator may find necessary or appropriate in making the Administrator's review.

Section 6.03 Administrator's Response to Appeal. The Administrator shall provide the Participant with written notice of its decision within sixty (60) days after the Administrator's receipt of the Participant's written claim for review. There may be special circumstances which require an extension of this sixty (60)-day period. In any such case, the Administrator shall notify the Participant in writing within the sixty (60)-day period and the final decision shall be made no later than one hundred and twenty (120) days after the Administrator's receipt of the Participant's written claim for review. This notice of extension shall describe the special circumstances necessitating the additional time and the date by which the Administrator is to render the Administrator's decision on review. The Administrator's decision on the Participant's claim for review shall take into account all comments, documents, records and other information submitted by the applicant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination, shall be communicated to the Participant in writing and shall clearly state:

- (a) the specific reason or reasons for the denial of the Participant's claim;
- (b) reference to the specific Plan provisions on which the denial of the Participant's claim is based;
- (c) a statement that the Participant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, the Plan and all documents, records and other information relevant to the Participant's claim for benefits; and
- (d) a statement describing the Participant's right to bring a civil action under Section 502(a) of ERISA.

Any notices and decisions by the Administrator under this Section 6.03 may be furnished electronically in accordance with Department of Labor Regulation 2520.104b-1(c)(1).

Section 6.04 Exhaustion of Administrative Remedies. The exhaustion of these claims procedures is mandatory for resolving every claim and dispute arising under the Plan. As to such claims and disputes:

- (a) no claimant shall be permitted to commence any legal action to recover benefits or to enforce or clarify rights under the Plan under Section 502 or Section 510 of ERISA or under any other provision of law, whether or not statutory, until these claims procedures have been exhausted in their entirety; and
- (b) in any such legal action, all explicit and implicit determinations by the Administrator (including, but not limited to, determinations as to whether the claim, or a request for a review of a denied claim, was timely filed) shall be afforded the maximum deference permitted by law.

Section 6.05 Arbitration. No Participant may bring any legal action to recover benefits under the Plan until the Participant has exhausted the internal administrative claims and appeals process described above. No legal action may be commenced at all, unless commenced no later than one year

following the issuance of a final decision on the claim for benefits, or the expiration of the appeal decision period if no decision is issued. This one-year statute of limitations on suits for all benefits available under the Plan shall apply in any forum where such legal action is initiated. Upon Participant's exhaustion of the provisions set forth above, any Participant with a continuing dispute arising out of or relating to this Plan or the adoption, breach, termination or validity thereof, will be settled by binding arbitration by a single arbitrator in accordance with the commercial arbitration rules of the American Arbitration Association. The arbitration proceedings will be located in Newport Beach, California. The arbitrator is not empowered to award damages in excess of compensatory damages and no party shall be entitled to any damages in excess of compensatory damages. Judgment upon any arbitration award may be entered into any court having jurisdiction thereof and the parties consent to the jurisdiction of any court of competent jurisdiction located in the State of California. **BY PARTICIPATING IN THIS PLAN, PARTICIPANT WAIVES ANY RIGHT THAT PARTICIPANT MAY HAVE TO A JURY TRIAL OR, EXCEPT AS EXPRESSLY PROVIDED HEREIN, A COURT TRIAL OF ANY CLAIM ALLEGED BY PARTICIPANT.**

ARTICLE VII ADMINISTRATION, AMENDMENT AND TERMINATION

Section 7.01 Administration. For purposes of ERISA, the Administrator shall be the "named fiduciary" with respect to the operation and administration of the Plan. The Administrator has the exclusive right, power and authority, in its sole and absolute discretion, to administer and interpret the Plan. The Administrator has all powers reasonably necessary to carry out its responsibilities under the Plan including (but not limited to) the sole and absolute discretionary authority to:

- (a) administer the Plan according to its terms and to interpret Plan policies and procedures;
- (b) establish rules, forms, and procedures for the administration of the Plan;
- (c) resolve and clarify inconsistencies, ambiguities and omissions in the Plan and among and between the Plan and other related documents;
- (d) take all actions and make all decisions regarding questions of eligibility and entitlement to benefits, and benefit amounts;
- (e) make, amend, interpret, and enforce all appropriate rules and regulations for the administration of the Plan;
- (f) process and approve or deny all claims for benefits; and
- (g) decide or resolve any and all questions of fact, interpretation, definition, computation or administration arising in connection with the operation of the Plan, including, but not limited to, the eligibility to participate in the Plan and the amount of benefits paid under the Plan.

The decision of the Administrator on any disputes arising under the Plan, including (but not limited to) questions of construction, interpretation and administration shall be final, conclusive and binding on all persons having an interest in or under the Plan. The Administrator may delegate any of its duties hereunder to such person or persons from time to time as it may designate. Any such delegation shall be in writing.

Section 7.02 Amendment and Termination. The Plan may be amended or terminated by the Administrator at any time, provided that no such amendment or termination may materially impair the rights of a Participant whose Qualifying Termination Date previously occurred.

**ARTICLE VIII
GENERAL PROVISIONS**

Section 8.01 At-Will Employment. The Plan does not alter the status of each Participant as an at-will employee of the Company. Nothing contained herein shall be deemed to give any Participant the right to remain employed by the Company or to interfere with the rights of the Company to terminate the employment of any Participant at any time, with or without Cause.

Section 8.02 Effect on Other Plans, Agreements and Benefits.

(a) Each Participant who incurs a Qualifying Termination shall remain entitled to any vested benefits to which the Participant would otherwise be entitled under the terms and conditions of the Company's tax-qualified retirement plans, non-qualified deferred compensation plans and group health plans and nothing contained in the Plan is intended to waive or relinquish the Participant's vested rights in such benefits.

(b) Any severance benefits payable to a Participant under the Plan shall not be counted as compensation for purposes of determining benefits under any other benefit policies or plans of the Company, except to the extent expressly provided therein.

Section 8.03 Severability. The invalidity or unenforceability of any provision of the Plan shall not affect the validity or enforceability of any other provision of the Plan. If any provision of the Plan is held by a court of competent jurisdiction to be illegal, invalid, void or unenforceable, such provision shall be deemed modified, amended and narrowed to the extent necessary to render such provision legal, valid and enforceable, and the other remaining provisions of the Plan shall not be affected but shall remain in full force and effect.

Section 8.04 Headings and Subheadings. Headings and subheadings contained in the Plan are intended solely for convenience and no provision of the Plan is to be construed by reference to the heading or subheading of any section or paragraph.

Section 8.05 Unfunded Obligations. The amounts to be paid to Participants under the Plan are unfunded obligations of the Company. The Company is not required to segregate any monies or other assets from its general funds with respect to these obligations. Participants shall not have any preference or security interest in any assets of the Company other than as a general unsecured creditor. No employee contributions to the Plan are required or permitted.

Section 8.06 Successors. The Plan shall be binding upon any successor to the Company, its assets, its businesses or its interest, in the same manner and to the same extent that the Company would be obligated under the Plan if no succession had taken place. In the case of any transaction in which a successor would not by the foregoing provision or by operation of law be bound by the Plan, the Company shall require any successor to the Company to expressly assume the Plan in writing and honor the obligations of the Company hereunder, in the same manner and to the same extent that the Company would be required to perform if no succession had taken place.

Section 8.07 Transfer and Assignment. Without the prior consent of the Company, neither a Participant nor any other person shall have any right to sell, assign, transfer, pledge, anticipate or otherwise encumber, transfer, hypothecate or convey any amounts payable under the Plan prior to the date that such amounts are paid, except that, in the case of a Participant's death, such amounts shall be paid to the Participant's beneficiaries.

Section 8.08 Waiver. Any party's failure to enforce any provision or provisions of the Plan shall not in any way be construed as a waiver of any such provision or provisions, nor prevent any party from thereafter enforcing each and every other provision of the Plan.

Section 8.09 **Governing Law. THE PLAN SHALL BE DEEMED TO BE MADE IN CALIFORNIA, AND, TO THE EXTENT NOT PREEMPTED BY ERISA OR OTHER FEDERAL LAW, THE VALIDITY, INTERPRETATION, CONSTRUCTION AND PERFORMANCE OF THE PLAN IN ALL RESPECTS SHALL BE GOVERNED BY THE LAWS OF CALIFORNIA WITHOUT REGARD TO ITS PRINCIPLES OF CONFLICTS OF LAW.** By participating in the Plan, each Participant and the Company and its Subsidiaries hereby irrevocably consent to, and agree not to object or assert any defense or challenge to, the jurisdiction and venue of the state and federal courts located in Santa Ana, California, and agree that any claim which, subject to ARTICLE VI above, may be brought in a court of law or equity may be brought in any such Santa Ana, California court. To the extent benefits provided under ARTICLE IV are subject to interpretation under Delaware law due to the administration of the Incentive Plan, then, if necessary and solely to the extent necessary to administer the Incentive Plan, such governing law provision shall be deemed to supersede this Section 8.09.

Section 8.10 **Clawback.** Any amounts payable under the Plan are subject to any policy (whether in existence as of the Effective Date or later adopted) established by the Company providing for clawback or recovery of amounts that were paid to the Participant. The Company shall make any determination for clawback or recovery in its sole discretion and in accordance with any applicable law or regulation. Notwithstanding any provisions in this Plan to the contrary, the Administrator may, in its sole and absolute discretion, in the event of Participant's material breach of a material obligation of Participant to the Company pursuant to any award or agreement between Participant and the Company, including a material breach of the Release Agreement or a determination that an event of Cause has occurred, regardless of whether such determination happened prior to or following the Qualifying Termination Date, to the fullest extent permitted by law: (i) terminate the right of such Participant to receive any payment or benefit under this Plan, and (ii) seek the clawback or recovery of any payment paid to such Participant under this Plan, including through the exercise of rights of set-off, forfeiture or cancellation with respect to any other awards, benefits or payments otherwise due to Participant from the Company, to the extent the Administrator in its sole discretion deems appropriate after considering the relevant facts and circumstances. Any termination, clawback and/or recovery of a Participant's payments and benefits under this Plan shall be in addition and without prejudice to any other remedies that the Company might elect to assert.

Section 8.11 **Withholding.** The Company shall have the right to withhold from any amount payable hereunder any Federal, state and local taxes in order for the Company to satisfy any withholding tax obligation it may have under any applicable law or regulation.

Section 8.12 **ERISA.** The Plan is intended is intended to be "a plan which is unfunded and maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensation employees," within the meaning of Sections 201(2), 301(a)(3) and 401(a)(1) of ERISA such that it will be, among other things, exempt from the reporting and disclosure requirements of Part 1 of Title I of ERISA. In the event that the Plan does not meet the requirements of unfunded plan maintained by an employer primarily for the purpose of providing deferred compensation for a select group of management or highly compensation employees, as described above with respect to any category of Participant, the Plan is intended to constitute a "severance pay arrangement" within the meaning of Section 3(2)(B)(i) of ERISA so as to be excepted from the definitions of "employee pension benefit plan" and "pension plan" set forth under section 3(2) of ERISA, and is intended to meet the descriptive requirements of a plan constituting a "severance pay plan" within

the meaning of regulations published by the Secretary of Labor at Title 29, Code of Federal Regulations § 2510.3-2(b).

Section 8.13 **Section 409A.** The intent of the parties is that payments and benefits under this Plan be exempt from, or comply with, Section 409A, and accordingly, to the maximum extent permitted, this Plan shall be interpreted and administered to be in accordance therewith. Notwithstanding anything contained herein to the contrary, the Participant shall not be considered to have terminated employment with the Company for purposes of any payments under this Plan which are subject to Section 409A until the Participant would be considered to have incurred a “separation from service” from the Company within the meaning of Section 409A. Each amount to be paid or benefit to be provided under this Plan shall be construed as a separate identified payment for purposes of Section 409A, and any payments described in this Plan that are due within the “short term deferral period” as defined in Section 409A shall not be treated as deferred compensation unless applicable law requires otherwise. Without limiting the foregoing and notwithstanding anything contained herein to the contrary, to the extent required in order to avoid accelerated taxation and/or tax penalties under Section 409A, amounts that would otherwise be payable and benefits that would otherwise be provided pursuant to this Plan during the six (6)-month period immediately following a Participant’s separation from service shall instead be paid on the first business day after the date that is six (6) months following the Participant’s separation from service (or, if earlier, death). To the extent required to avoid accelerated taxation and/or tax penalties under Section 409A, amounts reimbursable to the Participant under this Plan shall be paid to the Participant on or before the last day of the year following the year in which the expense was incurred and the amount of expenses eligible for reimbursement (and in-kind benefits provided) during any one year may not effect amounts reimbursable or provided in any subsequent year. The Company makes no representation that any or all of the payments described in this Plan shall be exempt from or comply with Section 409A and makes no undertaking to preclude Section 409A from applying to any such payment. The Participant shall be solely responsible for the payment of any taxes and penalties incurred under Section 409A.

* * *

EXHIBIT A

FORM OF SEPARATION AND GENERAL RELEASE AGREEMENT

THIS SEPARATION AND GENERAL RELEASE AGREEMENT (this “**Release**”) is entered into as of the first date on the signature page hereto (which shall be no earlier than the Qualifying Termination Date (defined below)), by and between Chipotle Mexican Grill, Inc. (the “**Company**”) and [•] (“**Executive**”). Executive and the Company are individually referred to herein as a “**Party**” and collectively as the “**Parties**.”

RECITALS

WHEREAS, Executive has served as the Company’s [•];

WHEREAS, Executive’s employment with the Company and any other position Executive may hold with the Company or any of its subsidiaries or affiliates terminated as of [•] (the “**Qualifying Termination Date**”);

WHEREAS, the Parties now wish to document and make arrangements pertaining to the termination of their employment relationship and to resolve, fully and finally, all outstanding matters between them; and

WHEREAS, Executive’s execution and non-revocation of this Release is a condition for receiving payments and benefits under the Chipotle Mexican Grill, Inc. Executive Officer Severance Plan (the “**Plan**”), as described in Section 3 of this Release.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

AGREEMENT

1. **EXECUTIVE’S SEPARATION.** Executive’s last day of employment with the Company is the Qualifying Termination Date. As of the Qualifying Termination Date, Executive irrevocably resigns from all director, officer or other positions with the Company and its subsidiaries currently held by Executive, including as [•]. Executive agrees to execute any and all documents necessary to effect such resignations including the resignation letter set forth in Appendix A. Executive agrees that, following the Qualifying Termination Date, Executive will not represent Executive to be associated in any capacity with the Company or any of its subsidiaries or affiliates. Notwithstanding Executive’s resignation from all positions held by Executive, Executive shall continue to be entitled to all indemnification and liability insurance benefits provided to Executive as an employee or officer of the Company or of any of its subsidiaries or affiliates pursuant to [the Indemnification Agreement dated as of [•] between Executive and the Company and]¹ the Company’s Amended and Restated Bylaws and applicable law.

¹ Note to Draft: To include if applicable.

2. **ACCRUED COMPENSATION.** The Company shall pay or provide to Executive the Accrued Compensation (as defined in the Plan) and other benefits set forth in Section 3.01(d) of the Plan. Executive's entitlement to the Accrued Compensation is in no way conditioned on Executive executing this Release. Executive acknowledges that there is no accrued or unpaid vacation payable to Executive under the Company's unlimited paid time off policy.

3. **CONSIDERATION.** In consideration of the terms, representations and releases contained in this Release, and subject to (x) Executive timely executing and not revoking this Release and (y) Executive's continued compliance with the covenants and obligations arising under or referred to in this Release, Executive shall receive the payments and benefits set forth below at the time and in the form set forth below:

a. In satisfaction of the payments and benefits set forth in Section 3.01(a) of the Plan, cash severance in the aggregate amount of \$[●] (the "**Severance Amount**"), which represents [**CEO**: 2.0] [**OTHER EXECUTIVES**: 1.5] times the sum of (i) Executive's base salary in effect immediately prior to the Qualifying Termination Date of \$[●] and (ii) Executive's target annual bonus of \$[●]. The Severance Amount shall be paid in substantially equal installments over a period of [**CEO**: twenty-four (24) months] [**OTHER EXECUTIVES**: eighteen (18) months] following the Qualifying Termination Date in accordance with the Company's regular payroll practices, commencing with the first regular payroll next following the sixtieth (60th) day after the Qualifying Termination Date (the "**Payment Commencement Date**"). The first payment shall include the regular installment and catch up any additional installment amounts that would have been made during the sixty (60) day period.

b. In satisfaction of the payments and benefits set forth in Section 3.01(b) of the Plan, a lump sum amount equal to the pro-rated portion of Executive's annual bonus under the Company's annual cash incentive program, paid no later than March 15th of the year immediately following the year in which the Qualifying Termination Date occurs.

c. In satisfaction of the payments and benefits set forth in Section 3.01(c) of the Plan, a lump sum payment of \$[●] in lieu of subsidized benefits continuation under the Company's group health plans, paid on the Payment Commencement Date.

d. In satisfaction of the payments and benefits set forth in Section 4.01 of the Plan, attached as Appendix B is a summary of outstanding Company equity awards held by Executive as of the date of this Release ("**LTI Awards**") illustrating the treatment contemplated by Section 4.01 of the Plan. Any LTI Awards that vest shall be distributed to or be exercisable by Executive in accordance with the applicable terms and conditions of the Plan and the underlying Company equity plan and award agreements. Executive shall not be entitled to receive any other award under the Company's equity plan or other long-term incentive program.

Executive acknowledges and agrees that under the terms of this Release, Executive is receiving consideration beyond that to which Executive would otherwise be entitled upon a termination of employment for any reason or no reason and which, but for the mutual covenants set forth herein and therein, the Company would not otherwise be obligated to provide.

4. RELEASE AND WAIVER.

a. In exchange for the consideration described in Section 3 above, Executive, on Executive's own behalf and on behalf of Executive's respective heirs, family members, representatives, executors, agents, and assigns, hereby forever waives, releases and discharges the Company and its past, present and future parents, subsidiaries, affiliates, successors, and assigns, as well as each of its and their respective past, present and future officers, directors, employees, agents, investors, attorneys, members, equityholders, partners, joint venturers, administrators, affiliates, benefit plans, plan administrators, insurers and trustees (collectively, the "**Company Released Parties**") from and against any and all claims, charges, liens, demands, causes of action, obligations, damages, fees, expenses and liabilities, **known or unknown, suspected or unsuspected**, that Executive had, now has, or may hereafter claim to have against the Company Released Parties arising out of or relating in any way to Executive's employment with, or separation from, the Company or any of its affiliates, or otherwise relating to any of the Company Released Parties from the beginning of time to the date Executive signs this Release (collectively, "**Claims**"). The Executive's release of Claims specifically extends to, without limitation, any and all Claims for wrongful termination, breach of an express or implied contract, breach of the covenant of good faith and fair dealing, breach of fiduciary duty, fraud, misrepresentation, defamation, slander, infliction of emotional distress, disability, discrimination, harassment, retaliation, failure to accommodate, loss of future earnings, and any claims under any applicable state, federal, or local statutes, ordinances, and regulations, including, but not limited to, the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, as amended, the Fair Labor Standards Act, as amended, the Americans with Disabilities Act of 1990, as amended, the Rehabilitation Act of 1973, as amended, the Employee Retirement Income Security Act of 1974, as amended, the Worker Adjustment and Retraining Notification Act, as amended, Section 806 of the Sarbanes-Oxley Act, the Dodd-Frank Act, the Family and Medical Leave Act, as amended, and the California Family Rights Act, as amended, the Age Discrimination in Employment Act, as amended ("**ADEA**"), the Older Workers Benefit Protection Act, as amended (the "**OWBPA**"), the California Labor Code and Wage Orders, the California Family Rights Act, as amended, the California Fair Employment and Housing Act, as amended, California Business & Professions Code Section 17200, and the California Constitution, each as amended and including their implementing regulations, as well as any and all Claims for attorneys' fees; **provided, however**, that the Executive's release of Claims does not waive, release or otherwise discharge (i) any claim or cause of action arising from a breach by the Company of this Release, (ii) any claim relating to directors' and officers' liability insurance coverage or any right of indemnification under the Company's organizational documents or otherwise or (iii) any claim that cannot legally be waived.

b. For the purpose of implementing a full and complete release, Executive understands and agrees that this Release is intended to include all claims, if any, which Executive may have and which Executive **does not now know or suspect** to exist in Executive's favor against the Company Released Parties and this Release extinguishes those claims. Accordingly, Executive expressly waives all rights afforded by Section 1542 of the Civil Code of the State of California ("**Section 1542**") and any similar statute or regulation in any other applicable jurisdiction. Section 1542 states as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN

HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

c. This Release shall not prevent Executive from filing a charge with the Equal Employment Opportunity Commission (or similar state or local agency) or participating in any investigation conducted by the Equal Employment Opportunity Commission (or similar state or local agency); provided, however, that Executive acknowledges and agrees that any claims by Executive for personal relief in connection with such a charge or investigation (such as reinstatement or monetary damages) hereby are barred. For the avoidance of doubt, this Release shall not in any manner prevent Executive from filing a charge or claim with the Securities and Exchange Commission (SEC) and Executive's ability to seek or receive an SEC whistleblower award as provided under Section 21F of the Securities Exchange Act of 1934 for information provided to the SEC concerning suspected violations of law.

5. TAX MATTERS; CODE SECTION 409A COMPLIANCE. The Company shall have the right to withhold from any amount payable hereunder any Federal, state and local taxes in order for the Company to satisfy any withholding tax obligation it may have under any applicable law or regulation and other applicable payroll deductions. This Release as well as payments and benefits under this Release are intended to be exempt from, or to the extent subject thereto, to comply with Section 409A of the Internal Revenue Code of 1986, as amended ("**Section 409A**"), and, accordingly, to the maximum extent permitted, the Release shall be interpreted in accordance therewith. Notwithstanding anything contained herein to the contrary, Executive shall not be considered to have terminated employment with the Company for purposes of any payments under this Release which are subject to Section 409A until Executive has incurred a "separation from service" from the Company within the meaning of Section 409A. Each amount to be paid or benefit to be provided under this Release shall be construed as a separate identified payment for purposes of Section 409A. Without limiting the foregoing and notwithstanding anything contained herein to the contrary, to the extent required in order to avoid an accelerated or additional tax under Section 409A, amounts that would otherwise be payable and benefits that would otherwise be provided pursuant to this Release during the six (6)-month period immediately following Executive's separation from service shall instead be paid on the first business day after the date that is six (6) months following Executive's separation from service (or, if earlier, Executive's date of death). To the extent required to avoid an accelerated or additional tax under Section 409A, amounts reimbursable to Executive shall be paid to Executive on or before the last day of the year following the year in which the expense was incurred and the amount of expenses eligible for reimbursement (and in kind benefits provided to Executive) during one year may not affect amounts reimbursable or provided in any subsequent year. The Company makes no representation that any or all of the payments described in this Release will be exempt from or comply with Section 409A and makes no undertaking to preclude Section 409A from applying to any such payment. Executive shall be solely responsible for the payment of any taxes and penalties incurred under Section 409A. Executive further agrees that: (i) Executive shall be solely responsible for all federal, state, and/or local tax liability, if any, arising from payment of the Severance Amount and other benefits provided for herein (the "**Separation Benefits**"), including any interest or penalties associated with tax liability, and Executive will not look to or seek from the Company compensation for any such tax liability or related costs; (ii) no tax advice has been provided to Executive whatsoever by the Company or its attorneys; and (iii) should any taxing authority seek

to recover from the Company any taxes, interest or penalties deemed to be due as a result of the Separation Benefits, Executive shall indemnify, defend and hold harmless the Company and its successors and assigns from and against any and all such claims for taxes, interest or penalties.

6. **REPRESENTATIONS.** Executive and the Company make the following representations, each of which is an important consideration to the other Party's willingness to enter into this Release:

a. Executive acknowledges that the Company is not entering into this Release because it believes that Executive has any cognizable legal Claim against the Company Released Parties and that by entering into this Release neither Party admits any liability or wrongdoing of any kind. If Executive elects not to sign this Release, the fact that this Release was offered will not be understood as an indication that the Company Released Parties believed Executive was treated unlawfully in any respect.

b. Executive has delivered to the Company, and shall not keep in Executive's possession, recreate, or deliver to anyone else, any and all Company property, including, but not limited to, Confidential Information (as defined below), as well as all devices and equipment belonging to the Company (including computers, handheld electronic devices, telephone equipment, and other electronic devices), Company credit cards, records, data, notes, notebooks, reports, files, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, photographs, charts, any other documents and property, and reproductions of any and all of the aforementioned items that were developed by Executive pursuant to his employment with the Company, obtained by Executive in connection with Executive's employment with the Company, or otherwise belonging to the Company, its successors, or assigns. If Executive has used any personal cellular phone, tablet, personal or laptop computer or other electronic device, email or storage account or system to conduct work for or on behalf of the Company, Executive agrees to provide reasonable access to the Company to ensure that all Confidential Information and other materials belonging to the Company have been removed.

c. Executive has complied and shall continue to apply with the restrictive covenants set forth in this Release and all restrictive covenant agreements between Executive and the Company, which shall be incorporated by reference into this Release.

d. Executive has not made any claims or allegations to the Company related to sexual assault or abuse, sexual harassment, or sex discrimination, and none of the payments set forth in this Release are related to sexual abuse, sexual harassment or sex discrimination.

e. Executive has not engaged in any violation of the Company's Code of Ethics or policies under the Company's Employee Handbook (collectively, "**C and E Policies**") or unlawful conduct relating to the business of the Company, and is not aware of any violations of C and E Policies or unlawful conduct relating to the business of the Company that you have not previously reported.

f. Executive and the Company each represent and warrant to the other that each has the capacity and authority to enter into this Release and to be bound by its terms.

g. Executive was represented by independent legal counsel in connection with Executive's consideration of this Release.

7. COOPERATION. Subject to Sections 4(c) and 10(d) of this Release, Executive agrees that Executive will cooperate with the Company, including executing documents and providing requested information, as may reasonably be required to give effect to the provisions of this Release or for the Company to comply with applicable laws. Executive further agrees that, subject to Executive's rights under Sections 4(c) and 10(d) of this Release and applicable law, Executive will cooperate with the Company concerning reasonable requests for information about the business of the Company or any of its affiliates or Executive's involvement and participation therein; the transition of duties to others within the Company; the defense, prosecution or investigation of any claims or actions now in existence or which may be brought in the future against or on behalf of the Company or its affiliates which relate to events or occurrences that transpired while Executive was employed by the Company, and in connection with any audit, investigation or review by any federal, state, or local regulatory, quasi-regulatory or self-governing authority, or any internal investigation, relating to such events or occurrences, other than any such charges or claims brought by or on behalf of Executive against the Company or any of its affiliates; provided, however, that the nothing in this Section 7 is intended to restrict or limit Executive from exercising his or her protected rights arising under Sections 4(c) and 10(d) or applicable law, or restrict or limit Executive from providing truthful information in response to a subpoena, other legal process or valid governmental inquiry. Without limiting the foregoing, Executive's cooperation shall include, but not be limited to, being reasonably available to meet and speak with officers and employees of the Company, its affiliates and/or its counsel at reasonable times and locations, executing accurate and truthful documents including declarations, testifying in connection with any and all legal proceedings at the request of the Company and without the need for a subpoena, and taking such other actions as may reasonably be requested by the Company and/or its counsel to effectuate the foregoing. The Parties shall cooperate in good faith to schedule any meetings or discussions pursuant to this Section 7 so as not to conflict with Executive's other obligations.

8. NON-DISPARAGEMENT. Subject to Section 10(d), Executive agrees not to engage in any form of conduct or make any public or private statements or representations that disparage or otherwise impair the reputation, goodwill or commercial interest ("**Disparaging Conduct**") of the Company, its respective past, present, and future subsidiaries or affiliates, or any of their respective directors, officers, employees, shareholders, or representatives (collectively, "**Chipotle Covered Entity**"); disrupts or impairs any operations of any Chipotle Covered Entity; harms any Chipotle Covered Entity's reputation with customers, suppliers, shareholders, or the public; or interferes with any Chipotle Covered Entity's contractual relationships.

9. NON-SOLICITATION. Executive agrees that for a period of twelve (12) months immediately following the Qualifying Termination Date, Executive shall not, directly or indirectly, for Executive or on behalf of any third party (other than the Company and its subsidiaries) solicit, induce, recruit or encourage any of the employees of the Company or any of its subsidiaries (i) who reported directly to Executive, (ii) who reported directly to one of Executive's direct reports or (iii) with whom Executive worked on substantive projects during the twelve (12) months immediately preceding the Qualifying Termination Date, to leave their employment with

Company or any of its subsidiaries, or to join any competitor to the Company or any of its subsidiaries.

10. CONFIDENTIAL INFORMATION.

a. Executive acknowledges that the business(es) of the Company and its subsidiaries are highly competitive and that, during the period of Executive's employment with the Company, the Company provided Executive with access to Confidential Information, as defined below, relating to the business of the Company. Executive further acknowledges that Confidential Information has been developed at considerable time, expense and effort by or on behalf of Company, is unique and constitutes valuable property of the Company, and that the Confidential Information provides the Company with a very valuable competitive advantage. Executive further acknowledges that Executive was provided with access to Confidential Information at the outset of Executive's employment with Company, during the term of Executive's employment at Company, and that Executive has continuing knowledge of such Confidential Information.

b. The term "Confidential Information" as used herein means and includes any and all data or information and documentation relating to the Company's business that is not generally known to the public or readily obtainable from outside sources. Confidential Information includes, by way of example and without limitation, the following: financial information, including but not limited to earnings, assets, debts, prices, cost information, budgets, sales and profit projections or other financial data; marketing information, including but not limited to details about ongoing or proposed marketing strategies, marketing forecasts, or information about impending transactions; product information, including but not limited to development plans, product designs, product costs and pricing policies; information regarding actual or potential customers; employee information, compensation strategy and information and recruiting plans; diversity statistics and strategy; pay equity information, analysis and plans; employment law compliance, collective bargaining activities and strategies and investigations of employee misconduct; executive compensation plans, strategy and analyses; and Board of Directors and Compensation Committee deliberations and discussions. Executive acknowledges that such information is confidential whether or not such information is labeled as such by the Company.

c. Subject to Section 10(d), commencing on the Qualifying Termination Date and at all times thereafter, except as authorized in writing by the Company, Executive agrees that Executive shall not directly or indirectly use, divulge, furnish or make accessible to any person or entity any Confidential Information for as long as such information remains non-public, but instead shall keep all Confidential Information strictly and absolutely confidential. [Executive shall also comply with the terms of the Company's Employee Confidentiality Agreement previously executed by Executive in [●].]²

² Note to Draft: To include if applicable.

d. Notwithstanding the foregoing, nothing in this Release (including but not limited to Sections 7, 8, 10 and 11 of this Release) is intended or shall prevent, impede or interfere with Executive's non-waivable rights, without prior notice to the Company, to (i) voluntarily communicate with or provide information or documents to, initiate a charge or claim with, testify before, comply with a subpoena from, or assist or otherwise participate in any manner with an investigation or proceeding conducted by, any government agency, legislative body, or self-regulatory organization, including making reports of possible violations of federal law or regulation to any governmental agency or entity in accordance with the provisions of and rules promulgated under Section 21F of the Securities Exchange Act of 1934, as amended, or Section 806 of the Sarbanes-Oxley Act of 2002, or of any other whistleblower protection provisions of state or federal law or regulation, (ii) disclose any information (including, without limitation, information of a confidential or proprietary nature) to a court or other administrative or legislative body in response to a subpoena, court order or written request, provided that Executive first promptly notifies (to the extent legally permissible) the Company and, with respect to any subpoena, court order or written request on behalf of any non-governmental person, uses commercially reasonable efforts to cooperate with any effort by the Company to seek to challenge the subpoena, court order or written request on behalf of any non-governmental person or obtain a protective order limiting its disclosure, or other appropriate remedy, participate in investigations, respond to a subpoena, court order or written request, or testify in proceedings regarding the Company's past or future conduct, or engage in any future activities protected under federal, state or local law, including whistleblower statutes, (iii) recover a whistleblower award as provided under Section 21F of the Securities and Exchange Act of 1934, or (iv) discuss or disclose information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that Executive has reason to believe is unlawful. Further, pursuant to 18 U.S.C. § 1833(b), Executive will not be held criminally or civilly liable under any federal or state trade secret law for the disclosure of a trade secret of the Company that (I) is made (A) in confidence to a federal, state, or local government official, either directly or indirectly, or to your attorney and (B) solely for the purpose of reporting or investigating a suspected violation of law; or (II) is made in a complaint or other document that is filed under seal in a lawsuit or other proceeding. If Executive files a lawsuit for retaliation by the Company for reporting a suspected violation of law, Executive may disclose the trade secret to Executive's attorney and use the trade secret information in the court proceeding, if Executive (i) files any document containing the trade secret under seal, and (ii) does not disclose the trade secret, except pursuant to court order. While Executive is encouraged to bring any such possible violation to the attention of the Company, Executive does not need the prior authorization of the Company to make any such reports or disclosures to these entities.

11. REMEDIES. If Executive breaches this Release or materially fails to comply with or otherwise materially breaches any of the promises, representations or releases in this Release, in addition to all other legal and equitable remedies available to the Company in the event of a breach, (a) the Company may immediately stop any payments or benefits otherwise owing to Executive under this Release and may seek additional relief or remedy as provided under applicable law, and (b) Executive will be responsible for payment of all reasonable attorneys' fees and costs that the Company incurred in the course of enforcing the terms of this Release, including demonstrating the existence of a breach and any other contract enforcement efforts. Any such

cessation of payments or benefits shall not limit, restrict or otherwise affect Executive's release of Claims or any other obligations of Executive set forth in this Release, or Executive's continuing obligations under any restrictive covenants agreement with the Company.

12. REASONABLENESS OF RESTRICTIONS. Executive acknowledges: (i) that the scope and duration of the restrictions on Executive's activities under Sections 8 through 10 of this Release are reasonable and necessary to protect the legitimate business interests of the Company; (ii) that the Company provided Executive with access to Confidential Information and specialized training at the outset of Executive's employment with Company, and during the course of Executive's employment with the Company; (c) that Executive will be reasonably able to earn a living without violating the terms of this Release; and (d) the restrictions in this Release, along with the release provisions in Sections 4 and 21 served as a material inducement to the Company to agree to the consideration provisions contained in Sections 3 of this Release.

13. GOVERNING LAW. This Release and the performance hereof shall be construed and governed in accordance with the laws of the State of California, and the Parties waive the application of conflicts of laws provisions or principles of any state or jurisdiction.

14. SEVERABILITY. In the event that any provision or any portion of any provision hereof or any surviving agreement made a part hereof becomes or is declared by a court of competent jurisdiction or arbitrator to be illegal, unenforceable, or void, this Release shall continue in full force and effect without said provision or portion of provision.

15. SUCCESSORS AND ASSIGNS. Executive agrees that this Release shall be binding upon, and pass to the benefit of, the successors and assigns of the Company. Any payments and benefits due to the Executive hereunder shall be payable to his estate or representative in the event of his death or disability.

16. AMENDMENTS. This Release may not be amended or modified other than by a written instrument signed by an authorized representative of the Company and Executive.

17. DESCRIPTIVE HEADINGS. The section headings contained herein are for reference purposes only and shall not in any way affect the meaning or interpretation of this Release.

18. COUNTERPARTS. This Release may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile, electronic and .pdf signatures will suffice as original signatures.

19. THIRD PARTY BENEFICIARIES. Each Company Released Party is intended to be a third-party beneficiary of this Release, and this Release may be enforced by each such Company Release Party in accordance with the terms hereof in respect of the rights granted to such Company Released Party hereunder.

20. ENTIRE AGREEMENT. This Release sets forth the entire agreement and understanding of the Parties relating to the subject matter hereof and, except for the agreements referenced herein or as otherwise provided herein, supersedes all prior discussions, agreements and understandings of every kind and nature between the Parties hereto and neither of the Parties

shall be bound by any term or condition other than as expressly set forth or provided for in this Release. This Release may only be amended or modified in a writing signed by Executive and an authorized representative of the Company.

21. KNOWING AND VOLUNTARY ACKNOWLEDGMENT; SPECIFIC RELEASE OF ADEA CLAIMS. Executive specifically agrees and acknowledges that:

- a. Executive has read this Release in its entirety and understands all of its terms;
- b. Executive has been advised to consult with an attorney before executing this Release, and has consulted with such counsel as Executive believed was necessary before signing this Release;
- c. Executive knowingly, freely, and voluntarily assents to all of this Release's terms and conditions including, without limitation, the waiver, release, and covenants;
- d. Executive is signing this Release, including the waiver and release, in exchange for good and valuable consideration in addition to anything of value to which Executive is otherwise entitled;
- e. Executive is not waiving or releasing rights or claims that may arise after the Executive signs this Release; and
- f. Executive understands that the waiver and release in this Release is being requested in connection with Executive's separation of employment from the Company.

Executive understands and acknowledges that Executive is waiving and releasing claims under the ADEA, as amended, and its implementing regulations, and Executive has been informed and understands and agrees that Executive has twenty-one (21) calendar days after receipt of this Release (the "**Review Period**") to consider whether to sign it and that any changes to this Release do not restart the running of the Review Period. Executive has been informed and understands and agrees that Executive may revoke this Release at any time during the seven (7) calendar days after this Release is signed and returned to the Company (the "**Revocation Period**"), in which case none of the provisions of the Executive's release of Claims will have any effect. Executive acknowledges and agrees that if Executive wishes to revoke the Executive's release of Claims, Executive must do so in writing, and such revocation must be signed by Executive and received by the Chief Legal Officer and General Counsel of the Company no later than the seventh (7th) day after Executive has signed and returned this Release. Executive acknowledges and agrees that, in the event Executive either fails to sign within the Review Period or revokes this Release during the Revocation Period, Executive shall have no right to receive the consideration set forth in Section 3 of this Release. This Release, and the Executive's release of Claims, shall be effective upon the eighth (8th) calendar day following the date that Executive executes this Release (the "**Effective Date**"); provided that Executive does not revoke or attempt to revoke Executive's acceptance of this Release prior to such date in accordance with the provisions herein.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the Parties have executed this Release as of the first date set forth below
(which shall be no earlier than the Qualifying Termination Date).

CHIPOTLE MEXICAN GRILL, INC. [EXECUTIVE NAME]

By: _____
Its: _____

Date: _____ **Date:** _____

APPENDIX A

[DATE]

Chipotle Mexican Grill, Inc.
610 Newport Center Drive
Suite 1400
Newport Beach, CA 92660

To Whom it may Concern:

I hereby irrevocably resign, effective as of [DATE], from all positions and offices I hold with the Company or any of its subsidiaries or affiliates, including as [POSITION].

Very truly yours

[NAME]

APPENDIX B

[EXECUTIVE NAME] Outstanding Equity Awards as of [●]

Award Type and Name	Grant Date	Total Outstanding	Vested as of the Qualifying Termination Date	Remain Outstanding Subject to Performance	Forfeited
[YEAR] SOSAR *	[●]	[●]	[●]	n/a	[●]
[YEAR] PSU **	[●]	[●]	n/a	[●]	[●]
[●]	[●]	[●]	[●]	[●]	[●]

* SOSARs that are vested as of the Qualifying Termination Date shall be exercisable by Executive in accordance with the terms and conditions of the Plan.

** Annual PSUs that are not forfeited as of the Qualifying Termination Date and continue to vest shall be earned or forfeited based on the Company's actual performance during the applicable performance period in accordance with the terms and conditions of the PSU award agreement and the applicable equity plan.



CHIPOTLE MEXICAN GRILL, INC.

610 Newport Center Drive

Newport Beach, CA 92260

February 6, 2024

Brian Niccol
c/o Chipotle Mexican Grill, Inc.
610 Newport Center Drive
Newport Beach, CA 92660

Dear Brian:

On February 6, 2024, the Compensation, People and Culture Committee of the Board of Directors (the "Compensation Committee") of Chipotle Mexican Grill, Inc. approved an Executive Officer Severance Plan (the "Plan"), which provides severance benefits to Chipotle's executive officers in the event an executive officer's employment is terminated either by Chipotle without "Cause" or due to the executive officer's resignation for "Good Reason." The Plan also provides for pro rata vesting of outstanding equity awards held by a terminated executive officer who qualifies under the Plan based on the portion of the vesting period (or, in the case of performance-based awards, the portion of the performance period) that has elapsed prior to the termination date, subject to actual performance in the case of performance-based awards, and provides that time-based SOSARs will remain exercisable until the earlier of 12 months after the termination date or the expiration date of the award. All capitalized terms that are not defined in this letter have the meaning ascribed to them in the Plan.

To honor the spirit of the offer letter that the Board of Directors extended to you in March 2018 when you agreed to join Chipotle, the Compensation Committee has agreed to the following treatment of any equity award held by you in the event you experience a Qualifying Termination:

1. Time-Based Awards held by you on the Qualifying Termination Date will vest on the Qualifying Termination Date in a pro-rated amount based on the number of days from the grant date of the applicable Award through and including the first (1st) anniversary of the Qualifying Termination Date divided by the total number of days in the applicable vesting period; and
 2. Performance-Based Awards held by you on the Qualifying Termination Date will remain outstanding and continue to vest and become exercisable, or be forfeited, based on Chipotle's actual performance through the end of the applicable performance period, in a pro-rated amount, with the proration calculated based on the number of days from the first day of the applicable performance period through and including the first (1st) anniversary of the Qualifying Termination Date divided by the total number of days in the performance period of the applicable equity award.
-

Except as set forth above, all other equity awards held by you will be forfeited and canceled as of the Qualifying Termination Date, and you will not be eligible to receive any new equity awards granted by Chipotle after the Qualifying Termination Date.

Except for the terms expressly contained in this letter agreement, all other terms and conditions of the Plan, including the condition precedent that you execute and not revoke a Release Agreement prior to receiving the benefits stated above, apply without modification.

Sincerely,

/s/ Patricia Fili-Krushel,
Chair of the Compensation, People and Culture Committee

SIGNIFICANT SUBSIDIARIES OF CHIPOTLE MEXICAN GRILL, INC.

Following is a list of subsidiaries of Chipotle Mexican Grill, Inc., excluding certain subsidiaries that, in the aggregate as a single subsidiary, do not constitute a significant subsidiary.

Subsidiary Name	Jurisdiction of Formation
Chipotle Mexican Grill Canada Corp.	Nova Scotia, Canada
Chipotle Mexican Grill France SAS	France
Chipotle Mexican Grill Germany GMBH	Germany
Chipotle Mexican Grill of Berwyn Heights, LLC	Maryland
Chipotle Mexican Grill of Colorado, LLC	Colorado
Chipotle Mexican Grill of Kansas, LLC	Kansas
Chipotle Mexican Grill of Maryland, LLC	Maryland
Chipotle Mexican Grill Texas Holdings, LLC	Colorado
Chipotle Mexican Grill U.S. Finance Co., LLC	Colorado
Chipotle Mexican Grill UK Limited	United Kingdom
Chipotle Services, LLC	Colorado
Chipotle Ventures, LLC	Delaware
CMG Concessions, LLC	Colorado
CMG Licensing, LLC	Delaware
CMG of Prince Georges, LLC	Maryland
CMG Pepper, LLC	Colorado
CMG Strategy Co., LLC	Colorado
CMGGC, LLC	Florida
EMEA Tortilla, Ltd.	United Kingdom
N793WF Lease, LLC	New Jersey
PL Restaurant LLC	Colorado

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the following Registration Statements:

- (1) Registration Statement (Form S-8 No. 333-204380) pertaining to the Amended and Restated Chipotle Mexican Grill, Inc. 2011 Stock Incentive Plan, and
- (2) Registration Statement (Form S-8 No. 333-226376) pertaining to the Amended and Restated Chipotle Mexican Grill, Inc. 2011 Stock Incentive Plan, and
- (3) Registration Statement (Form S-3 No. 333-236966) of Chipotle Mexican Grill, Inc., and
- (4) Registration Statement (Form S-8 No. 333-265047) pertaining to the Chipotle Mexican Grill, Inc. 2022 Stock Incentive Plan, and
- (5) Registration Statement (Form S-8 No. 333-265048) pertaining to the Chipotle Mexican Grill, Inc. Employee Stock Purchase Plan;

of our reports dated February 7, 2024, with respect to the consolidated financial statements of Chipotle Mexican Grill, Inc. and the effectiveness of internal control over financial reporting of Chipotle Mexican Grill, Inc. included in this Annual Report (Form 10-K) of Chipotle Mexican Grill, Inc. for the year ended December 31, 2023.

/s/ Ernst & Young LLP

Irvine, California
February 7, 2024

CERTIFICATION

I, Brian R. Niccol, certify that:

1. I have reviewed this annual report on Form 10-K of Chipotle Mexican Grill, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers 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 officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 7, 2024

/s/ Brian R. Niccol

Brian R. Niccol
Chairman and Chief Executive Officer
(Principal Executive Officer)

CERTIFICATION

I, John R. Hartung, certify that:

1. I have reviewed this annual report on Form 10-K of Chipotle Mexican Grill, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officers 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 officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 7, 2024

/s/ John R. Hartung

John R. Hartung
Chief Financial and Administrative Officer
(Principal Financial Officer)

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In accordance with 18 U.S.C. 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, Brian R. Niccol, the Chairman and Chief Executive Officer of Chipotle Mexican Grill, Inc. (the "Registrant") and John R. Hartung, the Chief Financial and Administrative Officer of the Registrant, each hereby certifies that, to the best of his knowledge:

1. The Registrant's Annual Report on Form 10-K for the period ended December 31, 2023, to which this Certification is attached as Exhibit 32.1 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and
2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition of the Registrant at the end of the period covered by the Periodic Report and results of operations of the Registrant for the periods covered by the Periodic Report.

Date: February 7, 2024

/s/ Brian R. Niccol

Brian R. Niccol
Chairman and Chief Executive Officer
(Principal Executive Officer)

/s/ John R. Hartung

John R. Hartung
Chief Financial and Administrative Officer
(Principal Financial Officer)

	
Policy Title:	Executive Compensation Recovery Policy
Last Revised:	December 2023
Policy Owner:	Board of Directors
Scope:	Applies to Chipotle's Section 16 Executive Officers

Purpose

The New York Stock Exchange (“NYSE”) requires listed companies to implement policies for recovery (*i.e.*, “clawback”) of erroneously awarded incentive-based compensation, implementing Section 10D of the U.S. Securities Exchange Act of 1934, as amended (the “Exchange Act”), which was added by Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. This Executive Compensation Recovery Policy (this “Policy”) implements the listing standards required by the NYSE for clawback of erroneously awarded incentive compensation and also sets forth other circumstances under which Chipotle Mexican Grill, Inc. (the “Company”) and its applicable subsidiaries (together with the Company, the “Company Group”) may recoup or forfeit Erroneously Awarded Compensation that is received by current and former Executive Officers.

Scope

This Policy applies to all current and former Executive Officers of the Company. For purposes of this Policy, “Executive Officer” means each “officer” of the Company as defined under Rule 16a-1(f) under Section 16 of the Exchange Act, which shall be deemed to include any individuals identified by the Board of Directors of the Company (the “Board”) as executive officers pursuant to Item 401(b) of Regulation S-K under the Exchange Act.

Statement of Policy

This Policy has two distinct sections – Section 1 requires recovery of Erroneously Awarded Compensation due to certain accounting restatements, and Section 2 permits recovery of compensation due to certain egregious conduct.

1. Clawback Due to Accounting Restatement

This section of the Policy is intended to implement Section 303A.14 of the NYSE Listed Company Manual and Rule 10D-1 of the Securities Exchange Act, and in the event of any conflict or ambiguity, the definitions and requirements of Section 303A.14 and Rule 10D-1 shall govern.

Clawback Requirement. In the event of a Restatement, any Erroneously Awarded Compensation received during the Lookback Period prior to a Restatement (a) that is then-outstanding but has not yet been paid shall be automatically and immediately forfeited and (b) that has been paid to any person shall be subject to reasonably prompt repayment to the Company Group in accordance with the “Means of Repayment” section of this Policy.

Means of Repayment. In the event that the Board determines that any person shall repay any Erroneously Awarded Compensation, the Board shall provide written notice to such person by email or certified mail to the physical address on file with the Company Group for such person, and the person shall satisfy such repayment in a manner and on such terms as required by the Board, and the Company Group shall be entitled to set off the repayment amount against any amount owed to the person by the Company Group, to require the forfeiture of any award granted by the Company Group to the person, or to take any and all necessary actions to reasonably promptly recoup the repayment amount from the person, in each case, to the fullest extent permitted under applicable law, including without limitation, Section 409A of the U.S. Internal Revenue Code and the regulations and guidance thereunder. If the Board does not specify a repayment timing in the written notice described above, the applicable person shall be required to repay the Erroneously Awarded Compensation to the Company Group by wire, cash or cashier's check no later than thirty (30) days after receipt of such notice.

No Indemnification. The Company Group is prohibited from indemnifying, insuring or reimbursing any current or former Executive Officer against the loss by such person of Erroneously Awarded Compensation in accordance with this Policy, nor shall any such person receive any advancement of expenses for disputes related to any loss of compensation by such person in accordance with this Policy, and no person shall be paid or reimbursed by the Company Group for any premiums paid by such person for any third-party insurance policy covering potential recovery obligations under this Policy. For this purpose, "indemnification" includes any modification to current compensation arrangements or other means that would amount to de facto indemnification (for example, providing the person a new cash award which would be cancelled to effect the recovery of any Erroneously Awarded Compensation). In no event shall the Company Group be required to award any person an additional payment if any Restatement would result in a higher incentive compensation payment.

Definitions. For purposes of this Policy, the following definitions apply:

- "Erroneously Awarded Compensation" is Incentive-Based Compensation received by a current or former Executive Officer that exceeds the amount of Incentive-Based Compensation that the Executive Officer otherwise would have received had such compensation been determined based on the Restatement, computed without regard to any taxes paid (e.g., on a gross basis, not after-tax). For Incentive-Based Compensation based on stock price or total shareholder return, where the amount of Erroneously Awarded Compensation is not subject to mathematical recalculation directly from the information in a Restatement:
 - the amount of Erroneously Awarded Compensation shall be based on a reasonable estimate of the effect of the Restatement on the stock price or total shareholder return upon which the Incentive-Based Compensation was received; and
 - the Company shall maintain documentation of the determination of that reasonable estimate and provide such documentation to the NYSE.
 - "Financial Reporting Measures" are measures that are determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measure that is derived wholly or in part from such measures. Financial Reporting Measures may consist of GAAP or non-GAAP financial measures (as defined under Regulation G of the
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Exchange Act and Item of Regulation S-K under the Exchange Act), stock price or total shareholder return.

- “Incentive-Based Compensation” is any compensation that is granted, earned or vested based wholly or in part upon the attainment of a Financial Reporting Measure. Incentive-Based Compensation is deemed “received” in the Company’s fiscal period during which the Financial Reporting Measure specified in the applicable award agreement or plan, or otherwise relating to the Incentive-Based Compensation, is attained, even if the payment or grant of the Incentive-Based Compensation occurs after the end of that period. Section 1 of this Policy applies solely to all Incentive-Based Compensation received by a person:
 - after they became an Executive Officer;
 - who served as an Executive Officer at any time during the performance period for that Incentive-Based Compensation;
 - while the Company had a class of securities listed on a national securities exchange or a national securities association; and
 - on or after October 2, 2023.
- “Lookback Period” means the three completed fiscal years (plus any transition period of less than nine months that is within or immediately following the three completed fiscal years and that results from a change in the Company’s fiscal year) immediately preceding the date on which the Company is required to prepare a Restatement for a given reporting period, with such date being the earlier of: (i) the date the Board, a committee of the Board, or the officer or officers of the Company authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare a Restatement, or (ii) the date a court, regulator or other legally authorized body directs the Company to prepare a Restatement. Recovery of any Erroneously Awarded Compensation under the Policy is not dependent on if or when the Restatement is actually filed.
- “Restatement” means a required accounting restatement of any Company financial statement due to the Company’s material noncompliance with any financial reporting requirement under the U.S. securities laws, including (a) to correct an error in previously issued financial statements that is material to the previously issued financial statements (commonly referred to as a “Big R” restatement) or (b) to correct an error in previously issued financial statements that is not material to previously issued financial statements, but that would result in a material misstatement if either the error was left uncorrected in the current report, or the error correction was recognized in the current period (commonly referred to as “little r” restatements). For clarity, a Restatement does not include an “out-of-period adjustment” – a situation where the error is immaterial to the previously issued financial statements and the correction of the error is also immaterial to the current period – or changes to prior period financial statements that do not arise due to error corrections, such as retrospective revisions to financial statements due to changes in accounting principles or segments.

Exceptions to Clawback Requirement. The Company Group shall recover Erroneously Awarded Compensation in compliance with this Policy except to the extent that one of the three conditions set forth below have been met, and the Board has decided that recovery would be impracticable:

- the direct expense paid to a third party to assist in enforcing the Policy would exceed the amount to be recovered; however, before reaching this conclusion, the Company Group must make a reasonable attempt to recover such Erroneously Awarded Compensation, document such reasonable attempt to recover, and provide that documentation to the NYSE;
- recovery would violate home country law where that law was adopted prior to November 28, 2022; however, before reaching this conclusion, the Company must obtain an opinion of home country counsel, acceptable to the NYSE, that recovery would result in such a violation, and must provide such opinion to the NYSE; or
- recovery would likely cause an otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of the registrant, to fail to meet the requirements of 26 U.S.C. 401(a)(13) or 26 U.S.C. 411(a) and regulations thereunder.

2. Forfeiture Due to Egregious Conduct

The Board may require an Executive Officer to forfeit any unpaid, unearned or unexercised Covered Compensation if the Board determines, in its sole discretion, that the Executive Officer has engaged in Covered Conduct, even if such conduct does not result in termination of the Executive Officer's employment.

- "Covered Compensation" means cash and/or equity-based compensation that was granted to any Executive Officer, excluding severance benefits awarded [under the Chipotle Mexican Grill, Inc. Change in Control Severance Plan or other change in control plan or agreement of the Company Group].
- "Covered Conduct" means any one of the following:
 - any act or omission that would constitute "Cause" under the terms of the Chipotle Mexican Grill, Inc. 2022 Stock Incentive Plan (the "Stock Plan") (or any award agreement issued thereunder, if the term is separately defined) or other applicable agreement or plan of the Company Group;
 - the material breach of a written policy applicable to the Executive Officer, including, but not limited to, the Company's Code of Ethics;
 - egregious misconduct by the Executive Officer including, but not limited to, fraud, criminal activities, falsification of Company Group records, theft, violent acts or threats of violence, or a violation of law, unethical conduct or inappropriate behavior that causes substantial financial or reputational harm to the Company Group or exposes the Company Group to substantial legal liability; or
 - the commission of an act or omission that causes the Executive Officer or the Company Group to be in violation of federal or state securities laws, rules or regulations.

To the fullest extent permitted under applicable law, including without limitation, Section 409A of the U.S. Internal Revenue Code and the regulations and guidance thereunder, the Board may seek forfeiture of Covered Compensation in any manner it chooses, including by seeking cash payment from the Executive Officer, withholding unpaid compensation, set-off (from unpaid compensation, against

planned future grants or otherwise), or rescinding or canceling unvested or vested but unexercised equity awards.

The Board may consider the costs and benefits of seeking recoupment and, based on that consideration, exercise discretion in the application and operation of this Section 2.

Administrative Provisions

All determinations of the Board pursuant to this Policy shall be final, conclusive and binding. Any discretionary determinations of the Board under this Policy, if any, need not be uniform with respect to all persons, and may be made selectively amongst persons, whether or not such persons are similarly situated.

Upon a Change in Control (as defined in the Stock Plan), this Policy will be of no further force or effect unless (i) prior to such Change in Control, the Board expressly authorizes the continuation of this Policy or, (ii) with respect to Section 1, continuation of the Policy is required by Section 303A.14 of the NYSE Listed Company Manual (or rules of another applicable national security exchange or national securities association) and Rule 10D-1 of the Securities Exchange Act.

The provisions in this Policy are intended to be applied to the fullest extent of the law. To the extent that any provision of this Policy is found to be unenforceable or invalid under any applicable law, such provision will be applied to the maximum extent permitted and shall automatically be deemed amended in a manner consistent with its objectives to the extent necessary to conform to applicable law. The invalidity or unenforceability of any provision of this Policy shall not affect the validity or enforceability of any other provision of this Policy. Recoupment of erroneously awarded compensation under this Policy is not dependent upon the Company Group satisfying any conditions in this Policy, including any requirements to provide applicable documentation to the NYSE.

The rights of the Company Group under this Policy to seek forfeiture or reimbursement are in addition to, and not in lieu of, any rights of recoupment, or remedies or rights other than recoupment, that may be available to the Company Group pursuant to the terms of any law, government regulation or stock exchange listing requirement or any other policy, code of conduct, employee handbook, employment agreement, equity award agreement, or other plan or agreement of the Company Group (together, the “Clawback Policies”). Any compensation that is recouped or recovered from or reimbursed or forfeited by any current or former Executive Officer pursuant to the Clawback Policies, will not be subject to duplicative recoupment, recovery, reimbursement or forfeiture under this Policy.

The Board, based upon the recommendation of the Compensation, People and Culture Committee, may amend this Policy at any time for any reason, including as required to comply with the rules of the Securities and Exchange Commission and the NYSE. The exercise by the Board of any rights pursuant to this Policy shall be without prejudice to any other rights that the Company Group or the Board may have with respect to any Executive Officer subject to this Policy.

CHIPOTLE MEXICAN GRILL, INC.

EXECUTIVE COMPENSATION RECOVERY POLICY

ACKNOWLEDGMENT, CONSENT AND AGREEMENT

I acknowledge that I have received and reviewed a copy of the Chipotle Mexican Grill, Inc. Executive Compensation Recovery Policy (as may be amended from time to time, the “Policy”) and I have been given an opportunity to ask questions about the Policy and review it with my counsel. I knowingly, voluntarily and irrevocably consent to and agree to be bound by and subject to the Policy’s terms and conditions, including that I will return any Erroneously Awarded Compensation that is required to be repaid in accordance with the Policy. I further acknowledge, understand and agree that (i) the compensation that I receive, have received or may become entitled to receive from the Company Group is subject to the Policy, and the Policy may affect such compensation and (ii) I have no right to indemnification, insurance payments or other reimbursement by or from the Company Group for any compensation that is subject to recoupment and/or forfeiture under the Policy. Capitalized terms used but not defined herein have the meanings set forth in the Policy.

Signed: _____

Print Name: _____

Date: _____
