

**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 **October 1, 2022**
- ☐ Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the transition period from _____ to _____



THE TYSON FOODS FAMILY OF BRANDS



001-14704
(Commission File Number)

TYSON FOODS, INC.
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation or organization)

**2200 West Don Tyson Parkway,
Springdale, Arkansas**
(Address of principal executive offices)

71-0225165
(I.R.S. Employer Identification No.)

72762-6999
(Zip Code)

(479) 290-4000

(Registrant's telephone number, including area code)

Securities Registered Pursuant to Section 12(b) of the Act:

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
Class A Common Stock Par Value \$0.10	TSN	New York Stock Exchange

Securities Registered Pursuant to Section 12(g) of the Act: Not Applicable

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 definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large Accelerated Filer ☒
Non-Accelerated Filer ☐

Accelerated Filer ☐
Smaller Reporting Company ☐
Emerging Growth Company ☐

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

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

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

On April 2, 2022, the aggregate market value of the registrant's Class A Common Stock, \$0.10 par value ("Class A stock"), and Class B Common Stock, \$0.10 par value ("Class B stock"), held by non-affiliates of the registrant was \$25,787,255,792 and \$942,719, respectively. Class B stock is not publicly listed for trade on any exchange or market system. However, Class B stock is convertible into Class A stock on a share-for-share basis, so the market value was calculated based on the market price of Class A stock.

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of October 29, 2022.

Class	Outstanding Shares
Class A Common Stock, \$0.10 Par Value ("Class A stock")	289,578,956
Class B Common Stock, \$0.10 Par Value ("Class B stock")	70,010,355

INCORPORATION BY REFERENCE

Portions of the registrant's definitive Proxy Statement for the registrant's Annual Meeting of Shareholders to be held February 9, 2023, are incorporated by reference into Part III of this Annual Report on Form 10-K.

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PART I

ITEM 1. BUSINESS

GENERAL

Tyson Foods, Inc. and its subsidiaries (collectively, the “Company,” “we,” “us,” “our,” “Tyson Foods” or “Tyson”) (NYSE: TSN) is one of the world’s largest food companies and a recognized leader in protein. Founded in 1935 by John W. Tyson and grown under four generations of family leadership, the Company has a broad portfolio of products and brands including Tyson®, Jimmy Dean®, Hillshire Farm®, Ball Park®, Wright®, Aidells®, ibp® and State Fair®. Tyson Foods innovates continually to make protein more sustainable, tailor food for everywhere it’s available and raise the world’s expectations for how much good food can do. Headquartered in Springdale, Arkansas, the Company had approximately 142,000 employees (“team members”) on October 1, 2022. Through our Core Values, Tyson Foods is a company of people engaged in the production of food, seeking to pursue trust and integrity, and committed to creating value for our shareholders, our customers, our team members and our communities. We strive to be honorable and operate with integrity, be faith-friendly and inclusive, serve as stewards of the resources entrusted to us and provide a safe work environment. Some of the key factors influencing our business are customer demand for our products; the ability to maintain and grow relationships with customers and introduce new and innovative products to the marketplace; accessibility of international markets; market prices for our products; the cost and availability of live cattle and hogs, raw materials and feed ingredients; availability of team members to operate our production facilities; and operating efficiencies of our facilities.

We operate a fully vertically-integrated chicken production process with the majority of our production certified as no antibiotic ever (sometimes referred to as “NAE”). Our integrated operations consist of breeding stock, contract farmers, feed production, processing, further-processing, marketing and transportation of chicken and related specialty products, including animal and pet food ingredients. Through our wholly-owned subsidiary, Cobb-Vantress, we are one of the leading poultry breeding stock suppliers in the world. Investing in breeding stock research and development allows us to breed into our flocks the characteristics found to be most desirable.

We also process live fed cattle and hogs and fabricate dressed beef and pork carcasses into primal and sub-primal meat cuts, case-ready beef and pork and fully-cooked meats. In addition, we derive value from specialty products such as hides and variety meats sold to further processors and others.

We produce a wide range of fresh, value-added, frozen and refrigerated food products. Our products are marketed and sold primarily by our sales staff to grocery retailers, grocery wholesalers, meat distributors, warehouse club stores, military commissaries, industrial food processing companies, chain restaurants or their distributors, live markets, international export companies and domestic distributors who serve restaurants, foodservice operations such as plant and school cafeterias, convenience stores, hospitals and other vendors. Additionally, sales to the military and a portion of sales to international markets are made through independent brokers and trading companies.

As part of our commitment to innovation and growth, we have a subsidiary focused on investing in companies developing breakthrough technologies, business models and products to sustainably feed a growing world population. Tyson New Ventures, LLC is used to broaden our exposure to innovative, new forms of protein and ways of sustainably producing food to complement the Company’s continuing investments in innovation in our core Beef, Pork, Chicken and Prepared Foods businesses.

FINANCIAL INFORMATION OF SEGMENTS

We operate in four reportable segments: Beef, Pork, Chicken and Prepared Foods. We measure segment profit as operating income (loss). International/Other primarily includes our foreign operations in Australia, China, Malaysia, Mexico, the Netherlands, South Korea and Thailand, third-party merger and integration costs and corporate overhead related to Tyson New Ventures, LLC. The contribution of each segment to net sales and operating income (loss), and the identifiable assets attributable to each segment, are set forth in Part II, Item 8, Notes to Consolidated Financial Statements, Note 17: Segment Reporting.

DESCRIPTION OF SEGMENTS

Beef

Beef includes our operations related to processing live fed cattle and fabricating dressed beef carcasses into primal and sub-primal meat cuts and case-ready products. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international export markets. This segment also includes sales from specialty products such as hides and variety meats, as well as logistics operations to move products through the supply chain.

Pork

Pork includes our operations related to processing live market hogs and fabricating pork carcasses into primal and sub-primal cuts and case-ready products. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international export markets. This segment also includes our live swine group, related specialty product processing activities and logistics operations to move products through the supply chain.

Chicken

Chicken includes our domestic operations related to raising and processing live chickens into, and purchasing raw materials for fresh, frozen and value-added chicken products, as well as sales from specialty products. Our value-added chicken products primarily include breaded chicken strips, nuggets, patties and other ready-to-fix or fully cooked chicken parts. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, convenience stores, healthcare facilities, the military and other food processors, as well as to international export markets. This segment also includes logistics operations to move products through our domestic supply chain and the global operations of our chicken breeding stock subsidiary.

Prepared Foods

Prepared Foods includes our operations related to manufacturing and marketing frozen and refrigerated food products and logistics operations to move products through the supply chain. This segment includes brands such as Jimmy Dean®, Hillshire Farm®, Ball Park®, Wright®, State Fair®, as well as artisanal brands Aidells® and Gallo Salame®. Products primarily include ready-to-eat sandwiches, sandwich components such as flame-grilled hamburgers and Philly steaks, pepperoni, bacon, breakfast sausage, turkey, lunchmeat, hot dogs, flour and corn tortilla products, appetizers, snacks, prepared meals, ethnic foods, side dishes, meat dishes, breadsticks and processed meats. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, convenience stores, healthcare facilities, the military and other food processors, as well as to international export markets.

RAW MATERIALS AND SOURCES OF SUPPLY

Beef

The primary raw materials used in our beef operations are live cattle. We do not have facilities of our own to raise cattle but employ cattle buyers located throughout cattle producing areas who visit independent feed yards and public auctions to buy live cattle on the open spot market. These buyers are trained to select high quality animals, and we continually measure their performance. We also enter into various risk-sharing and procurement arrangements with producers to secure a supply of livestock for our facilities. Although we generally expect adequate supply of live cattle in the regions we operate, there may be periods of imbalance in supply and demand.

Pork

The primary raw materials used in our pork operations are live hogs. The majority of our live hog supply is obtained through various procurement relationships with independent producers. We employ hog buyers who make purchase agreements of various time durations as well as purchase hogs on a daily basis, generally a few days before the animals are processed. These buyers are trained to select high quality animals, and we continually measure their performance. We believe the supply of live hogs is adequate for our present needs. Additionally, we raise a small number of weanling swine to sell to independent finishers and supply a minimal amount of market hogs and live swine for our own processing needs. Although we generally expect adequate supply of live hogs in the regions we operate, there may be periods of imbalance in supply and demand.

Chicken

The primary raw materials used in our domestic chicken operations are corn and soybean meal used as feed and live chickens raised primarily by independent contract farmers. Our vertically-integrated chicken process begins with the grandparent breeder flocks and ends with broilers for processing. Breeder flocks (i.e., grandparents) are raised to maturity in grandparent growing and laying farms where fertile eggs are produced. Fertile eggs are incubated at the grandparent hatchery and produce pullets (i.e., parents). Pullets are raised to 20 weeks of age, sent to breeder houses, and the resulting eggs are sent to our hatcheries. Once chicks have hatched, they are sent to broiler farms. There, contract farmers care for and raise the chicks according to our standards, with advice from our technical service personnel, until the broilers reach the desired processing weight. Adult chickens are transported to processing facilities where they are harvested and converted into finished products, which are then sent to distribution centers and delivered to customers.

We operate feed mills to produce scientifically-formulated feeds. In fiscal 2022, corn, soybean meal and other feed ingredients were major production costs, representing roughly 62% of our cost of growing a live chicken domestically. In addition to feed ingredients to grow the chickens, we use cooking ingredients, packaging materials and cryogenic agents. We believe our sources of supply for these materials are adequate for our present needs, and we do not anticipate any difficulty in acquiring these materials in the future.

While we produce nearly all our inventory of breeder chickens and live broilers, we also purchase ice-packed or deboned chicken to meet production and sales requirements.

Prepared Foods

The primary raw materials used in our prepared foods operations are commodity-based raw materials, including beef, pork, chicken, turkey, flour, vegetables, cheese, eggs, seasonings and other cooking ingredients. Some of these raw materials are provided by our other segments, while others may be purchased from numerous suppliers and manufacturers. We believe the sources of supply of raw materials are adequate for our present needs.

SEASONAL DEMAND

Demand for beef, chicken and certain prepared foods products, such as hot dogs and smoked sausage, generally increases during the spring and summer months and generally decreases during the winter months. Pork and certain other prepared foods products, such as prepared meals, meat dishes, appetizers and breakfast sausage, generally experience increased demand during the winter months, primarily due to the holiday season, while demand generally decreases during the spring and summer months.

CUSTOMERS

Walmart Inc. accounted for 17.7% of our fiscal 2022 consolidated sales. Sales to Walmart Inc. were included in all of our segments. Any extended discontinuance of sales to this customer could, if not replaced, have a material impact on our operations. No other single customer or customer group represented more than 10% of fiscal 2022 consolidated sales.

COMPETITION

Our food products compete with those of other food producers and processors and certain prepared food manufacturers. Additionally, our food products compete in markets around the world. We seek to achieve a leading market position for our products via our principal marketing and competitive strategy, which includes:

- identifying target markets for value-added products;
- concentrating production, sales and marketing efforts to appeal to and enhance demand from those markets; and
- utilizing our national distribution systems and customer support services.

Past efforts indicate customer demand can be increased and sustained through application of our marketing strategy, as supported by our distribution systems. The principal competitive elements are price, product safety and quality, brand identification, innovation, breadth and depth of product offerings, availability of products, customer service and credit terms.

FOREIGN OPERATIONS

We sold products in approximately 140 countries and regions in fiscal 2022. Major sales markets include Australia, Canada, Central America, Chile, China, the European Union, the United Kingdom, Japan, Mexico, Malaysia, the Middle East, Singapore, South Korea, Taiwan and Thailand. We have the following foreign operations:

- Cobb-Vantress, a chicken breeding stock subsidiary, has business interests in Argentina, Brazil, China, Colombia, the Dominican Republic, India, the Netherlands, New Zealand, Peru, the Philippines, Spain, Turkey, and the United Kingdom.
- Tyson Asia-Pacific consists of vertically-integrated chicken production operations in Thailand, multi-protein further-processing operations in Malaysia, a beef production operation in Australia, and joint venture interests in two non-consolidated poultry businesses in Malaysia.
- Tyson China-Korea, with locations in China and South Korea, consists of vertically-integrated chicken production operations, multi-protein further-processing operations, and a joint venture interest in a non-consolidated chicken processing business. Tyson China also sells beef, pork, and chicken products imported from Tyson production facilities in the United States and other global operations.
- Tyson Europe sells chicken products throughout the United Kingdom and Europe produced from our other global operations and co-packer arrangements and has a chicken further processing operation in the Netherlands.
- Vibra Agroindustrial S.A., a joint venture in Brazil in which we have a minority interest, is a vertically-integrated chicken processing business.
- Holding Agro Industrial S.A., a joint venture in Argentina and Uruguay in which we have a minority interest, is a vertically-integrated chicken processing business.
- Godrej Tyson Foods, a joint venture in India in which we have a minority interest, is primarily a chicken processing business.
- Tyson Mexico Trading Company, a Mexican subsidiary, sells chicken and prepared foods products primarily from our U.S. operations and co-packer arrangements.

We continue to evaluate growth opportunities in foreign locations. Additional information regarding export sales and long-lived assets located in foreign locations is set forth in Part II, Item 8, Notes to Consolidated Financial Statements, Note 17: Segment Reporting.

RESEARCH AND DEVELOPMENT

We conduct continuous research and development activities to improve product development, to automate manual processes in our processing facilities and grow-out operations, and to improve chicken breeding stock. With regards to our domestic food products we have two primary research and development locations, our Discovery Center in Springdale, Arkansas, and an Innovation Center located in Downers Grove, Illinois. The centers include more than 80,000 square feet of United States Department of Agriculture (“USDA”) pilot plant space, two consumer sensory and focus group areas, two packaging labs and 25 research kitchens. The centers enable us to bring new market-leading retail and foodservice products to the customer quickly and efficiently. Additionally, we have a Manufacturing Automation Center in Springdale, Arkansas, designed to grow the development of new manufacturing solutions and to enhance team member training on new technology. Further, we have research and development capabilities located in several international locations where we operate.

ENVIRONMENTAL REGULATION AND FOOD SAFETY

Environmental Regulation

Our facilities for processing beef, pork, chicken, turkey and prepared foods, milling feed and housing live chickens and swine are subject to a variety of international, federal, state and local environmental laws and regulations, which include provisions relating to the discharge of materials into the environment and generally provide for protection of the environment.

We believe we are in substantial compliance with such applicable laws and regulations and are not aware of any violations of such laws and regulations likely to result in material penalties or material increases in compliance costs. The cost of compliance with such laws and regulations has not had a material adverse effect on our capital expenditures, earnings or competitive position, and except as described below, is not anticipated to have a material adverse effect in the future.

Food Safety

We work to ensure our products meet high standards of food safety and quality. In addition to our own internal Food Safety and Quality Assurance oversight and review, our beef, pork, chicken, and prepared foods products are subject to inspection, primarily by the USDA and the United States Food and Drug Administration (“FDA”). We also participate in the USDA’s Hazard Analysis and Critical Control Points (“HACCP”) program or FDA’s Hazard Analysis and Risk-Based Prevention Controls (“HARPC”) program as applicable and are subject to the Sanitation Standard Operating Procedures and the Public Health Security and Bioterrorism Preparedness and Response Act of 2002. Additionally, our foreign operations are subject to various other food safety and quality assurance oversight and review.

Greenhouse Gas Emissions

Congress, the United States Environmental Protection Agency, some states and non-U.S. governments continue to consider various options to control greenhouse gas emissions. It is unclear at this time what options, if any, will be finalized, and whether such options would have a direct impact on the Company. Although we have not incurred significant costs or capital expenditures, due to continuing uncertainty surrounding this issue, it is premature to speculate on the specific nature of impacts that imposition of greenhouse gas emission controls would have on us and whether such impacts would have a material adverse effect.

Tyson closely monitors developments in this area, and voluntarily sets goals to reduce greenhouse gas emissions in accordance with the Science Based Targets initiative (SBTi) criteria, including our ambition to reach net-zero greenhouse gas emissions by 2050. We continue to evaluate the plans and associated costs of achieving our greenhouse gas emission reduction goals.

Sustainability

We have aligned our business priorities with our sustainability strategy by reimagining our people and community impact, driving product responsibility from farm to table and working toward sustaining natural resources and achieving net-zero greenhouse gas emissions. We are reimagining our people and community impact by enabling workers to succeed while supporting the growth of our communities. We aim to drive product responsibility from farm to table by delivering value to consumers with high-quality, sustainable, nutritious protein through leading portfolio of products. Additionally, we are working toward sustaining natural resources and achieving net zero by driving practices in our own operations and supply chains to more sustainably produce protein for a growing population within planetary boundaries.

In fiscal 2022, we announced our partnership with the USDA through a Partnerships for Climate-Smart Commodities grant to support the adoption of sustainable agriculture practices. With the help of the USDA grant, we plan to execute a five-year program that implements trainings, incentives and verifications to improve farmer and rancher livelihoods, increase carbon sequestration and work to reduce greenhouse gas emissions in our supply chain and beyond. Approximately 75% of the USDA grant funding for the project will go directly to farmers and ranchers, providing incentive payments and technical assistance to those adopting climate-smart practices, with the remaining 25% supporting program measurement, monitoring, reporting and validating.

We have also partnered with World Resources Institute to assess water risk and develop a water stewardship strategy, completed construction of Tyson Foods Center for Sustainable Broiler Research, and announced our global forest protection standard following deforestation risk assessment. Additionally, we established sustainability governance and oversight through the Governance and Nominating Committee of our Board of Directors. This Committee advises the Board on matters relating to corporate responsibility and sustainability, including environmental, social and governance matters affecting the Company. It also oversees the Company’s key programs and oversees and reviews, at least annually, the Company’s integration of sustainability principles into our business strategy and decision-making.

HUMAN CAPITAL MANAGEMENT

Employees and Labor Relations

As of October 1, 2022, we employed approximately 142,000 team members globally. Approximately 124,000 team members were employed in the United States, of whom approximately 118,000 were employed at non-corporate sites such as production facilities, warehouses, truck shops, hatcheries and feed mills. Approximately 18,000 team members were employed in other countries, primarily in Thailand and China. For fiscal 2022, our domestic workforce experienced a 1% decrease in retention rate from fiscal 2021 primarily driven by macro trends associated with a challenging labor environment. Approximately 35,000 team members in the United States were subject to collective bargaining agreements with various labor unions, with approximately 2% of those team members at locations either under negotiation for contract renewal or included under agreements expiring in fiscal 2023. The remaining agreements expire over the next several years. Approximately 7,000 team members in other countries were subject to collective bargaining agreements. We believe our overall relations with our workforce in both unionized and non-union settings are healthy.

Health, Safety, and Wellbeing

We maintain a safety culture grounded on the premise of eliminating workplace incidents, risks and identified hazards. To keep our team members safe, we focus on ensuring that all team members receive appropriate training and equipment. For example, every production facility team member completes at least 13 hours of compliance, safety and food safety training per year, and new hourly employees receive 120 hours of classroom and on-the-job orientation. We created and implemented processes to help identify and eliminate safety events by reducing their frequency and severity. We also review and monitor our safety performance closely. Our goal is to reduce Occupational Safety and Health Administration (“OSHA”) recordable incidents year over year. During fiscal 2022, our recordable incident rate declined 5% compared to fiscal 2021. As an expansion of our wellbeing culture and efforts to boost the overall health and wellness of our workforce, we continue to pilot health clinics near our production facilities, giving team members and their families easier access to high-quality healthcare. In response to the COVID-19 global pandemic (“COVID-19 pandemic”, “COVID-19”, “pandemic”) and its related variants, we implemented and continue to implement various health, safety, and sanitation measures in all of our facilities. In addition to our Chief Medical Officer, we have approximately 600 occupational health nurses and administrative support staff to assist in our ongoing efforts to protect frontline team members during the COVID-19 pandemic while also enhancing our culture of health, safety and wellbeing. We continue to educate our U.S. team members about COVID-19 vaccines and boosters, provide our U.S. team members, their families and members of their household access to COVID-19 vaccines, boosters and case assessment of team members affected by the COVID-19 pandemic.

Diversity, Equity and Inclusion (DE&I)

We believe that diversity, equity, and inclusion (“DE&I”) is our strength. Our Company is diverse and consists of team members with a variety of experiences, backgrounds, beliefs, and lifestyles. Our workforce consists of approximately 40% women and over 60% minority groups. We strive to continue cultivating a culture and vision that supports DE&I in every aspect of our business, from recruiting to individual development and team member engagement, with the objective of promoting and retaining talent. We also believe that having engaged team members with a sense of belonging is paramount to our continued success. The Company has eight employee-led business resource groups that support our team members and assist with efforts to build a culture of inclusion to ensure that everyone feels respected and valued. These groups are also strategically engaged to support DE&I initiatives as they are developed and implemented at the enterprise level. Some of our functional teams have also engaged formal DE&I councils to inform special projects and initiatives and many production facilities routinely host local diversity committees.

Talent and Development

Our talent strategy and philosophy “Grow With Us” is focused on attracting the best talent, recognizing and rewarding performance, while continually developing, engaging and retaining our team members. We focus on the team member experience, removing barriers to engagement, further modernizing the human resources process, focusing on frontline team member retention and continually improving equity and effectiveness of all talent practices. Consistent with this focus, we conducted our third OneTyson engagement survey, that included corporate and frontline team members for the purpose of evaluating our team member experience, internal performance and how we compared to other companies in multiple areas. In addition, through our Upward Academy Onsite Program, we offer English as a second language, high-school equivalency, citizenship, financial literacy and digital literacy training to all team members. As of October 1, 2022, the onsite program was operating at 36 Company locations. To expand access to Upward Academy to all team members, we have also launched Upward Academy online, a frontline career development program. This program helps team members further hone professional skills and creates opportunities for our team members to advance to higher-paying, more senior-level positions within the Company through college degrees, job skills training and workforce certifications at no cost. We have a goal to be the most sought after company within our markets and peer groups. We strive to grow and develop the different capabilities and skills that we need for the future, while maintaining a robust pipeline of talent throughout the organization.

MARKETING AND DISTRIBUTION

Our principal marketing objective is to be the preferred provider of beef, pork, chicken and prepared foods products for our customers and consumers. We build the Tyson®, Jimmy Dean®, Hillshire Farm®, Ball Park®, Wright®, Aidells®, ibp® and State Fair® brands while supporting strong regional and emerging brands primarily through distinctive brand and product advertising, promotion, and public relations efforts focused toward key consumer targets with specific needs. We identify growth and business opportunities through consumer and customer insights derived via leading research and analytic capabilities. We utilize our national distribution system and customer support services to achieve the leading market position for our products and brands.

We have the ability to produce and ship fresh, frozen and refrigerated products worldwide. Domestically, our distribution system extends to a broad network of food distributors and is supported by our owned or leased cold storage warehouses, public cold storage facilities and our transportation system. Our distribution centers accumulate fresh and frozen products so we can fill and consolidate partial-truckload orders into full truckloads, thereby decreasing shipping costs while increasing customer service. In addition, we provide our customers a wide selection of products that do not require large volume orders. Our distribution system enables us to supply large or small quantities of products to meet customer requirements anywhere in the continental United States. Internationally, we utilize both rail and truck refrigerated transportation to domestic ports, where consolidations take place to transport to foreign destinations.

PATENTS AND TRADEMARKS

We have filed a number of patent applications relating to our processes and products that either have been granted or are in the process of review. Because we do a significant amount of brand name and product line advertising to promote our products, we consider the protection of our trademarks to be important to our marketing efforts and have registered and applied for the registration of a number of trademarks. We also have developed non-public proprietary information regarding our production processes and other product-related matters. We utilize internal procedures and safeguards to protect the confidentiality of such information and, where appropriate, seek patent and/or other protection for the technology we utilize.

INDUSTRY PRACTICES

Our agreements with customers are generally short-term, primarily due to the nature of our products, industry practices and fluctuations in supply, demand and price for such products. In certain instances where we are selling further processed products to large customers, we may enter into written agreements whereby we will act as the exclusive or preferred supplier to the customer, with pricing terms that are either fixed or variable.

AVAILABILITY OF SEC FILINGS AND CORPORATE GOVERNANCE DOCUMENTS ON INTERNET WEBSITE

We maintain an internet website for investors at <http://ir.tyson.com>. On this website, we make available, free of charge, annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, iXBRL (inline eXtensible Business Reporting Language) reports, and all amendments to any of those reports, as soon as reasonably practicable after we electronically file such reports with, or furnish such reports to, the Securities and Exchange Commission (the “SEC”). Also available on the website to review and print for investors are the Corporate Governance Principles, Audit Committee charter, Compensation and Leadership Development Committee charter, Governance and Nominating Committee charter, Strategy and Acquisitions Committee charter, Code of Conduct, Whistleblower Policy and other corporate governance policies. The SEC maintains an internet site that contains reports, proxy and information statements, and other information regarding issuers that file electronically with the SEC at www.sec.gov.

CAUTIONARY STATEMENTS RELEVANT TO FORWARD-LOOKING INFORMATION FOR THE PURPOSE OF “SAFE HARBOR” PROVISIONS OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

Certain information in this report constitutes forward-looking statements. Such forward-looking statements include, but are not limited to, current views and estimates of our outlook for fiscal 2023, other future economic circumstances, industry conditions in domestic and international markets, our performance and financial results (e.g., debt levels, return on invested capital, value-added product growth, capital expenditures, tax rates, access to foreign markets and dividend policy). These forward-looking statements are subject to a number of factors and uncertainties that could cause our actual results and experiences to differ materially from anticipated results and expectations expressed in such forward-looking statements. We wish to caution readers not to place undue reliance on any forward-looking statements, which speak only as of the date made. We undertake no obligation to update any forward-looking statements, whether as a result of new information, future events or otherwise.

Among the factors that may cause actual results and experiences to differ from anticipated results and expectations expressed in such forward-looking statements are the following: (i) the COVID-19 pandemic and associated responses thereto have had an adverse impact on our business and operations, and the extent that the COVID-19 pandemic continues to impact us will depend on future developments, which are highly uncertain and cannot be predicted with confidence, including the COVID-19 related impacts on the market, including production delays, labor shortages and increases in costs and inflation; (ii) the effectiveness of our financial excellence programs; (iii) access to foreign markets together with foreign economic conditions, including currency fluctuations, import/export restrictions and foreign politics; (iv) cyber attacks, other cyber incidents, security breaches or other disruptions of our information technology systems; (v) risks associated with our failure to consummate favorable acquisition transactions or integrate certain acquisitions' operations; (vi) the Tyson Limited Partnership's ability to exercise significant control over the Company; (vii) fluctuations in the cost and availability of inputs and raw materials, such as live cattle, live swine, feed grains (including corn and soybean meal) and energy; (viii) market conditions for finished products, including competition from other global and domestic food processors, supply and pricing of competing products and alternative proteins and demand for alternative proteins; (ix) outbreak of a livestock disease (such as African swine fever (ASF), avian influenza (AI) or bovine spongiform encephalopathy (BSE)), which could have an adverse effect on livestock we own, the availability of livestock we purchase, consumer perception of certain protein products or our ability to conduct our operations; (x) changes in consumer preference and diets and our ability to identify and react to consumer trends; (xi) effectiveness of advertising and marketing programs; (xii) significant marketing plan changes by large customers or loss of one or more large customers; (xiii) our ability to leverage brand value propositions; (xiv) changes in availability and relative costs of labor and contract farmers and our ability to maintain good relationships with team members, labor unions, contract farmers and independent producers providing us livestock, including as a result of our plan to relocate certain corporate team members to our world headquarters in Springdale, Arkansas; (xv) issues related to food safety, including costs resulting from product recalls, regulatory compliance and any related claims or litigation; (xvi) the effect of climate change and any legal or regulatory response thereto; (xvii) compliance with and changes to regulations and laws (both domestic and foreign), including changes in accounting standards, tax laws, environmental laws, agricultural laws and occupational, health and safety laws; (xviii) adverse results from litigation; (xix) risks associated with leverage, including cost increases due to rising interest rates or changes in debt ratings or outlook; (xx) impairment in the carrying value of our goodwill or indefinite life intangible assets; (xxi) our participation in a multiemployer pension plan; (xxii) volatility in capital markets or interest rates; (xxiii) risks associated with our commodity purchasing activities; (xxiv) the effect of, or changes in, general economic conditions; (xxv) impacts on our operations caused by factors and forces beyond our control, such as natural disasters, fire, bioterrorism, pandemics, armed conflicts or extreme weather; (xxvi) failure to maximize or assert our intellectual property rights; (xxvii) effects related to changes in tax rates, valuation of deferred tax assets and liabilities, or tax laws and their interpretation; and (xxviii) those factors listed under Item 1A. Risk Factors.

ITEM 1A. RISK FACTORS

These risks, which should be considered carefully with the information provided elsewhere in this report, could materially adversely affect our business, financial condition or results of operations. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial also may materially adversely affect our business, financial condition or results of operations.

BUSINESS & OPERATIONAL RISK FACTORS

The COVID-19 pandemic and associated responses has had, and may to continue to have, an adverse impact on our business and operations.

The COVID-19 pandemic has negatively affected many parts of our business and operations. The extent that the COVID-19 pandemic continues to impact general economic conditions and our business, operations and results of operations will depend on future developments, which are highly uncertain and are difficult to predict, including, but not limited to, the duration and spread of the pandemic and additional variants, its severity, the actions to contain the virus or treat its impact, including the distribution and efficacy of vaccines against new variants and the speed of critical mass adoption of available vaccines, and how quickly and to what extent normal economic and operating conditions can resume.

During the pandemic, we experienced slowdowns at certain of our production facilities, primarily due to a decrease in our available workforce, and we anticipate that we may in the future experience additional volatility in our ability to operate our facilities at full utilization rates, depending on a number of factors including team member absenteeism, labor shortages and other workforce disruptions. Any additional extended period of operating at a reduced capacity or more significant reductions in our operations at our facilities could have a material adverse impact on our ability to operate our business and on our results of operations.

We have experienced, and expect to continue to experience, an increase in operating costs in connection with higher costs associated with ensuring the continued health and safety of team members, including team member costs associated with worker health and availability such as COVID-19 testing and vaccinations. There can be no assurance that the health and safety measures we have taken with respect to COVID-19 will eradicate the risks associated with working in a critical infrastructure industry, including but not limited to, infection of our employees or a temporary reduction in the operating capacity of a facility. Further, there can be no assurance that we will not incur additional direct incremental expenses related to COVID-19 going forward, and that such amounts will not be material or have a material impact on our business, cash flows or results of operations.

Our team members who have tested positive for COVID-19, and in some cases, those working in close contact with diagnosed persons, are required to be quarantined, which has led to a decrease in our available workforce in various locations. In late fiscal 2021, we implemented a requirement for our team members in the U.S. to be fully vaccinated against COVID-19 by November 1, 2021. We lifted this requirement effective October 31, 2022. Although while it was in effect this requirement generally improved our ability to operate our business effectively in fiscal 2022, the decrease in our available workforce during the COVID-19 pandemic has at times adversely impacted this ability. If a significant percentage of our workforce is unable to work, including because of illness, this could have an adverse effect on our operations and results of operations. In addition, certain of our team members who claim to have tested positive for COVID-19, or their family members, have filed lawsuits seeking compensatory and punitive damages for wrongful death and personal injury claims in several states, and additional team members or family members of team members may assert similar claims as the COVID-19 pandemic continues. If we are unsuccessful in defending against such claims, we may experience significant losses and expenses in connection with these lawsuits, which could adversely affect our liquidity, results of operations and financial condition.

We have also experienced, and expect to continue to experience, disruption and volatility in our supply chain, which has resulted, and may continue to result, in increased costs for certain raw materials, packaging materials and transportation costs. The spread of COVID-19 and other related supply chain issues have also disrupted and may continue to disrupt logistics necessary to import, export and deliver products to us and our customers. Many ports and other channels of entry are operating at only a portion of capacity as a result of congestion due to labor and equipment shortages, and means of transporting products within regions or countries may be limited for the same reason. Other supply chain risks associated with the COVID-19 pandemic include but are not limited to shutdowns or reduced operations at our suppliers' facilities, the continued inability of some of our contract producers to manage their livestock, supply chain disruptions for feed grains, changes in consumer orders due to shifting consumer patterns, changes in livestock and protein market prices, and additional disruptions in logistics or the distribution chain for our products, the occurrence of any of which may result in a reduction in our fill rates to our customers. In addition, our operations, or those of independent contract poultry producers and producers who provide the live animals to our production operations, may become more limited in their ability to procure, deliver, or produce our food products because of labor shortages.

As a result of school and in-restaurant dining shutdowns during the COVID-19 pandemic, each of our segments previously experienced a shift in demand from foodservice to retail. While each of our segments has subsequently experienced varying levels of foodservice recovery, the long-term impact of COVID-19 remains uncertain and will depend on a number of future developments, which are uncertain and cannot be predicted at this time. In addition, in the event of a protracted period of economic downturn, demand for our foodservice products may remain below expectations or decrease further, and demand for our retail consumption products may also decrease, which could have an adverse impact on our results of operations.

We also face other risks associated with the COVID-19 pandemic, including:

- additional increase in input cost may not be adequately captured through pricing;
- adverse changes to the global economy may subject us to risk of material intangible and long-lived asset impairments, adjustments for inventory and market volatility for items subject to fair value measurements such as derivatives and investments;
- an increase in working capital needs and/or an increase in trade accounts receivable write-offs (and associated reserves) as a result of increased financial pressures on our suppliers or customers who are not able to pay in a timely manner or at all;
- a shift in consumer spending as a result of an economic downturn, which could result in consumers moving to private label or lower price products; and
- litigation.

The severity and duration of the current COVID-19 pandemic and actions taken by governmental authorities and other third parties in response are unknown and are impossible to predict with certainty. Any of these disruptions could adversely impact our business and results of operations.

We may not realize any or all of the anticipated benefits of our financial excellence programs, which may prove to be more difficult, costly or time consuming than expected.

In the fourth quarter of fiscal 2022, the Company approved a restructuring program (the "2022 Program"), which is expected to improve business performance, increase collaboration, enhance team member agility, enable faster decision-making and reduce redundancies. In conjunction with the 2022 Program, the Company plans to bring together all its corporate team members from the Chicago, Downers Grove and Dakota Dunes area corporate locations to its world headquarters in Springdale, Arkansas, through a phased relocation commencing in early calendar year 2023. We anticipate the 2022 Program and associated expenses will be substantially complete in our fiscal 2025. For more information regarding this program, refer to Part II, Item 8. Notes to the Consolidated Financial Statements, Note 7: Restructuring and Related Charges. Additionally, in fiscal 2022 we launched a new productivity program, which is designed to drive a better, faster and more agile organization that is supported by a culture of continuous improvement and faster decision-making.

The success of the financial excellence programs, or future financial excellence programs, including the realization of the anticipated benefits, will depend in part on our ability to successfully implement the programs in an efficient and effective manner. The implementation of the financial excellence programs may be more difficult, costly, or time consuming than expected, and the financial excellence programs may not result in any or all of the anticipated benefits. If we are unable to implement the financial excellence programs smoothly or successfully, or we otherwise do not capture the anticipated savings, our business, results of operations and financial condition for future periods could be negatively impacted.

In addition, we may incur higher costs than anticipated and the program impacts could result in performance shortfalls. The financial excellence programs may become a distraction for our organization and may disrupt our ongoing business operations; cause deterioration in team member morale; disrupt or weaken the internal control structures of the affected business operations; and result in negative publicity which could affect our corporate reputation. If we are unable to successfully manage the negative consequences of the financial excellence programs, our business, results of operations and financial condition for future periods could be adversely affected.

We are subject to risks associated with our international activities, which could negatively affect our sales to customers in foreign locations, as well as our operations and assets in such locations.

In fiscal 2022, we sold products to customers in approximately 140 countries. Major sales markets include Australia, Canada, Central America, Chile, China, the European Union, the United Kingdom, Japan, Mexico, Malaysia, the Middle East, Singapore, South Korea, Taiwan and Thailand. Our sales to customers in foreign countries for fiscal 2022 totaled \$8.3 billion of which \$5.8 billion related to export sales from the United States. In addition, we had approximately \$1.5 billion of long-lived assets located in foreign locations, primarily Brazil, China, the European Union, New Zealand and Thailand, at the end of fiscal 2022.

As a result, we are subject to various risks and uncertainties relating to international sales and operations, including:

- closing of borders by foreign countries to the import of beef, pork and poultry products due to animal disease or other perceived health or safety issues;
- impact of currency exchange rate fluctuations between the United States dollar and foreign currencies, particularly the Australian dollar, the Brazilian real, the British pound sterling, the Canadian dollar, the Chinese renminbi, the European euro, the Malaysian ringgit, the Mexican peso, and the Thai baht;
- political and economic conditions, including the ongoing conflicts between Ukraine and Russia;
- difficulties and costs to comply with, and enforcement of remedies under, a wide variety of complex domestic and international laws, treaties and regulations, including, without limitation, the United States Foreign Corrupt Practices Act and economic and trade sanctions enforced by the United States Department of the Treasury's Office of Foreign Assets Control;
- different regulatory structures and unexpected changes in regulatory environments;
- tax rates that may exceed those in the United States and earnings that may be subject to withholding requirements and incremental taxes upon repatriation;
- potentially negative consequences from changes in tax laws;
- distribution costs, disruptions in shipping or reduced availability of freight transportation; and
- the ongoing impact of COVID-19, including any resurgence and new or existing variants, on the global economy and on consumer demand worldwide; imposition of tariffs, quotas, trade barriers and other trade protection measures imposed by foreign countries regarding the importation of beef, pork, poultry and prepared foods products, in addition to import or export licensing requirements imposed by various foreign countries.

Negative consequences relating to these risks and uncertainties could jeopardize or limit our ability to transact business in one or more of those markets where we operate or in other developing markets and could adversely affect our financial results.

Our business and reputation could suffer if we are unable to protect our information technology systems against, or effectively respond to, cyber attacks, other cyber incidents or security breaches or if our information technology systems are otherwise disrupted.

Information technology is an important part of our business operations, and we rely on information technology systems to manage business data and increase efficiencies in our production and distribution facilities and inventory management processes. We also use information technology to process financial information and results of operations for internal reporting purposes and to comply with regulatory, legal and tax requirements. In addition, we depend on information technology for digital marketing and electronic communications between our facilities, personnel, customers and suppliers. Like other companies, our information technology systems may be vulnerable to a variety of disruptions, including but not limited to the process of upgrading or replacing software, databases or components thereof, user errors, natural disasters, terrorist attacks, telecommunications failures, computer viruses, cyber attacks, hackers, unauthorized access attempts and other security issues. In addition, such incidents could result in unauthorized or accidental disclosure of material confidential information or regulated individual personal data.

We have in the past experienced, and may in the future face, cyber attacks, other cyber incidents or security breaches, and there can be no assurance that we will always be able to sufficiently mitigate the impacts to our business and operations. We have implemented and continue to evaluate security initiatives and disaster recovery plans to mitigate our exposure to these risks, but these measures may not be adequate. Attempted cyber attacks and other cyber incidents are occurring more frequently, are constantly evolving in nature, are becoming more sophisticated and are being made by groups and individuals with a wide range of motives and expertise.

Any significant failure of our systems, including failures that prevent our systems from functioning as intended or our failure to timely identify or appropriately respond to cyber attacks or other cyber incidents, could cause transaction errors, processing inefficiencies, loss of customers and sales, have negative consequences on our team members and our business partners, have a negative impact on our operations or business reputation and expose us to liability, litigation and regulatory enforcement actions. In addition, we may suffer financial and reputational damage or penalties because of the unauthorized disclosure of confidential information belonging to us or to our business partners, customers, consumers or suppliers. Finally, the disclosure of non-public information through external media channels could lead to the loss of intellectual property or damage our reputation and brand image. Similar risks exist with respect to the third-party vendors that we rely upon for aspects of our information technology support services and administrative functions, including health and benefit plan administration and certain finance and accounting functions, and systems managed, hosted, provided and/or used by third parties and their vendors. We have not experienced any significant cyber-related events in the current fiscal year.

We may not be able to successfully consummate favorable strategic acquisitions or divestitures or successfully integrate acquired businesses.

We periodically evaluate potential acquisitions, joint ventures and other initiatives, and may seek to expand our business through the acquisition of companies, processing plants, technologies, products and services. Acquisitions and joint ventures involve financial and operational risks and uncertainties, including:

- challenges in realizing the anticipated benefits of the transaction;
- difficulty integrating acquired businesses, technologies, operations and personnel with our existing business;
- diversion of management attention in connection with negotiating transactions and integrating the businesses acquired;
- difficulty identifying suitable candidates;
- consummating a transaction on terms that are favorable to us;
- challenges in retaining the acquired businesses' customers and key team members;
- inability to implement and maintain consistent standards, controls, procedures and information systems;
- exposure to unforeseen or undisclosed liabilities of acquired companies; and
- the availability and terms of additional debt or equity financing for any transaction.

We may not be able to address these risks and successfully develop these acquired companies or businesses into profitable units. If we are unable to do this, such expansion could adversely affect our financial results. Additionally, from time to time, we may divest businesses that do not meet our strategic objectives or do not meet our growth or profitability targets. We may not be able to complete desired or proposed divestitures on terms favorable to us. Gains or losses on the sales of, or lost operating income from, those businesses may affect our profitability and margins. Moreover, we may incur asset impairment charges related to divestitures that reduce our profitability. Our divestiture activities may present financial, managerial and operational risks. Those risks include diversion of management attention from existing businesses, difficulties separating personnel and financial and other systems, possible need for providing transition services to buyers, adverse effects on existing business relationships with suppliers and customers and indemnities and potential disputes with the buyers. Any of these factors could adversely affect our product sales, financial condition and results of operations.

Tyson Limited Partnership can exercise significant control.

As of October 1, 2022, Tyson Limited Partnership (the "TLP") owns 99.985% of the outstanding shares of the Company's Class B Common Stock, \$0.10 par value ("Class B stock"), and the TLP and members of the Tyson family own, in the aggregate, 2.27% of the outstanding shares of the Company's Class A Common Stock, \$0.10 par value ("Class A stock"), giving them, collectively, control of approximately 71.15% of the total voting power of the Company's outstanding voting stock. At this time, the TLP does not have a managing general partner, as such, the management rights of the managing general partner may be exercised by a majority of the percentage interests of the general partners. As of October 1, 2022, Mr. John Tyson, Chairman of the Board of Directors, has 33.33% of the general partner percentage interests, and Ms. Barbara Tyson, a director of the Company, has 11.115% general partner percentage interests (the remaining general partnership interests are held by the Donald J. Tyson Revocable Trust (44.44%) and Harry C. Erwin, III (11.115%)). As a result of these holdings, positions and directorships, the partners in the TLP have the ability to exert substantial influence or actual control over our management and affairs and over substantially all matters requiring action by our stockholders, including amendments to our restated certificate of incorporation and by-laws, the election and removal of directors, any proposed merger, consolidation or sale of all or substantially all of our assets and other corporate transactions. This concentration of ownership may also delay or prevent a change in control otherwise favored by our other stockholders and could depress our stock price. Additionally, as a result of the TLP's significant ownership of our outstanding voting stock, we are eligible for "controlled company" exemptions from certain corporate governance requirements of the New York Stock Exchange.

INDUSTRY RISK FACTORS

Fluctuations in commodity prices and in the availability of raw materials, especially feed grains, live cattle, live swine and other inputs could negatively impact our earnings.

Our results of operations and financial condition, as well as the selling prices for our products, are dependent upon the cost and supply of commodities and raw materials such as beef, pork, poultry, corn, soybean meal, packaging materials and energy and, to a lesser extent, cheese, fruit, seasoning blends, flour, corn syrup, corn oils, butter and sugar. Corn, soybean meal and other feed ingredients, for instance, represented roughly 62% of our cost of growing a live chicken in fiscal 2022.

Production and pricing of these commodities are determined by constantly changing market forces of supply and demand over which we have limited or no control. Such factors include, among other things, weather patterns throughout the world, outbreaks of disease, the global level of supply inventories and demand for grains and other feed ingredients, as well as agricultural and energy policies of domestic and foreign governments.

Volatility in our commodity and raw material costs directly impact our gross margin and profitability. The Company's objective continues to be to offset commodity price increases with pricing actions over time. However, we may not always be able to increase our product prices enough to sufficiently offset increased raw material costs due to consumer price sensitivity or the pricing postures of our competitors. In addition, if we increase prices to offset higher costs, we could experience lower demand for our products and sales volumes. Conversely, decreases in our commodity and other input costs may create pressure on us to decrease our prices. While we use derivative financial instruments, primarily futures and options, to reduce the effect of changing prices and as a mechanism to procure the underlying commodity, we do not fully hedge against changes in commodities prices.

Over time, if we are unable to price our products to cover increased costs, to offset operating cost increases with continuous improvement savings or are not successful in our commodity hedging program, then commodity and raw material price increases could materially and adversely affect our profitability, financial condition and results of operations.

The prices we receive for our products may fluctuate due to competition from other food producers and processors.

The food industry in general is intensely competitive. We face competition from other food producers and processors that have various product ranges and geographic reach. Some of the factors on which we compete include: pricing, product safety and quality, brand identification, innovation, breadth and depth of product offerings, availability of our products (including distribution channels used, such as e-commerce) and competing products, customer service, and credit terms.

From time to time in response to these competitive pressures or to maintain market share, we may need to reduce the prices for some of our products or increase or reallocate spending on marketing, advertising and promotions and new product innovation. Such pressures also may restrict our ability to increase prices in response to raw material and other cost increases. Any reduction in prices as a result of competitive pressures, or any failure to increase prices to offset cost increases, could harm our profit margins. If we reduce prices but we cannot increase sales volumes to offset the price changes, then our financial condition and results of operations will suffer. Alternatively, if we do not reduce our prices and our competitors seek advantage through pricing or promotional changes, our revenues and market share could be adversely affected.

Outbreaks of livestock diseases can adversely impact our ability to conduct our operations and the supply and demand for our products.

Supply of and demand for our products can be adversely impacted by outbreaks of livestock diseases, including African swine fever ("ASF"), Bovine Spongiform Encephalopathy, Foot and Mouth Disease and Highly Pathogenic Avian Influenza ("HPAI"), which can have a significant impact on our financial results. In recent years, ASF has impacted hog herds in China, Asia, Europe, and the Caribbean, and if an outbreak of ASF were to occur in the United States, the Company's supply of hogs and pork could be materially impacted. HPAI was detected within the United States in 2022 and additional new cases have been recently confirmed in certain states. Efforts are taken to control disease risks by adherence to good production practices and extensive precautionary biosecurity measures designed to ensure the health of livestock. However, outbreaks of disease and other events, which may be beyond our control, either in our own livestock or livestock owned by independent producers who sell livestock to us, could significantly affect demand for our products, consumer perceptions of certain protein products, the availability of livestock for purchase by us and our ability to conduct our operations. Moreover, the outbreak of livestock diseases, particularly in our Chicken segment, could have a significant effect on the livestock we own by requiring us to, among other things, destroy any affected livestock. Furthermore, an outbreak of disease could result in governmental restrictions on the import and export of our products to or from our suppliers, facilities or customers. This could also result in negative publicity that may have an adverse effect on our ability to market our products successfully and on our financial results.

Changes in consumer preference and failure to maintain favorable consumer perception of our brands and products could negatively impact our business.

The food industry in general is subject to changing consumer trends, demands and preferences. Trends within the food industry change often, and failure to identify and react to changes in these trends could lead to, among other things, reduced demand and price reductions for our brands and products. We strive to respond to consumer preferences and social expectations, but we may not be successful in our efforts.

We could be adversely affected if consumers lose confidence in the safety and quality of certain food products or ingredients, or the food safety system generally. Prolonged negative perceptions concerning the health implications of certain food products or ingredients or loss of confidence in the food safety system generally could influence consumer preferences and acceptance of some of our products and marketing programs. Continued negative perceptions and failure to satisfy consumer preferences could materially and adversely affect our product sales, financial condition and results of operations.

We have a number of iconic brands with significant value. Maintaining and continually enhancing the value of these brands is critical to the success of our business. Brand value is based in large part on consumer perceptions. Success in promoting and enhancing brand value depends in large part on our ability to provide high-quality products. Brand value could diminish significantly due to a number of factors, including consumer perception that we have acted in an irresponsible manner, adverse publicity about our products (whether or not valid), our failure to maintain the quality of our products, the failure of our products to deliver consistently positive consumer experiences or the products becoming unavailable to consumers.

Failure to continually innovate and successfully launch new products and maintain our brand image through marketing investment could adversely impact our operating results.

Our financial success is dependent on anticipating changes in consumer preferences, purchasing behaviors and dietary habits and successfully developing and launching new products and product extensions that consumers want in the channels where they shop. We devote significant resources to new product development and product extensions, however we may not be successful in developing innovative new products or our new products may not be commercially successful. To the extent we are not able to effectively gauge the direction of our key markets and successfully identify, develop, manufacture and market new or improved products in these changing markets, such as adapting to emerging e-commerce channels, our financial results and our competitive position will suffer. In addition, our introduction of new products or product extensions may generate litigation or other legal proceedings against us by competitors claiming infringement of their intellectual property or other rights, which could negatively impact our results of operations.

We also seek to maintain and extend the image of our brands through marketing investments, including advertising, consumer promotions and trade spend. Due to inherent risks in the marketplace associated with advertising, promotions and new product introductions, including uncertainties about trade and consumer acceptance, our marketing investments may not prove successful in maintaining or increasing our market share and could result in lower sales and profits. Continuing global focus on health and wellness, including weight management, and increasing media attention to the role of food marketing could adversely affect our brand image or lead to stricter regulations and greater scrutiny of food marketing practices.

Our success in maintaining, extending and expanding our brand image also depends on our ability to adapt to a rapidly changing media environment, including our increasing reliance on social media and online dissemination of advertising campaigns. The growing use of social and digital media increases the speed and extent that information or misinformation and opinions can be shared. Negative posts or comments about us, our brands or our products on social or digital media could seriously damage our reputation and brand image.

We are subject to a variety of legal and regulatory restrictions on how and to whom we market our products, for instance marketing to children, which may limit our ability to maintain or extend our brand image. If we do not maintain or extend our brand image, then our product sales, financial condition and results of operations could be materially and adversely affected.

The loss of one or more of our largest customers could negatively impact our business.

Our business could suffer significant setbacks in sales and operating income if our customers' plans and/or markets change significantly or if we lost one or more of our largest customers, including, for example, Walmart Inc., which accounted for 17.7% of our sales in fiscal 2022. Our retail customers typically do not enter into written contracts, and if they do sign contracts, they generally are limited in scope and duration. There can be no assurance that significant customers will continue to purchase our products in the same mix or quantities or on the same terms as in the past. Alternative retail channels, such as convenience stores, dollar stores, drug stores, club stores and Internet-based retailers have increased their market share.

This trend towards alternative channels is expected to continue in the future. If we are not successful in expanding sales in alternative retail channels, our business or financial results may be adversely impacted. Many of our customers, such as supermarkets, warehouse clubs and food distributors, have consolidated in recent years, and consolidation is expected to continue throughout the United States and in other major markets. These consolidations have produced large, sophisticated customers with increased buying power who are more capable of operating with reduced inventories, opposing price increases, and demanding lower pricing, increased promotional programs and specifically tailored products. These customers also may use shelf space currently used for our products for their own private label products. Because of these trends, our volume growth could slow or we may need to lower prices or increase promotional spending for our products. Additionally, these large customers may demand more favorable terms that may expose us to greater risks, including uncapped indemnification and no limitation of liability provisions. Such terms may obligate us to pay significant amounts in connection with potential losses arising from claims and related legal proceedings, and any such claims could also affect our reputation and our relationship with customers. We generally attempt to limit the maximum amount of indemnification or liability that we could be exposed to under our contracts, but this is not always possible without risking the loss of a customer relationship, particularly with our more significant customers. The loss of a significant customer or a material reduction in sales to, or adverse change to trade terms with, a significant customer could materially and adversely affect our product sales, financial condition and results of operations.

Failure to leverage our brand value propositions to compete against private label products, especially during economic downturn, may adversely affect our profitability.

In many product categories, we compete not only with other widely advertised branded products, but also with private label products that generally are sold at lower prices. Consumers are more likely to purchase our products if they believe that our products provide a higher quality and greater value than less expensive alternatives. If the difference in quality between our brands and private label products narrows, or if there is a perception of such a narrowing, consumers may choose not to buy our products at prices that are profitable for us. In addition, in periods of economic uncertainty, consumers tend to purchase more lower-priced private label or other economy brands. To the extent this occurs, we could experience a reduction in the sales volume of our higher margin products or a shift in our product mix to lower margin offerings. In addition, in times of economic uncertainty, consumers reduce the amount of food that they consume away from home at our foodservice customers, which in turn reduces our product sales.

LABOR & EMPLOYMENT RISK FACTORS

Labor shortages and increased turnover or increases in employee and employee-related costs could have adverse effects on our profitability.

We have experienced increased labor shortages at some of our production facilities and other locations. While we have historically experienced some level of ordinary course turnover of employees, the impact of the COVID-19 pandemic and resulting actions have exacerbated labor shortages and increased turnover. A number of factors have had and may continue to have adverse effects on the labor force available to us, including government regulations, which include laws and regulations related to workers' health and safety, wage and hour practices and immigration. Labor shortages and increased turnover rates within our team members have led to and could in the future lead to increased costs, such as increased overtime to meet demand and increased wage rates to attract and retain employees and could negatively affect our ability to efficiently operate our production facilities or otherwise operate at full capacity. An overall or prolonged labor shortage, lack of skilled labor, increased turnover or labor inflation could have a material adverse impact on our operations, results of operations, liquidity or cash flows.

We depend on the availability of, and good relations with, our team members and their labor unions.

We have approximately 142,000 team members, approximately 42,000 of whom are covered by collective bargaining agreements or are members of labor unions. Our operations depend on the availability and relative costs of labor and maintaining good relations with team members and the labor unions. If we fail to maintain good relations with our team members or with the labor unions, we may experience labor strikes or work stoppages, which could adversely affect our financial results.

If we are unable to attract, hire or retain key team members or a highly skilled and diverse global workforce, it could have a negative impact on our business, financial condition or results of operations.

Our continued growth requires us to attract, hire, retain and develop key team members, including our executive officers and senior management team, and maintain a highly skilled and diverse global workforce. We compete to attract and hire highly skilled team members and our own team members are highly sought after by our competitors and other companies. Competition could cause us to lose talented team members, and unplanned turnover could deplete our institutional knowledge and result in increased costs due to increased competition for team members. In addition, our compensation arrangements may not always be successful in attracting new employees or retaining our existing team members. In fiscal 2022, we approved a plan to bring together all of our corporate team members from our Chicago, Downers Grove and Dakota Dunes area corporate locations to our world headquarters in Springdale, Arkansas. While this move is intended to foster closer collaboration, enhance team member agility and enable faster decision-making, thereby improving our ability to execute our business strategy, there can be no assurance that affected team members will agree to relocate on existing compensation arrangements or at all, or that we will not lose skilled members of our workforce, including certain senior management or other key employees, as a result of this consolidation.

We depend on contract farmers and independent producers to supply us with livestock.

We contract primarily with independent contract farmers to raise the live chickens and turkeys processed in our poultry operations. A majority of our cattle and hogs are purchased from independent producers who sell livestock to us under marketing contracts or on the open market. If we do not attract and maintain contracts with farmers or maintain marketing and purchasing relationships with independent producers, our production operations could be negatively affected. Certain of our competitors may also negotiate more favorable contract terms that could provide them with competitive advantages and affect our supply.

LEGAL & REGULATORY RISK FACTORS**If our products become contaminated, we may be subject to product liability claims and product recalls, which could adversely affect our financial results and damage our reputation.**

Our products may be subject to contamination by foreign materials or disease-producing organisms or pathogens, such as *Listeria monocytogenes*, *Salmonella* and *E. coli*. These organisms and pathogens are found generally in the environment and there is a risk that one or more, as a result of food processing, could be present in our products. These organisms and pathogens also can be introduced to our products as a result of improper handling at the further-processing, foodservice or consumer level. These risks may be controlled, but may not be eliminated, by adherence to good manufacturing practices and finished product testing. We have little, if any, control over handling procedures once our products have been shipped for distribution. Even an inadvertent shipment of contaminated products may be a violation of law and may lead to increased risk of exposure to product liability claims, increased scrutiny and penalties, including injunctive relief and plant closings, by federal and state regulatory agencies, and adverse publicity, which could exacerbate the associated negative consumer reaction. Some of our commercial contracts with our customers have uncapped indemnification clauses or no limitation of liability provisions, so any of these occurrences could cause us to pay significant amounts in penalties and spend significant resources, which could have a material adverse effect on our financial results. While we also benefit from certain indemnification obligations from our customers, such protections may not adequately cover all claims brought against us or cover only a portion of such claim. In addition, we may be required to recall some of our products if they spoil, become contaminated, are tampered with or are mislabeled. A widespread product recall could result in significant losses due to the costs of a recall, the destruction of product inventory and lost sales due to the unavailability of product for a period of time. Such a product recall also could result in adverse publicity, damage to our reputation, and a loss of consumer confidence in our products, which could have a material adverse effect on our business results and the value of our brands.

New or more stringent domestic and international government regulations could impose material costs on us and could adversely affect our business.

Our operations are subject to extensive federal, state and foreign laws and regulations by authorities that oversee food safety standards and processing, packaging, storage, distribution, advertising, labeling and export of our products. See “Environmental Regulation and Food Safety” in Item 1 of this Annual Report on Form 10-K for more information. Changes in laws or regulations that impose additional regulatory requirements on us (including the United Kingdom’s exit from the European Union) could increase our cost of doing business or restrict our actions, causing our results of operations to be adversely affected. For example, increased governmental interest in advertising practices may result in regulations that could require us to change or restrict our advertising practices.

Increased government regulations to limit carbon dioxide and other greenhouse gas emissions as a result of concern over climate change, as well as alternative energy policies and sustainability initiatives (including those related to single use plastics), may result in increased compliance costs, capital expenditures and other financial obligations for us. We use natural gas, diesel fuel and electricity in the manufacturing and distribution of our products. Legislation or regulation affecting these inputs could materially affect our profitability.

Climate change and any legal or regulatory responses may have a long-term adverse impact on our business and results of operations.

Climate change and rising global temperatures may contribute to changing weather patterns, heavier or more frequent storms and wildfires, and increased frequency and severity of natural disasters. Decreased agricultural productivity in certain regions of the world caused by changing weather patterns has limited and may continue to limit the availability, or may increase the cost, of key agricultural commodities and natural resource ingredients and manufacturing inputs, as well as raw materials such as beef, pork, poultry, corn, soybean meal and other feed ingredients. This in turn could lead to increased food insecurity in communities around the world. Increased frequency or duration of extreme weather conditions could also impair production capabilities, disrupt our supply chain or impact demand for our products. In addition, climate change could affect our ability to procure needed commodities at costs and in quantities we currently experience and may require us to make additional unplanned capital expenditures.

Increasing concern over climate change also may adversely impact demand for our products due to changes in consumer preferences and result in additional legal or regulatory requirements designed to manage greenhouse gas emissions, climate risks, and resulting environmental impacts. Increased energy or compliance costs and expenses due to increased legal or regulatory requirements could be prohibitively costly and may cause disruptions in, or an increase in the costs associated with, the running of our production facilities. Furthermore, compliance with any such legal or regulatory requirements may require us to make significant changes to our business operations and strategy, which will likely incur substantial time, attention and costs. Even if we make changes to align ourselves with such legal or regulatory requirements, we may still be subject to significant fines if such laws and regulations are interpreted and applied in a manner inconsistent with our practices. The effects of climate change and legal or regulatory initiatives to address climate change could have a long-term adverse impact on our business and results of operations.

Finally, we currently provide certain climate-related disclosures, and from time to time, we establish and publicly announce goals and commitments to reduce our carbon footprint. These disclosures and goals, and our progress towards these commitments, 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. There can be no assurance that our current disclosures and targets, and the methodologies that we currently use to support our disclosures and progress towards our targets, will satisfy any new regulations and legal requirements in the U.S. and abroad, and the costs of aligning our current disclosures and goals to any new legal requirements may be significant. Additionally, if we fail to achieve or improperly report on our progress toward achieving our carbon emissions reduction goals and commitments, the resulting negative publicity could adversely affect consumer preference for our products.

The Company is subject to stringent environmental regulation and potentially subject to environmental litigation, proceedings, and investigations.

Our past and present business operations and ownership and operation of real property are subject to stringent federal, state, and local environmental laws and regulations pertaining to the discharge of materials into the environment, and the handling and disposition of wastes (including solid and hazardous wastes) or otherwise relating to protection of the environment. Compliance with these laws and regulations, and the ability to comply with any modifications to these laws and regulations, is material to our business. New matters or sites may be identified in the future that will require additional investigation, assessment, or expenditures. In addition, some of our facilities have been in operation for many years and, over time, we and other prior operators of these facilities may have generated and disposed of wastes that now may be considered hazardous. Future discovery of contamination of property underlying or in the vicinity of our present or former properties or manufacturing facilities and/or waste disposal sites could require us to incur additional expenses. The occurrence of any of these events, the implementation of new laws and regulations, or stricter interpretation of existing laws or regulations, could adversely affect our financial results.

Legal claims, class action lawsuits, other regulatory enforcement actions, or failure to comply with applicable legal standards or requirements could affect our product sales, reputation and profitability.

We operate in a highly regulated environment with constantly evolving legal and regulatory frameworks. Consequently, we are subject to heightened risk of legal claims or other regulatory enforcement actions. Although we have implemented policies and procedures designed to ensure compliance with existing laws and regulations, there can be no assurance that our team members, contractors, or agents will not violate our policies and procedures. Moreover, a failure to maintain effective control processes could lead to violations, unintentional or otherwise, of laws and regulations. Legal claims or regulatory enforcement actions arising out of our failure or alleged failure to comply with applicable laws and regulations, including those contained in Item 3, Legal Proceedings and Part II, Item 8, Notes to Consolidated Financial Statements, Note 20: Commitments and Contingencies in this Annual Report on Form 10-K, could subject us to civil and criminal penalties, including debarment from governmental contracts that could materially and adversely affect our product sales, reputation, financial condition and results of operations. Loss of or failure to obtain necessary permits and registrations could delay or prevent us from meeting current product demand, introducing new products, building new facilities or acquiring new businesses and could adversely affect operating results.

FINANCIAL RISK FACTORS

Our level of indebtedness and the terms of our indebtedness could negatively impact our business and liquidity position.

Our indebtedness, including borrowings under our revolving credit facility and commercial paper program, may increase from time to time for various reasons, including fluctuations in operating results, working capital needs, capital expenditures and possible acquisitions, joint ventures or other significant initiatives. Our consolidated indebtedness level could adversely affect our business because:

- it may limit or impair our ability to obtain financing in the future;
- our credit ratings (or any decrease to our credit ratings) could restrict or impede our ability to access capital markets at desired interest rates and increase our borrowing costs;
- it may reduce our flexibility to respond to changing business and economic conditions or to take advantage of business opportunities that may arise;
- a portion of our cash flow from operations must be dedicated to interest payments on our indebtedness and is not available for other purposes; and
- it may restrict our ability to pay dividends.

Our revolving credit facility contains affirmative and negative covenants that, among other things, may limit or restrict our ability to: create liens and encumbrances; incur debt; merge, dissolve, liquidate or consolidate; make acquisitions and investments; dispose of or transfer assets; change the nature of our business; engage in certain transactions with affiliates; and enter into hedging transactions, in each case, subject to certain qualifications and exceptions. In addition, we are required to maintain a minimum interest expense coverage ratio.

Our senior notes also contain affirmative and negative covenants that, among other things, may limit or restrict our ability to: create liens; engage in certain sale/leaseback transactions; and engage in certain consolidations, mergers and sales of assets.

An impairment in the carrying value of our goodwill or indefinite life intangible assets could negatively impact our consolidated results of operations and net worth.

Goodwill and indefinite life intangible assets are initially recorded at fair value and not amortized, but are reviewed for impairment at least annually or more frequently if impairment indicators arise. In assessing the carrying value of goodwill and indefinite life intangible assets, we make estimates and assumptions about sales growth, operating margins, royalty rates, valuation multiples, and discount rates based on budgets, business plans, economic projections, anticipated future cash flows and marketplace data. There are inherent uncertainties related to these factors and management's judgment in applying these factors. Goodwill valuations have been calculated principally using income and market approaches. The income approach is based on the present value of future cash flows of each reporting unit and are believed to reflect market participant views which would exist in an exit transaction. The market approach measures value based on what other purchasers in the market have paid for assets or business interests that can be considered reasonably similar to each reporting unit and are believed to reflect market participant views which would exist in an exit transaction. Indefinite life intangible asset valuations have been calculated principally using relief-from-royalty and excess earnings approaches and are believed to reflect market participant views which would exist in an exit transaction. Under these valuation approaches, we are required to make various judgmental assumptions about appropriate sales growth, operating margins, royalty rates and discount rates, amongst other assumptions. Disruptions in global credit and other financial markets and deterioration of economic conditions, including as a result of inflation, could, among other things, cause us to increase the discount rate used in the valuations. We could be required to evaluate the recoverability of goodwill and indefinite life intangible assets prior to the annual assessment if we experience disruptions to the business, unexpected significant declines in operating results, divestiture of a significant component of our business, increased discount rates or sustained market capitalization declines. These types of events and the resulting analyses could result in impairment charges in the future, which could be substantial. As of October 1, 2022, we had \$14.6 billion of goodwill and indefinite life intangible assets, which represented approximately 39.6% of total assets.

Participation in a Multiemployer Pension Plan could adversely affect our business.

We participate in a "multiemployer" pension plan that provides defined benefits to certain team members covered by collective bargaining agreements. This type of plan is typically administered by a board of trustees composed of the management of the participating companies and labor representatives. We are required to make periodic contributions to this plan to allow the plan to meet its pension benefit obligation to its participants. Our required contributions to this fund could increase because of a shrinking contribution base as a result of the insolvency or withdrawal of other companies that currently contribute to this fund, inability or failure of withdrawing companies to pay their withdrawal liability, lower than expected returns on pension fund assets or other funding deficiencies. In the event that we withdraw from participation in this plan, then applicable law could require us to make additional lump-sum contributions to the plan, and we would have to reflect that as an expense in our consolidated statement of operations and as a liability on our consolidated balance sheet. Our withdrawal liability would depend on the extent of the plan's funding of vested benefits. The plan in which we participate is reported to have a significant underfunded liability. Such underfunding could increase the size of our potential withdrawal liability. In the event a withdrawal or partial withdrawal were to occur with respect to the multiemployer plan, the impact to our consolidated financial statements could be material.

Volatility in the capital markets or interest rates could adversely impact our pension costs and the funded status of our pension plans.

We sponsor a number of defined benefit plans for team members in the United States. The difference between plan obligations and assets, which signifies the funded status of the plans, is a significant factor in determining the net periodic benefit costs of the pension plans and our ongoing funding requirements. As of October 1, 2022, the funded status of our defined benefit pension plans was an underfunded position of \$159 million, as compared to an underfunded position of \$215 million at the end of fiscal 2021. Changes in interest rates and the market value of plan assets can impact the funded status of the plans and cause volatility in the net periodic benefit cost and our future funding requirements. The exact amount of cash contributions made to pension plans in any year is dependent upon a number of factors, including minimum funding requirements.

Market fluctuations could negatively impact our operating results as we hedge certain transactions.

Our business is exposed to fluctuating market conditions. We use derivative financial instruments to reduce our exposure to various market risks including changes in commodity prices, interest rates and foreign exchange rates. We hold certain positions, primarily in grain and livestock futures, that are not hedges for financial reporting purposes. These positions are marked to fair value, and the unrealized gains and losses are reported in earnings at each reporting date. Therefore, losses on these contracts will adversely affect our reported operating results. While these contracts reduce our exposure to changes in prices for commodity products, the use of such instruments may ultimately limit our ability to benefit from favorable commodity prices.

GENERAL RISK FACTORS**Deterioration of economic conditions, including recession, financial instability or inflation, could negatively impact our business.**

Our business may be adversely affected by changes in economic conditions, including inflation, interest rates, access to capital markets, consumer spending rates, energy availability and costs (including fuel surcharges) and the effects of governmental initiatives to manage economic conditions. Any such changes could adversely affect the demand for our products, or the cost and availability of our needed raw materials, cooking ingredients and packaging materials, thereby negatively affecting our financial results.

Disruptions in global credit and other financial markets and deterioration of economic conditions could, among other things:

- make it more difficult or costly for us to obtain financing for our operations or investments or to refinance our debt in the future;
- cause our lenders to depart from prior credit industry practice and make more difficult or expensive the granting of any amendment of, or waivers under, our credit agreements to the extent we may seek them in the future;
- impair the financial condition of some of our customers and suppliers, thereby increasing customer bad debts or non-performance by suppliers;
- negatively impact global demand for protein products, which could result in a reduction of sales, operating income and cash flows;
- decrease the value of our investments in equity and debt securities, including our marketable debt securities, company-owned life insurance and pension and other postretirement plan assets;
- negatively impact our commodity purchasing activities if we are required to record losses related to derivative financial instruments; or
- impair the financial viability of our insurers.

In addition, consumer spending may decline at any time for reasons beyond our control, and the risks associated with our businesses may become more acute in periods of a slowing economy or recession, which may reduce consumer confidence and result in a decrease in consumer demand for our products. Furthermore, inflation, which has significantly risen, has and may continue to increase our operational costs, including labor costs and grain and feed ingredient costs, and continued increases in interest rates in response to concerns about inflation may have the effect of further increasing economic uncertainty and heightening these risks. As a result, instability and weakness of the U.S. and global economies, including due to the effects caused by disruptions to financial markets, inflation, recession, high unemployment, geopolitical events and other effects caused by the COVID-19 pandemic, and the negative effects on consumers' spending, may materially negatively affect our business and results of operations. A prolonged period of reduced consumer spending could have an adverse effect on our business and our results of operations.

Extreme factors or forces beyond our control could negatively impact our business.

Our ability to make, move and sell products is critical to our success. Natural disasters, fire, bioterrorism, pandemic or extreme weather, including droughts, floods, excessive cold or heat, hurricanes or other storms, could impair the health or growth of livestock or interfere with our operations due to power outages, fuel shortages, decrease in availability of water, damage to our production and processing facilities or disruption of transportation channels or unfavorably impact the demand for, or our consumers' ability to purchase our products, among other things. Any of these factors could have an adverse effect on our financial results.

Failure to maximize or to successfully assert our intellectual property rights could impact our competitiveness.

We consider our intellectual property rights, particularly and most notably our trademarks, but also our trade secrets, patents and copyrights, to be a significant and valuable aspect of our business. We attempt to protect our intellectual property rights through a combination of trademark, trade secret, patent and copyright laws, as well as licensing agreements, third-party nondisclosure and assignment agreements and policing of third-party misuses of our intellectual property. We cannot be sure that these intellectual property rights will be maximized or that they can be successfully asserted. There is a risk that we will not be able to obtain and perfect our own or, where appropriate, license intellectual property rights necessary to support new product introductions.

We cannot be sure that these rights, if obtained, will not be invalidated, circumvented or challenged in the future. In addition, even if such rights are obtained in the United States, the laws of some of the other countries in which our products are or may be sold do not protect our intellectual property rights to the same extent as the laws of the United States. Our failure to perfect or successfully assert our intellectual property rights could make us less competitive and could have an adverse effect on our business, operating results and financial condition.

We may incur additional tax expense or become subject to additional tax liabilities.

We are subject to taxes in the United States and numerous foreign jurisdictions. Significant judgment is required in determining our provision for income taxes. Our total income tax expense could be affected by changes in tax rates in various jurisdictions, changes in the valuation of deferred tax assets and liabilities or changes in tax laws or their interpretation. We are also subject to the examination of our tax returns and other tax matters by the Internal Revenue Service and other tax authorities. There can be no assurance as to the outcome of these examinations. If a taxing authority disagrees with the positions we have taken, we could face additional tax liability, including interest and penalties, which could adversely affect our financial results. In December 2021, we received an assessment from the Mexican tax authorities related to the 2015 sale of our direct and indirect equity interests in subsidiaries which held our Mexico operations. At October 1, 2022, the assessment totaled approximately \$411 million (8.3 billion Mexican pesos), which includes tax, inflation adjustment, interest and penalties. We believe the assertions made in the assessment letter have no merit and will defend our positions through the Mexican administrative appeal process and litigation, if necessary. Based on our analysis of this assessment in accordance with Financial Accounting Standards Board (“FASB”) guidance related to unrecognized tax benefits, we have not recorded a liability related to the issue.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 2. PROPERTIES

The following table summarizes our domestic properties as of October 1, 2022:

	Number of Facilities ⁽¹⁾			Capacity ⁽²⁾	Average Capacity Utilization
	Owned	Leased	Total		
Beef Segment Production Facilities	14	—	14	155,000 head	79 %
Pork Segment Production Facilities	7	—	7	471,000 head	84 %
Chicken Segment Operation Facilities	178	7	185	47 million head	83 %
Prepared Foods Segment Operation Facilities	34	—	34	73 million pounds	77 %

(1) Certain facilities produce products that are reported in multiple segments. For presentation purposes, facilities are reflected in the segment that had the majority of the facility’s production. Additionally, livestock grower farms are excluded.

(2) Capacity per week is based on the following: Beef and Pork (six day week) and Chicken and Prepared Foods (five day week). Average capacity utilization is based on capacity available throughout the year.

Beef

Beef facilities include various phases of harvesting live cattle and fabricating beef products and specialty products. We also have various facilities which have rendering operations along with tanneries and hide treatment operations. The Beef segment includes five case-ready operations that share facilities with the Pork segment. One of the beef facilities contains a tallow refinery.

Pork

Pork facilities include various phases of harvesting live hogs and fabricating pork products and specialty products. The Pork segment includes five case-ready operations that share facilities with and are included in the Beef segment in the table above.

Chicken

Our vertically-integrated Chicken operations facilities include processing facilities, rendering facilities, blending mills, feed mills, grain elevators and broiler hatcheries. The Chicken processing facilities include various phases of harvesting, dressing, cutting, packaging, deboning and further-processing. We also have animal nutrition operations, which are associated with the Chicken rendering facilities or within various Chicken processing facilities. The blending mills, feed mills, grain elevators and broiler hatcheries have sufficient capacity to meet the needs of the chicken growout operations. The Chicken segment includes two processing facilities that share facilities with and are included in the Prepared Foods segment in the table above.

Prepared Foods

Our Prepared Foods segment includes processing facilities and a vertically-integrated turkey operation. Our Prepared Foods facilities process fresh and frozen chicken, turkey, beef, pork and other raw materials into ready-to-eat sandwiches, sandwich components such as flame-grilled hamburgers and Philly steaks, pizza toppings, raw and processed meats, appetizers, prepared meals, ethnic foods, flour and corn tortilla products and meat dishes. The Prepared Foods segment includes one processing facility that is shared with and is included in the Chicken segment in the table above.

We own and lease domestic distribution and cold storage facilities that support the supply chains of all our segment operations and are not specifically dedicated to individual segments.

Our International/Other foreign production operations in Asia-Pacific and China-Korea include one beef facility, 20 chicken processing facilities, four feed mills and one broiler hatchery. The processing facilities include various phases of harvesting, dressing, cutting, packaging, deboning and further-processing. We also have a foreign production operation in Europe which includes a chicken further-processing facility.

We believe our present facilities are generally adequate and suitable for our current purposes; however, seasonal fluctuations in inventories and production may occur as a reaction to market demands for certain products. We regularly engage in construction and other capital improvement projects intended to expand capacity and improve the efficiency of our processing and support facilities. We also consider the efficiencies of our operations and may from time to time consider changing the number or type of facilities we operate to align with our capacity needs.

ITEM 3. LEGAL PROCEEDINGS

Refer to the description of the Broiler Antitrust Civil Litigation, the Broiler Chicken Grower Litigation, the Pork Antitrust Litigation, the Beef Antitrust Litigation and the Wage Rate Litigation under the heading “Commitments and Contingencies” in Part II, Item 8, Notes to Consolidated Financial Statements, Note 20: Commitments and Contingencies, which discussion is incorporated herein by reference.

On June 6, 2019, our poultry rendering facility in Hanceville, Alabama, acquired from American Proteins, Inc. in 2018, experienced a release of partially treated wastewater that reached a nearby river and resulted in a fish kill. We took remediation efforts following the release to mitigate the impact. The State of Alabama filed suit against Tyson Farms, Inc. on April 29, 2020 for the June 6, 2019 release, as well as a prior release. Related civil suits have also been filed, which include individual and collective claims for compensatory and punitive damages against us and other defendants for alleged contamination of the local water supply, personal injury, property damage, diminution in property values, loss of recreational waterway use, lost non-profit revenue and business damages. Certain plaintiffs also allege that the facility’s historical and ongoing operations constitute a nuisance under Alabama law and are also seeking injunctive relief. On August 13, 2021, the court approved a settlement of all claims with the State of Alabama related to this action on terms not material to the Company. While we do not admit any liability as part of the settlement, we believe that the settlement was in the best interests of the Company and its shareholders to avoid the uncertainty, risk, expense and distraction of protracted litigation.

On July 8, 2022, Barber Foods, LLC (“Barber Foods”), an indirect wholly owned subsidiary of the Company, received correspondence from the Environmental Protection Agency (“EPA”) extending an opportunity to confer and negotiate a Consent Agreement and Final Order (“CAFO”) for each of two Barber Foods frozen poultry storage facilities located in Portland, Maine (the “Maine Facilities”). Included in the correspondence was a proposed CAFO for each facility. Each proposed CAFO alleges violations of the Clean Air Act resulting from EPA compliance inspections conducted in June 2019 at the Maine Facilities. The alleged violations include the failure to comply with process safety information requirements, failure to comply with mechanical integrity requirements and failure to adequately identify, evaluate, and control hazards. The proposed CAFOs set forth a proposed aggregate civil penalty of \$541,243 for the alleged violations at the Maine Facilities. Barber Foods is currently in negotiations with the EPA with respect to the matter.

On December 19, 2019, a putative class of direct purchasers filed a class action against us, other turkey suppliers, and Agri Stats, Inc. in the United States District Court for the Northern District of Illinois. The plaintiffs allege, among other things, that the defendants entered into an agreement to exchange competitively sensitive information regarding turkey supply, production and pricing plans, all with the intent to artificially inflate the price of turkey, in violation of the Sherman Act. Plaintiffs are seeking treble damages, pre- and post-judgment interest, costs and attorneys’ fees on behalf of the putative class. On April 13, 2020, a similar complaint was filed in the United States District Court for the Northern District of Illinois on behalf of a putative class of indirect purchasers of turkey alleging claims based on the Sherman Act and various state law causes of action. The plaintiffs are seeking treble damages, pre- and post-judgment interest, costs, and attorneys’ fees on behalf of the putative class. Since the original filing, certain putative class members have opted out of the matter and are proceeding with individual direct actions making similar claims, and others may do so in the future. In April 2021, we reached agreement to settle all claims with the putative direct purchaser class for \$4.625 million and with the putative commercial and institutional indirect purchaser class for \$1.75 million. On May 25, 2021, the Court granted preliminary approval of the settlement with the putative direct purchaser class, and on January 10, 2022, the Court granted final approval of the settlement with that class. On July 28, 2021, the Court granted preliminary approval of the settlement with the putative commercial and institutional indirect purchaser class, and on February 10, 2022, the Court granted final approval of the settlement with that class. While we do not admit any liability as part of the settlements, we believe that the settlements were in the best interests of the Company and its shareholders to avoid the uncertainty, risk, expense and distraction of protracted litigation.

On June 19, 2005, the Attorney General and the Secretary of the Environment of the State of Oklahoma filed a complaint in the United States District Court for the Northern District of Oklahoma against Tyson Foods, Inc., three subsidiaries and six other poultry integrators. The complaint, which was subsequently amended, asserts a number of state and federal causes of action including, but not limited to, counts under the Comprehensive Environmental Response, Compensation, and Liability Act, Resource Conservation and Recovery Act, and state-law public nuisance theories. Oklahoma alleges that the defendants and certain contract growers who were not joined in the lawsuit polluted the surface waters, groundwater and associated drinking water supplies of the Illinois River Watershed through the land application of poultry litter. Oklahoma's claims were narrowed through various rulings issued before and during trial and its claims for natural resource damages were dismissed by the district court in a ruling issued on July 22, 2009, which was subsequently affirmed on appeal by the Tenth Circuit Court of Appeals. A non-jury trial of the remaining claims including Oklahoma's request for injunctive relief began on September 24, 2009. Closing arguments were held on February 11, 2010. The district court has not yet rendered its decision from the trial.

Other Matters

As of October 1, 2022, we had approximately 142,000 team members and, at any time, have various employment practices matters outstanding. In the aggregate, these matters are important to the Company, and we devote considerable resources to managing employment issues. Additionally, we are subject to other lawsuits, investigations and claims (some of which involve substantial amounts) arising out of the conduct of our business. While the ultimate results of these matters cannot be determined, they are not expected to have a material adverse effect on our consolidated results of operations or financial position.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

INFORMATION ABOUT OUR EXECUTIVE OFFICERS

Each of our executive officers serve one-year terms from the date of their election, or until their successors are appointed and qualified. Chairman of the Board of Directors John Tyson is the father of Chief Sustainability Officer John R. Tyson and nephew of Director Barbara A. Tyson. No other family relationships exist among these officers. The name, title, age (as of October 1, 2022) and calendar year of initial election to executive office of our executive officers are listed below:

Name	Title	Age	Year Elected Executive Officer
John H. Tyson	Chairman of the Board of Directors	69	2011
David Bray	Group President Poultry	53	2021
Stewart Glendinning	Executive Vice President and Chief Financial Officer	57	2017
Donnie King	President and Chief Executive Officer	60	2019
Shane Miller	Group President Fresh Meats	53	2021
Jason Nichol	Chief Customer Officer	50	2021
Johanna Söderström	Executive Vice President and Chief People Officer	51	2020
Scott Spradley	Executive Vice President and Chief Technology and Automation Officer	57	2017
Phillip Thomas	Vice President, Controller and Chief Accounting Officer	47	2020
Amy Tu	Executive Vice President, Chief Legal Officer and Secretary, Global Governance and Corporate Affairs	55	2017
John R. Tyson	Executive Vice President, Strategy and Chief Sustainability Officer	32	2019

John H. Tyson has served as Chairman of the Board of Directors since 1998 and was previously Chief Executive Officer of the Company from 2000 until 2006. Mr. Tyson was initially employed by the Company in 1973.

David Bray was appointed Group President Poultry in June 2021 after serving as Senior Vice President, Retail Poultry and Case Ready Meats since August 2020 and as Senior Vice President, Grocery from April 2017 to July 2020. Mr. Bray previously served as Vice President, Grocery Sales from September 2014 to April 2017 and as Vice President, Consumer Product Customer Development from March 2011 to September 2014. Mr. Bray was employed at Kraft Foods Group prior to joining the Company.

Stewart Glendinning was appointed Executive Vice President and Chief Financial Officer in February 2018 after serving as Executive Vice President since his initial employment by the Company in December 2017. Mr. Glendinning was employed at Molson Coors Brewing Company prior to joining the Company. Effective October 2, 2022, Mr. Glendinning stepped down from his duties as Executive Vice President and Chief Financial Officer to transition to the role of Group President Prepared Foods.

Donnie King was appointed President and Chief Executive Officer in June 2021 after serving as Chief Operating Officer since February 2021 and Group President Poultry since September 2020. Mr. King served as Group President, International and Chief Administration Officer from February 2019 to September 2020 in addition to the role of Group President, International from January 2019 to February 2020. Mr. King previously served as President, North American Operations from 2015 to 2016 and President, North American Operations and Foodservice in 2014. Mr. King was initially employed by Valmac Industries in 1982. Valmac Industries was acquired by the Company in 1984. Mr. King was self-employed from 2016 to February 2019 before returning to the Company.

Shane Miller was appointed Group President, Fresh Meats in February 2021 after serving as Chief Operating Officer, Fresh Meats since October 2020. Mr. Miller previously served as Senior Vice President and General Manager, Beef Enterprise from January 2019 to October 2020, Senior Vice President, General Manager, Value Added & Case Ready from February 2018 to January 2019, Senior Vice President, Pork from July 2015 to February 2018 and Senior Vice President, Pork Margin Management from May 2013 to July 2015. Mr. Miller has held numerous other management and leadership roles since joining the Company in 2002.

Jason Nichol was appointed Chief Customer Officer in February 2021 after serving as Senior Vice President, Walmart since March 2016 and as Vice President, Walmart from his initial employment by the Company in April 2015 to February 2016. Mr. Nichol was employed by Nabisco, Cott Beverages and Scotts Miracle-Gro prior to joining the Company.

Johanna Söderström was appointed Executive Vice President and Chief People Officer in October 2021 after serving as Executive Vice President and Chief Human Resources Officer since July 2020. Ms. Söderström was employed by Dow Chemical Company prior to joining the Company.

Scott Spradley was appointed Executive Vice President and Chief Technology and Automation Officer in October 2021 after serving as Executive Vice President and Chief Technology Officer since 2017. Mr. Spradley was employed by Hewlett Packard Enterprise prior to joining the Company.

Phillip Thomas was appointed Vice President, Controller and Chief Accounting Officer in July 2020 after serving as Vice President and Assistant Controller since March 2014, prior to which he served as Senior Director Financial Reporting since his initial employment with the Company in July 2008.

Amy Tu was appointed Executive Vice President and Chief Legal Officer and Secretary, Global Governance and Corporate Affairs in October 2021 after serving as Executive Vice President, General Counsel and Secretary since November 2020 and Executive Vice President and General Counsel since December 2017. Ms. Tu was employed by The Boeing Company prior to joining the Company. Effective October 2, 2022, Ms. Tu was named President, International and Chief Administrative Officer, expanding her enterprise leadership role of Chief Legal Officer and Secretary, Global Governance and Corporate Affairs.

John R. Tyson was appointed Executive Vice President, Strategy and Chief Sustainability Officer in October 2021 after serving as Chief Sustainability Officer since September 2019, and Director, Office of the Chief Executive Officer since May 2019. Mr. Tyson has been an observer at the Company's board of directors' meetings since 2014. He was employed by J.P. Morgan and as a private equity and venture capital investor prior to joining the Company. Effective October 2, 2022, Mr. Tyson was appointed Executive Vice President and Chief Financial Officer to succeed Mr. Glendinning. Mr. Tyson maintains his responsibilities for corporate development, strategy and sustainability concurrently with his appointment to Chief Financial Officer.

PART II

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

We have issued and outstanding two classes of capital stock, Class A stock and Class B stock. Holders of Class B stock may convert such stock into Class A stock on a share-for-share basis. Holders of Class B stock are entitled to 10 votes per share and holders of Class A stock are entitled to one vote per share on matters submitted to shareholders for approval. As of October 29, 2022, there were approximately 24,000 holders of record of our Class A stock and six holders of record of our Class B stock.

DIVIDENDS

Cash dividends cannot be paid to holders of Class B stock unless they are simultaneously paid to holders of Class A stock. The per share amount of the cash dividend paid to holders of Class B stock cannot exceed 90% of the cash dividend simultaneously paid to holders of Class A stock. In fiscal 2022, the annual dividend rate for Class A stock was \$1.84 per share and the annual dividend rate for Class B stock was \$1.656 per share. Effective November 11, 2022, the Board of Directors increased the quarterly dividend previously declared on August 11, 2022, to \$0.48 per share on our Class A common stock and \$0.432 per share on our Class B common stock. The increased quarterly dividend is payable on December 15, 2022, to shareholders of record at the close of business on December 1, 2022. The Board also declared a quarterly dividend of \$0.48 per share on our Class A common stock and \$0.432 per share on our Class B common stock, payable on March 15, 2023, to shareholders of record at the close of business on March 1, 2023. We anticipate the remaining quarterly dividends in fiscal 2023 will be \$0.48 and \$0.432 per share of our Class A and Class B stock, respectively. This results in an annual dividend rate in fiscal 2023 of \$1.92 for Class A shares and \$1.728 for Class B shares, or a 4% increase compared to the fiscal 2022 annual dividend rate. We have paid uninterrupted quarterly dividends on common stock each year since 1977.

MARKET INFORMATION

Our Class A stock is traded on the New York Stock Exchange under the symbol "TSN." No public trading market currently exists for our Class B stock.

ISSUER PURCHASES OF EQUITY SECURITIES

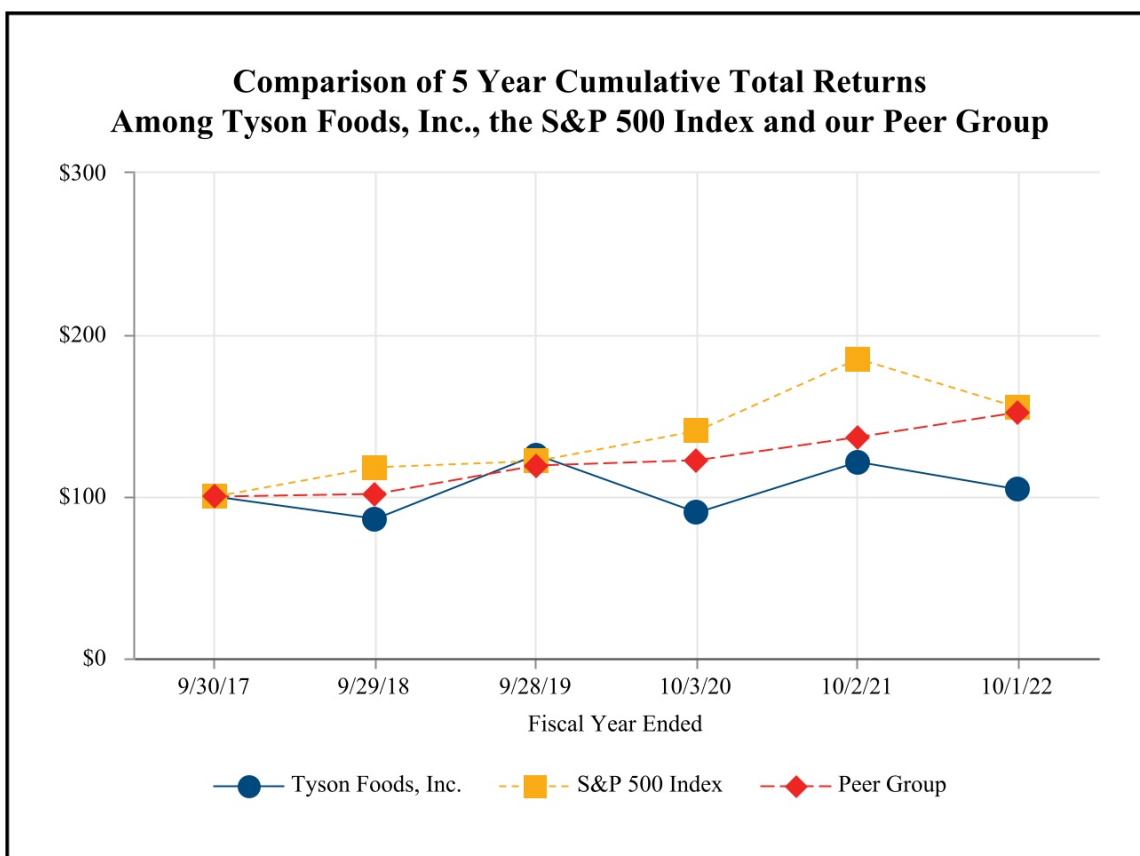
The table below provides information regarding our purchases of Class A stock during the periods indicated.

Period	Total Number of Shares Purchased ⁽²⁾	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs ⁽³⁾	Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs ⁽¹⁾
Jul. 3, 2022 to Jul. 30, 2022	45,951	\$ 84.05	—	11,957,990
Jul. 31, 2022 to Sept. 3, 2022	49,180	82.91	—	11,957,990
Sept. 4, 2022 to Oct. 1, 2022	19,311	73.57	—	11,957,990
Total	114,442	\$ 81.79	—	11,957,990

- (1) On February 7, 2003, our Board of Directors approved a program to repurchase up to 25 million shares of Class A common stock from time to time in open market or privately negotiated transactions. On May 3, 2012, our Board of Directors approved an increase of 35 million shares, on January 30, 2014, our Board of Directors approved an increase of 25 million shares and on February 4, 2016, our Board of Directors approved an increase of 50 million shares under the program. The program has no fixed or scheduled termination date.
- (2) We purchased 114,442 shares during the period that were not made pursuant to our previously announced stock repurchase program but were purchased to fund certain Company obligations under our equity compensation plans. These transactions included 110,604 shares purchased in open market transactions and 3,838 shares withheld to cover required tax withholdings on the vesting of restricted stock.
- (3) Shares purchased during the period pursuant to our previously announced stock repurchase program.

PERFORMANCE GRAPH

The following graph shows a five-year comparison of cumulative total returns for our Class A stock, the Standard & Poor's ("S&P") 500 Index and our peer group of companies described below.



		Fiscal Years Ended					
		9/30/17	9/29/18	9/28/19	10/3/20	10/2/21	10/1/22
Tyson Foods, Inc.	\$	100.00	\$ 85.94	\$ 125.67	\$ 89.62	\$ 121.28	\$ 104.37
S&P 500 Index		100.00	117.90	121.61	140.13	185.04	154.59
Peer Group		100.00	101.31	118.72	122.02	136.50	151.97

The total cumulative return on investment (change in the year-end stock price plus reinvested dividends), which is based on the stock price or composite index at the end of fiscal 2017, is presented for each of the periods for the Company, the S&P 500 Index and our peer group. The complete list of our peer group includes: Archer-Daniels-Midland Company, Bunge Limited, Campbell Soup Company, ConAgra Foods, Inc., General Mills, Inc., Hormel Foods Corp., Kellogg Co., Kraft Heinz Company, Mondelez International Inc., PepsiCo, Inc., Pilgrim's Pride Corporation, The Coca-Cola Company, The Hershey Company and The J.M. Smucker Company. The graph compares the performance of the Company's Class A common stock with that of the S&P 500 Index and our peer group, with the return of each company in the peer group weighted on market capitalization. The stock price performance of the Company's Class A common stock shown in the above graph is not necessarily indicative of future stock price performance.

The information in this "Performance Graph" section shall not be deemed to be "soliciting material" or to be "filed" with the SEC or subject to Regulation 14A or 14C, or to the liabilities of Section 18 of the Securities Exchange Act of 1934.

ITEM 6. SELECTED FINANCIAL DATA

Not applicable.

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

OBJECTIVE

The following discussion provides an analysis of the Company's financial condition, cash flows and results of operations from management's perspective and should be read in conjunction with the consolidated financial statements and notes thereto included in Part II, Item 8 of this Annual Report on Form 10-K. Our objective is to also provide discussion of events and uncertainties known to management that are reasonably likely to cause reported financial information not to be indicative of future operating results or of future financial condition and to offer information that provides understanding of our financial condition, cash flows and results of operations. Refer to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 2020 for additional information related to fiscal 2020.

DESCRIPTION OF THE COMPANY

We are one of the world's largest food companies and a recognized leader in protein. Founded in 1935 by John W. Tyson and grown under four generations of family leadership, the Company has a broad portfolio of products and brands including Tyson®, Jimmy Dean®, Hillshire Farm®, Ball Park®, Wright®, Aidells®, ibp® and State Fair®.

We operate in four reportable segments: Beef, Pork, Chicken and Prepared Foods. We measure segment profit as operating income (loss). International/Other primarily includes our foreign operations in Australia, China, Malaysia, Mexico, the Netherlands, South Korea and Thailand, third-party merger and integration costs and corporate overhead related to Tyson New Ventures, LLC. For further description of the business, refer to Part I, Item 1, Business.

OVERVIEW

Fiscal year

The Company's accounting cycle resulted in a 52-week year for fiscal 2022 and fiscal 2021 and a 53-week year for fiscal 2020.

General

Sales grew 13% in fiscal 2022 over fiscal 2021 to \$53.3 billion largely due to increased sales growth across each of our segments primarily due to higher average sales prices combined with \$545 million in legal contingency accruals recognized as a reduction to sales in fiscal 2021. The higher average sales prices were primarily due to the current inflationary environment and recovery of rapidly rising costs, such as labor, freight and transportation, livestock, feed ingredients and other input costs. Operating income of \$4,410 million in fiscal 2022 was up slightly compared to fiscal 2021, as improved Chicken results were offset by a decline in operating income in the Beef, Pork and Prepared Foods segments. In fiscal 2022, our operating income was impacted by \$66 million of restructuring and related charges and \$62 million of insurance proceeds, net of costs incurred, related to fires at our production facilities. In fiscal 2021, our operating income was impacted by \$626 million of charges related to legal contingency accruals, \$27 million of charges related to the relocation of a production facility in China, \$23 million of production facilities fire costs, net of insurance proceeds and a \$784 million gain on the sale of our pet treats business.

Market Environment

According to the USDA, domestic protein production (beef, pork, chicken and turkey) was relatively flat in fiscal 2022 compared to fiscal 2021. All segments experienced inflation in operating costs, especially in labor, freight and transportation and certain materials, and we expect these trends to continue through fiscal 2023. Additionally, grain and feed ingredient costs have increased substantially, which impacts all of our segments. We pursue recovery of these increased costs through pricing. The Federal Reserve recently increased interest rates, and it is anticipated that interest rates will continue to rise in the near term. Our direct exposure to rising interest rates is somewhat tempered given our strong liquidity position in addition to our current debt structure in which nearly all of our borrowings have fixed interest rates. At October 1, 2022, we had \$3.3 billion of liquidity and our current debt was \$459 million. Should we need to issue additional debt or borrow under our existing revolving credit facility, we may be exposed to higher interest rates than our current outstanding borrowings. The Beef segment experienced strong demand, sufficient supply of market-ready cattle and increased live cattle costs. The Pork segment experienced reduced domestic availability of live hogs. The Chicken segment experienced strong demand and increased feed ingredient and other input costs. The Prepared Foods segment experienced increased costs largely due to the impacts of an inflationary environment. Additionally, the conflict between Ukraine and Russia has led to economic sanctions against Russia and certain regions of Ukraine and Belarus. As of October 1, 2022, the impact of this conflict has not had a material direct impact on our consolidated financial performance. However, the conflict is still ongoing and there are many risks and uncertainties in relation to the conflict that are outside of our control. If the conflict escalates further or if additional countries join the conflict and additional economic sanctions are imposed, it could have a material impact on our business operations and financial performance.

COVID-19

We continue to proactively monitor and respond to the evolving nature of the COVID-19 pandemic and its impact to our global business. Our ongoing COVID-19 task force was formed for the primary purposes of maintaining the health and safety of our team members, ensuring our ability to operate our processing facilities and maintaining the liquidity of our business. We have experienced and continue to experience multiple challenges related to the pandemic. The most significant challenge we face is the availability of team members to operate our production facilities as our production facilities continue to experience varying levels of absenteeism. The health and safety of our team members remains our top priority, and we continue to provide a variety of health and safety resources and services to team members and their family members. Additionally, we have experienced some challenges in our supply chain such as volatility of inputs, availability of shipping containers and port congestion. These challenges impacted our operating costs, but generally, we experienced lower direct incremental costs associated with COVID-19 in fiscal 2022 as compared to fiscal 2021. The long-term impacts of COVID-19 remain uncertain and will depend on future developments, including the duration and spread of the pandemic, COVID-19 variants and resurgences, and related actions taken by federal, state and local government officials to prevent and manage disease spread, and effectively distribute and administer vaccinations, all of which contain some level of uncertainty and cannot be easily predicted.

Margins

Our total operating margin was 8.3% in fiscal 2022. Operating margins by segment were as follows:

- Beef – 12.6%
- Pork – 3.0%
- Chicken – 5.6%
- Prepared Foods – 7.7%

Strategy

Our strategy is to sustainably feed the world with the fastest growing protein brands. We intend to achieve our strategy as we: grow our business by delivering superior value to consumers and customers; deliver fuel for growth and returns through commercial, operational and financial excellence; and sustain our Company and our world for future generations.

- In the second quarter of fiscal 2021, we initiated a plan to sell our pet treats business, which was included in our Prepared Foods segment. In the third quarter of fiscal 2021, we entered into a definitive agreement to sell the business for \$1.2 billion in cash, subject to certain adjustments. The business had a net carrying value of approximately \$411 million as of July 6, 2021, which included approximately \$44 million of working capital consisting of inventory, accounts receivable and accounts payable, \$17 million of property, plant and equipment and \$350 million of goodwill. The transaction closed on July 6, 2021, and we recognized a gain of \$784 million from the sale of this business, which is reflected in cost of sales in our Consolidated Statement of Income for fiscal 2021.

- Beginning in fiscal 2022, we launched a new productivity program, which is designed to drive a better, faster and more agile organization that is supported by a culture of continuous improvement and faster decision-making. We were targeting \$1 billion in productivity savings by the end of fiscal 2024, which included more than \$400 million in fiscal 2022, relative to a fiscal 2021 cost baseline. The execution of this program is supported by a program management office that ensures delivery of key project milestones and reports on savings achievements connected with the three pillars of the program. The first pillar is operational and functional excellence, which includes functional efficiency efforts in Finance, HR and Procurement focused on applying best practices to reduce costs. The second pillar is the use of new digital solutions like artificial intelligence and predictive analytics to drive efficiency in operations, supply chain planning, logistics and warehousing. The third pillar is automation, which will leverage automation and robotics technologies to automate difficult and higher turnover positions. We expect the productivity savings to be recognized in each of our reportable segments as they benefit from the achievements connected with the three pillars of the program. At this time, we do not anticipate costs associated with this program to be material and capital expenditures associated with automation and other activities are included in our capital expenditure expectations. We realized more than \$700 million of productivity savings in fiscal 2022, which partially offset the impacts of inflationary market conditions, and we now believe we will exceed our \$1 billion target in fiscal 2023.
- In the fourth quarter of fiscal 2022, the Company approved a restructuring program, the 2022 Program, which is expected to improve business performance, increase collaboration, enhance team member agility, enable faster decision-making and reduce redundancies. In conjunction with the 2022 Program, the Company plans to bring together all its corporate team members from the Chicago, Downers Grove and Dakota Dunes area corporate locations to its world headquarters in Springdale, Arkansas, through a phased relocation commencing in early calendar year 2023. We have recognized \$66 million of pretax charges in fiscal 2022 associated with the 2022 Program consisting of severance related costs. The Company currently anticipates the 2022 Program will result in cumulative pretax charges of approximately \$293 million, which consists primarily of severance costs, relocation and related costs, accelerated depreciation, contract and lease terminations and professional and other fees. The following tables set forth the pretax impact of restructuring and related charges incurred in fiscal 2022 in the Consolidated Statements of Income and the pretax impact by our reportable segments. For further description refer to Part II, Item 8, Notes to the Consolidated Financial Statements, Note 7: Restructuring and Related Charges.

		in millions
		2022
Cost of Sales	\$	18
Selling, General and Administrative		48
Total Restructuring and related charges, pretax	\$	66

				in millions
				Total estimated 2022 Program charges
		2022 charges	Estimated future charges	
Beef	\$	16	\$ 58	\$ 74
Pork		5	25	30
Chicken		6	2	8
Prepared Foods		36	135	171
International/Other		3	7	10
Total Restructuring and related charges, pretax	\$	66	\$ 227	\$ 293

SUMMARY OF RESULTS

Sales				in millions
		2022	2021	2020
Sales	\$	53,282	\$ 47,049	\$ 43,185
Change in sales volume		(0.3)%	(2.8)%	
Change in average sales price		12.3 %	13.0 %	
Sales growth		13.2 %	8.9 %	

2022 vs. 2021 –

- **Sales Volume** – Sales were negatively impacted by a decrease in sales volume, which accounted for a decrease of \$121 million, driven by decreased volumes in our Pork and Prepared Foods segments and impacts associated with the challenging labor environment and continued supply chain constraints, partially offset by an increase in sales volume in our Chicken segment.
- **Average Sales Price** – Sales were positively impacted by higher average sales prices, which accounted for an increase of \$5,809 million. The increase in average sales price was primarily due to the current inflationary environment and recovery of rapidly rising costs.
- The above change in average sales price for fiscal 2022 excludes the impact of a \$545 million reduction of Sales from the recognition of legal contingency accruals in fiscal 2021.

2021 vs. 2020 –

- **Sales Volume** – Sales were negatively impacted by a decrease in sales volume across each of our segments, which accounted for a decrease of \$1,190 million, due in part to the impacts of a challenging labor environment as well as the impact of an additional week in fiscal 2020.
- **Average Sales Price** – Sales were positively impacted by higher average sales prices, which accounted for an increase of \$5,599 million. The increase in average sales price was primarily attributable to favorable product mix and the pass through of increased raw material costs.
- The above change in average sales price for fiscal 2021 excludes a \$545 million reduction of Sales from the recognition of legal contingency accruals.

Cost of Sales

in millions

	2022		2021		2020
Cost of sales	\$	46,614	\$	40,523	\$ 37,801
Gross profit		6,668		6,526	
Cost of sales as a percentage of sales		87.5 %		86.1 %	

2022 vs. 2021 –

- Cost of sales increased \$6,091 million. Lower sales volume decreased cost of sales \$104 million while higher input cost per pound increased cost of sales \$6,195 million.
 - The \$6,195 million impact of higher input cost per pound was impacted by:
 - Increase in live cattle costs of approximately \$1,950 million in our Beef segment.
 - Increase of approximately \$635 million in our Chicken segment related to the net impact of increased feed ingredient costs and growout expenses, partially offset by a reduction in outside meat purchases.
 - Increase in raw material and other input costs of approximately \$615 million in our Prepared Foods segment.
 - Increase in live hog costs of approximately \$270 million in our Pork segment.
 - Increase in freight and transportation costs of approximately \$485 million.
 - Increase of approximately \$120 million in frontline bonuses.
 - Increase due to the recognition of a \$784 million gain on the sale of our pet treats business in fiscal 2021.
 - Decrease due to net derivative gains of \$225 million in fiscal 2022, compared to net derivative gains of \$14 million in fiscal 2021 due to our risk management activities. These amounts exclude offsetting impacts from related physical purchase transactions, which are included in the change in live cattle and hog costs and raw material and feed ingredient costs described herein.
 - Decrease of approximately \$81 million in our Chicken segment related to the recognition of legal contingency accruals in fiscal 2021.
 - Decrease of approximately \$58 million in our Chicken segment related to insurance proceeds, net of costs incurred, related to the fire at our production facility in the fourth quarter of fiscal 2021.
 - Decrease of approximately \$27 million in our Beef segment related to insurance proceeds related to the fire at our production facility in the fourth quarter of fiscal 2019.
 - Remaining increase in costs across all of our segments primarily driven by net impacts on average cost per pound from mix changes, the impact of the inflationary environment on our labor and other input costs and restructuring and related charges, partially offset by savings from our productivity program.
 - The \$104 million impact of lower sales volume was primarily driven by decreased volumes in our Pork and Prepared Foods segments.

2021 vs. 2020 –

- Cost of sales increased \$2,722 million. Lower sales volume decreased cost of sales \$1,041 million while higher input cost per pound increased cost of sales \$3,763 million.
 - The \$3,763 million impact of higher input cost per pound was impacted by:
 - Increase in live hog costs of approximately \$980 million in our Pork segment.
 - Increase of approximately \$945 million in our Chicken segment related to net increases in feed ingredient costs, growout expenses and outside meat purchases.
 - Increase in raw material and other input costs of approximately \$520 million in our Prepared Foods segment.
 - Increase in freight and transportation costs of approximately \$315 million.
 - Increase of approximately \$81 million in our Chicken segment related to the recognition of legal contingency accruals.
 - Increase in live cattle costs of approximately \$160 million in our Beef segment.
 - Decrease due to the recognition of a \$784 million gain on the sale of our pet treats business.
 - Decrease of \$165 million due to reduction in direct incremental expenses related to COVID-19, primarily related to the payment of \$114 million in thank you bonuses during fiscal 2020.
 - Remaining increase in costs across all of our segments was primarily driven by net impacts on average cost per pound from mix changes, as well as, production inefficiencies, increased labor costs due in part to the impacts associated with a challenging labor environment and COVID-19 in fiscal 2021 as compared to fiscal 2020.
 - The \$1,041 million impact of lower sales volume was primarily driven by decreased volume in each of our segments in fiscal 2021 due to lower production throughput associated with the impact of COVID-19 and a challenging labor environment as well as the impact of an additional week in fiscal 2020.

Selling, General and Administrative

in millions

		2022		2021		2020
Selling, general and administrative	\$	2,258	\$	2,130	\$	2,376
As a percentage of sales		4.2 %		4.5 %		

2022 vs. 2021 –

- Increase of \$128 million in selling, general and administrative was primarily driven by:
 - Increase of \$48 million in restructuring and related costs.
 - Increase of \$47 million in marketing, advertising and promotion expenses.
 - Increase of \$38 million in technology related costs.
 - Increase of \$34 million in employee costs.
 - Increase of \$24 million in donations.
 - Increase of \$15 million in travel and entertainment costs.
 - Decrease of \$33 million in commission and brokerage fees.
 - Decrease of \$27 million in depreciation and amortization.
 - Decrease of \$16 million from the change in the impact of a cattle supplier's misappropriation of Company funds, resulting from a \$71 million gain related to the recovery of cattle inventory in the fiscal year ended October 1, 2022 as compared to a \$55 million gain recognized in the fiscal year ended October 2, 2021.

2021 vs. 2020 –

- Decrease of \$246 million in selling, general and administrative was primarily driven by:
 - Decrease of \$161 million from the change in the impact of a cattle supplier's misappropriation of Company funds, resulting from a \$55 million gain related to the recovery of cattle inventory in the fiscal year ended October 2, 2021 as compared to a \$106 million loss recognized in the fiscal year ended October 3, 2020.
 - Decrease of \$60 million from restructuring and related charges incurred in fiscal 2020.
 - Decrease of \$56 million in marketing, advertising and promotion expenses.
 - Decrease of \$27 million in donations.
 - Decrease of \$24 million in commission and brokerage fees.
 - Decrease of \$21 million in depreciation and amortization.
 - Increase of \$81 million in professional fees.

- Increase of \$30 million in technology related costs.

Interest Expense

in millions

	2022	2021
	\$ 365	\$ 428

2022 / 2021 –

- Interest expense primarily included interest expense related to our senior notes and commitment fees incurred on our revolving credit facility less capitalized interest. The decrease in interest expense in fiscal 2022 was primarily due to the redemption of senior notes in fiscal 2022 and repayments of term loans and the redemption of the August 2021 Notes in fiscal 2021.

Other (Income) Expense, net

in millions

	2022	2021
	\$ (87)	\$ (65)

2022 – Included \$58 million of foreign exchange losses, \$52 million of production facilities fires insurance proceeds, \$45 million of joint venture earnings and \$37 million of gains on equity investments due to observable price changes in fiscal 2022.

2021 – Included \$34 million from a defined benefit plan gain.

Effective Tax Rate

	2022	2021
	21.7 %	24.3 %

- Our effective income tax rate was 21.7% for fiscal 2022 compared to 24.3% for fiscal 2021. The fiscal 2022 effective tax rate includes a \$36 million benefit from the remeasurement of deferred income taxes, primarily due to legislation decreasing state tax rates enacted in fiscal 2022. The non-deductible goodwill associated with the sale of our pet treats business unfavorably impacted the effective tax rate for fiscal 2021 by 1.8%.

Net Income Attributable to Tyson

in millions, except per share data

	2022	2021
Net income attributable to Tyson	\$ 3,238	\$ 3,047
Net income attributable to Tyson - per diluted share	8.92	8.34

2022 – Included the following items:

- \$114 million pretax, or \$0.23 per diluted share, of production facilities fire insurance proceeds, net of costs incurred.
- \$66 million pretax, or (\$0.14) per diluted share, of restructuring and related charges.
- \$36 million post tax, or \$0.10 per diluted share, from remeasurement of net deferred tax liabilities at lower enacted state tax rates.

2021 – Included the following items:

- \$626 million pretax, or (\$1.31) per diluted share, related to the recognition of legal contingency accruals.
- \$784 million pretax, or \$1.40 per diluted share, related to the gain on the sale of our pet treats business.
- \$34 million pretax, or \$0.07 per diluted share, from a defined benefit plan gain.
- \$17 million pretax, or (\$0.04) per diluted share, of production facilities fire costs, net of insurance proceeds.
- \$27 million pretax, or (\$0.06) per diluted share, related to the relocation of a production facility in China.

SEGMENT RESULTS

We operate in four reportable segments: Beef, Pork, Chicken, and Prepared Foods. International/Other primarily includes our foreign operations in Australia, China, Malaysia, Mexico, the Netherlands, South Korea and Thailand, third-party merger and integration costs and corporate overhead related to Tyson New Ventures, LLC. Additional information regarding the geographic areas of our foreign operations is set forth in Part II, Item 8, Notes to Consolidated Financial Statements, Note 17: Segment Reporting. The following table is a summary of segment sales and operating income (loss), which is how we measure segment income (loss):

											in millions
Sales						Operating Income (Loss)					
	2022	2021	2020	2022	2021	2020					
Beef	\$ 19,854	\$ 17,999	\$ 15,742	\$ 2,502	\$ 3,240	\$ 1,580					
Pork	6,414	6,277	5,128	193	328	565					
Chicken	16,961	13,733	13,234	955	(625)	122					
Prepared Foods	9,689	8,853	8,532	746	1,456	743					
International/Other	2,355	1,990	1,856	14	(3)	(2)					
Intersegment Sales	(1,991)	(1,803)	(1,307)	—	—	—					
Total	\$ 53,282	\$ 47,049	\$ 43,185	\$ 4,410	\$ 4,396	\$ 3,008					

Beef Segment Results

										in millions
	2022		2021		Change 2022 vs. 2021		2020		Change 2021 vs. 2020	
Sales	\$	19,854	\$	17,999	\$	1,855	\$	15,742	\$	2,257
Sales Volume Change						0.1 %				0.3 %
Average Sales Price Change						10.2 %				14.0 %
Operating Income	\$	2,502	\$	3,240	\$	(738)	\$	1,580	\$	1,660
Operating Margin		12.6 %		18.0 %				10.0 %		

2022 vs. 2021 –

- **Sales Volume** – Sales volume was relatively flat in fiscal 2022.
- **Average Sales Price** – Average sales price increased as input costs such as live cattle, labor and freight and transportation costs increased and demand for our beef products remained strong in the first half of the fiscal year.
- **Operating Income** – Operating income decreased as margins compressed from historically high levels, paired with continued increased operating costs as a result of inflationary market environment. Operating income benefited from a \$71 million gain due to a settlement in fiscal 2022, compared to a \$55 million gain from the recovery of cattle inventory in fiscal 2021, related to a cattle supplier's misappropriation of Company funds. Additionally, operating income in fiscal 2022 benefited from \$27 million of insurance proceeds related to a fire at a production facility in the fourth quarter of fiscal 2019, partially offset by \$16 million of restructuring and related charges.

2021 vs. 2020 –

- **Sales Volume** – Sales volume was relatively flat due to strong global demand, partially offset by the impacts associated with a challenging labor environment, severe weather in the second quarter of fiscal 2021 and the additional week in fiscal 2020.
- **Average Sales Price** – Average sales price increased as our input costs such as live cattle, labor and freight and transportation costs, increased and demand for our beef products remained strong.
- **Operating Income** – Operating income increased due to strong demand as we continued to optimize revenues relative to live cattle supply, partially offset by production inefficiencies due to labor challenges. Additionally, operating income in fiscal 2021 was impacted by a cattle supplier's misappropriation of Company funds, which resulted in a \$55 million gain related to the recovery of cattle inventory as compared to a \$106 million loss recognized in fiscal 2020.

Pork Segment Results

										in millions
	2022		2021		Change 2022 vs. 2021		2020		Change 2021 vs. 2020	
Sales	\$	6,414	\$	6,277	\$	137	\$	5,128	\$	1,149
Sales Volume Change						(1.9)%				(2.7)%
Average Sales Price Change						4.1 %				25.1 %
Operating Income	\$	193	\$	328	\$	(135)	\$	565	\$	(237)
Operating Margin		3.0 %		5.2 %				11.0 %		

2022 vs. 2021 –

- **Sales Volume** – Sales volume decreased due to reduced domestic availability of live hogs.
- **Average Sales Price** – Average sales price increased as input costs such as live hogs, labor, freight and transportation costs increased, partially offset by unfavorable mix associated with labor shortages.
- **Operating Income** – Operating income decreased due to periods of compressed pork margins and increased operating costs as a result of the inflationary market environment. Additionally, volatile market conditions resulted in net derivative gains of \$10 million in fiscal 2022 and net derivative losses of \$90 million in fiscal 2021, which excludes the impacts of related physical purchase transactions.

2021 vs. 2020 –

- **Sales Volume** – Sales volume decreased despite strong global demand in fiscal 2021 primarily due to the impacts of an additional week in fiscal 2020 and the impacts of lower hog supplies and a challenging labor environment in fiscal 2021.
- **Average Sales Price** – Average sales price increased as live hog costs increased and demand for our pork products remained strong.
- **Operating Income** – Operating income decreased primarily due to lower hog supplies relative to industry capacity as well as production inefficiencies related to COVID-19 and a challenging labor environment, partially offset by a reduction in direct incremental expenses related to COVID-19 in fiscal 2021 as compared to fiscal 2020. Additionally, volatile market conditions resulted in net derivative losses of \$90 million in fiscal 2021 and net derivative gains of \$70 million in fiscal 2020, which were offset by the impacts of related physical purchase transactions.

Chicken Segment Results

	in millions					
	2022	2021	Change 2022 vs. 2021	2020	Change 2021 vs. 2020	
Sales	\$ 16,961	\$ 13,733	\$ 3,228	\$ 13,234	\$ 499	
Sales Volume Change			0.7 %		(3.3)%	
Average Sales Price Change			18.1 %		11.2 %	
Operating Income (Loss)	\$ 955	\$ (625)	\$ 1,580	\$ 122	\$ (747)	
Operating Margin	5.6 %	(4.6)%		0.9 %		

2022 vs. 2021 –

- **Sales Volume** – Sales volume increased primarily due to improved domestic production partially offset by inventory growth and strategic initiative mix impacts.
- **Average Sales Price** – Average sales price increased primarily due to the effects of pricing initiatives in an inflationary cost environment.
- **Operating Income (Loss)** – Operating income increased in fiscal 2022 primarily due to higher average sales prices and increased sales volume, partially offset by the impacts of inflationary market conditions including increased supply chain and labor costs. Operating income in fiscal 2022 was impacted by \$595 million of higher feed ingredient costs, offset by \$195 million of net derivative gains as compared to \$65 million of net derivative gains in fiscal 2021. Additionally, operating income in fiscal 2022 benefited from \$35 million of insurance proceeds, net of costs incurred related to a fire at a production facility. Operating income in fiscal 2021 was impacted by \$626 million of losses from the recognition of legal contingency accruals and \$23 million of expenses related to a fire at a production facility.

2021 vs. 2020 –

- **Sales Volume** – Sales volume decreased from the impacts associated with a decline in hatch rate, a challenging labor environment, disruptions due to severe weather in the second quarter of fiscal 2021 and an additional week in fiscal 2020.
- **Average Sales Price** – Average sales price increased due to favorable sales mix and inflationary market conditions. The change in average sales price for fiscal 2021 excludes a \$545 million reduction of Sales from the recognition of legal contingency accruals.
- **Operating Income (Loss)** – Operating income decreased primarily due to a \$626 million loss from the recognition of legal contingency accruals, \$735 million of higher feed ingredient costs as compared to fiscal 2020, increased supply chain costs, \$23 million of expenses related to a fire at a production facility, decline in hatch rate and disruptions due to severe weather, partially offset by favorable product mix, reduced direct incremental expense associated with COVID-19 and \$65 million of net derivative gains in fiscal 2021 as compared to \$50 million of net derivative losses in fiscal 2020.

Prepared Foods Segment Results

in millions

	2022		2021		Change 2022 vs. 2021		2020		Change 2021 vs. 2020	
Sales	\$	9,689	\$	8,853	\$	836	\$	8,532	\$	321
Sales Volume Change						(4.1)%				(5.4)%
Average Sales Price Change						13.5 %				9.2 %
Operating Income	\$	746	\$	1,456	\$	(710)	\$	743	\$	713
Operating Margin		7.7 %		16.4 %				8.7 %		

2022 vs. 2021 –

- **Sales Volume** – Sales volume decreased in fiscal 2022 due to the impacts of uneven foodservice recovery, the divestiture of our pet treats business in the fourth quarter of fiscal 2021, increased pricing and a challenging supply environment impacting the first half of fiscal 2022.
- **Average Sales Price** – Average sales price increased due to the effects of revenue management in an inflationary cost environment.
- **Operating Income** – Operating income decreased in fiscal 2022 due to the recognition of a \$784 million gain on the sale of our pet treats business in the fourth quarter of fiscal 2021. Higher average sales prices were offset by the impacts of inflationary market conditions, including \$615 million of increased raw materials and other input costs in fiscal 2022 in addition to increased supply chain and labor costs. Additionally, operating income in fiscal 2022 was impacted by \$36 million of restructuring and related charges.

2021 vs. 2020 –

- **Sales Volume** – Sales volume decreased driven by lower production throughput primarily associated with a challenging labor and supply environment, reduced foodservice demand in the first half of fiscal 2021 and the impact of an additional week in fiscal 2020.
- **Average Sales Price** – Average sales price increased due to favorable product mix and inflation-justified pricing.
- **Operating Income** – Operating income increased due to the recognition of a \$784 million gain on the sale of our pet treats business, lower commercial spend as well as favorable pricing and product mix. These impacts were partially offset by the impact of inflationary market conditions including a \$520 million increase in raw material and other input costs during fiscal 2021, increased supply chain costs and a challenging labor environment.

International/Other Results

in millions

	2022		2021		Change 2022 vs. 2021		2020		Change 2021 vs. 2020	
Sales	\$	2,355	\$	1,990	\$	365	\$	1,856	\$	134
Operating Income (Loss)		14		(3)		17		(2)		(1)

2022 vs. 2021 –

- **Sales** – Sales increased due to volume growth and higher pricing in an inflationary cost environment.
- **Operating Loss** – Operating income increased primarily due to \$27 million of charges incurred in 2021 related to the relocation of a production facility in China which did not recur in fiscal 2022, partially offset by the impacts of global inflationary market conditions.

2021 vs. 2020 –

- **Sales** – Sales increased due to increased pricing from favorable product mix.
- **Operating Loss** – Operating loss increased slightly due to a \$27 million charge related to the relocation of a production facility in China, partially offset by improved results in our international operations in fiscal 2021.

LIQUIDITY AND CAPITAL RESOURCES

Our cash needs for working capital, capital expenditures, growth opportunities, repurchases of senior notes, repayment of maturing debt, the payment of dividends and share repurchases are expected to be met with current cash on hand, cash flows provided by operating activities or short-term borrowings. Based on our current expectations, we believe our liquidity and capital resources will be sufficient to operate our business. However, we may take advantage of opportunities to generate additional liquidity or refinance existing debt through capital market transactions. The amount, nature and timing of any capital market transactions will depend on our operating performance and other circumstances; our then-current commitments and obligations; the amount, nature and timing of our capital requirements; any limitations imposed by our current credit arrangements; and overall market conditions.

Cash Flows from Operating Activities

in millions

	2022	2021
Net income	\$ 3,249	\$ 3,060
Non-cash items in net income:		
Depreciation and amortization	1,202	1,214
Deferred income taxes	264	(125)
Gain on disposition of business	—	(784)
Impairment of assets	34	60
Stock-based compensation expense	93	91
Other, net	(51)	(57)
Net changes in operating assets and liabilities	(2,104)	381
Net cash provided by operating activities	\$ 2,687	\$ 3,840

- Gain on disposition of business related to the sale of our pet treats business in fiscal 2021. For further description, refer to Part II, Item 8, Notes to the Consolidated Financial Statements, Note 3: Acquisitions and Dispositions.
- The remaining decrease in net cash provided by operating activities was due to higher payments related to income taxes, legal accruals and deferred payroll tax liabilities under the CARES Act and an increase in inventory primarily due to increased finished inventory, partially offset by a decrease in accounts receivable and higher earnings as a result of strong operations in fiscal 2022.
- In fiscal 2023, we anticipate a net cash outflow related to changes in our operating assets and liabilities as we grow our business in addition to inflationary market conditions.

Cash Flows from Investing Activities

in millions

	2022	2021
Additions to property, plant and equipment	\$ (1,887)	\$ (1,209)
(Purchases of)/Proceeds from marketable securities, net	(1)	(2)
Proceeds from sale of businesses	—	1,188
Acquisition of equity investments	(177)	(44)
Other, net	130	125
Net cash provided by (used for) investing activities	\$ (1,935)	\$ 58

- Additions to property, plant and equipment included spending for production growth, safety and animal well-being, acquiring new equipment, infrastructure replacements and upgrades to maintain competitive standing and position us for future opportunities.
 - Approximately \$2.4 billion will be necessary to complete buildings and equipment under construction at October 1, 2022.
 - Capital spending for fiscal 2023 is expected to approximate \$2.5 billion and will include spending for capacity expansion and utilization, automation to alleviate labor challenges and brand and product innovation.
- Proceeds from sale of businesses related to the proceeds received from sale of our pet treats business in fiscal 2021. For further description refer to Part II, Item 8, notes to the Consolidated Financial Statements, Note 3: Acquisitions and Dispositions.
- Acquisition of equity investments for fiscal 2022 included the purchase of 35% minority interest in a South American-based fully integrated poultry company.
- Other, net for fiscal 2022 primarily included insurance proceeds received related to fires at our production facilities, proceeds from the disposition of assets and changes in deposits for capital expenditures. Other, net for fiscal 2021 primarily included changes in deposits for capital expenditures.

Cash Flows from Financing Activities

in millions

	2022	2021
Proceeds from issuance of debt	\$ 103	\$ 585
Payments on debt	(1,191)	(2,632)
Purchases of Tyson Class A common stock	(702)	(67)
Dividends	(653)	(636)
Stock options exercised	126	41
Other, net	(6)	(22)
Net cash used for financing activities	\$ (2,323)	\$ (2,731)

- During fiscal 2021, proceeds of \$585 million from issuance of debt included \$500 million of proceeds from the issuance of a term loan facility due March 2023.
- Payments on debt included:
 - **2022** – In March 2022, we extinguished the \$1 billion outstanding balance of our senior notes due June 2022.
 - **2021** – During fiscal 2021, we extinguished the \$1.5 billion outstanding balance of our term loan facility using proceeds received from the issuance of debt and cash on hand. On July 23, 2021, we redeemed the \$500 million outstanding balance of the Senior Notes due August 2021 using cash on hand. On September 30, 2021, we used cash on hand to repay in full the \$500 million term loan facility due March 2023.
- Purchases of Tyson Class A common stock included:
 - \$587 million of cash paid for shares repurchased pursuant to our share repurchase program in fiscal 2022.
 - \$115 million and \$67 million for shares repurchased to fund certain obligations under our equity compensation plans in fiscal 2022 and 2021, respectively.
- Dividends paid during fiscal 2022 included a 3% increase to our fiscal 2021 quarterly dividend rate.

Liquidity

in millions

	Commitments Expiration Date	Facility Amount	Outstanding Letters of Credit (no draw downs)	Amount Borrowed	Amount Available at October 1, 2022
Cash and cash equivalents				\$	1,031
Short-term investments					1
Revolving credit facility	September 2026	\$ 2,250	\$ —	\$ —	2,250
Commercial Paper					—
Total liquidity				\$	3,282

- Liquidity includes cash and cash equivalents, short-term investments, and availability under our revolving credit facility, less outstanding commercial paper balance.
- At October 1, 2022, we had current debt of \$459 million, which we intend to pay with cash generated from our operating activities and other existing or new liquidity sources.
- The revolving credit facility supports our short-term funding needs and also serves to backstop our commercial paper program. We had no borrowings under the revolving credit facility during fiscal 2022. Under the terms of the facility, we have the option to establish incremental commitment increases of up to \$500 million if certain conditions are met.
- We expect net interest expense will approximate \$320 million for fiscal 2023.
- Our ratio of short-term assets to short-term liabilities (“current ratio”) was 1.8 to 1 and 1.6 to 1 at October 1, 2022, and October 2, 2021, respectively. The increase in fiscal 2022 was primarily due to increased accounts receivable and inventories and decreased current debt and legal contingency accruals, partially offset by decreased cash and cash equivalents and increased accounts payable.
- At October 1, 2022, \$465 million of our cash was held in the international accounts of our foreign subsidiaries. Generally, we do not rely on the foreign cash as a source of funds to support our ongoing domestic liquidity needs. We manage our worldwide cash requirements by reviewing available funds among our foreign subsidiaries and the cost effectiveness with which those funds can be accessed. We intend to repatriate any excess cash (net of applicable withholding taxes) not subject to regulatory requirements and to indefinitely reinvest outside of the United States the remainder of cash held by foreign subsidiaries. We do not expect the regulatory restrictions or taxes on repatriation to have a material effect on our overall liquidity, financial condition or the results of operations for the foreseeable future.

Capital Resources

Credit Facility

Cash flows from operating activities and cash on hand are our primary sources of liquidity for funding debt service, capital expenditures, dividends and share repurchases. We also have a revolving credit facility, with a committed capacity of \$2.25 billion, to provide additional liquidity for working capital needs and to backstop our commercial paper program.

At October 1, 2022, amounts available for borrowing under our revolving credit facility totaled \$2.25 billion. Our revolving credit facility is funded by a syndicate of 20 banks, with commitments ranging from \$35 million to \$175 million per bank.

Commercial Paper Program

Our commercial paper program provides a low-cost source of borrowing to fund general corporate purposes including working capital requirements. The maximum borrowing capacity under the commercial paper program is \$1.5 billion. The maturities of the notes may vary, but may not exceed 397 days from the date of issuance. As of October 1, 2022, we had no commercial paper outstanding under this program. Our ability to access commercial paper in the future may be limited or its costs increased.

Capitalization

To monitor our credit ratings and our capacity for long-term financing, we consider various qualitative and quantitative factors. We monitor the ratio of our net debt to EBITDA as support for our long-term financing decisions. At October 1, 2022, and October 2, 2021, the ratio of our net debt to EBITDA was 1.3x and 1.2x, respectively. Refer to Other Key Financial Measures below for an explanation and reconciliation to comparable Generally Accepted Accounting Principles (“GAAP”) measures.

Credit Ratings

Revolving Credit Facility

S&P's applicable rating is “BBB+.” Moody's applicable rating is “Baa2.” The below table outlines the fees paid on the unused portion of the facility (“Facility Fee Rate”) and letter of credit fees and borrowings (“All-in Borrowing Spread”) that corresponds to the applicable ratings levels from S&P and Moody's.

Ratings Level (S&P/Moody's)	Facility Fee Rate	All-in Borrowing Spread
A2/A or above	0.700 %	0.875 %
A3/A-	0.090 %	1.000 %
Baa1/BBB+ (current level)	0.100 %	1.125 %
Baa2/BBB	0.125 %	1.250 %
Baa3/BBB or lower	0.175 %	1.375 %

In the event the ratings fall within different levels, the applicable rate will be based upon the higher of the two Levels or, if there is more than a one-notch split between the two Levels, then the Applicable Rate will be based upon the Level that is one Level below the higher Level.

Debt Covenants

Our revolving credit facility contains affirmative and negative covenants that, among other things, may limit or restrict our ability to: create liens and encumbrances; incur debt; merge, dissolve, liquidate or consolidate; make acquisitions and investments; dispose of or transfer assets; change the nature of our business; engage in certain transactions with affiliates; and enter into hedging transactions, in each case, subject to certain qualifications and exceptions. In addition, we are required to maintain a minimum interest expense coverage ratio.

Our senior notes also contain affirmative and negative covenants that, among other things, may limit or restrict our ability to: create liens; engage in certain sale/leaseback transactions; and engage in certain consolidations, mergers and sales of assets.

We were in compliance with all debt covenants at October 1, 2022 and expect that we will maintain compliance.

Pension Plans

As further described in Part II, Item 8, Notes to Consolidated Financial Statements, Note 15: Pensions and Other Postretirement Benefits, the funded status of our defined benefit pension plans is defined as the amount the projected benefit obligation exceeds the plan assets. The funded status of the plans is an underfunded position of \$159 million at the end of fiscal 2022 as compared to an underfunded position of \$215 million at the end of fiscal 2021. We contributed \$13 million in fiscal 2022 and expect to contribute approximately \$13 million of cash to our pension plans in fiscal 2023. The exact amount of cash contributions made to pension plans in any year is dependent upon a number of factors, including minimum funding requirements. As a result, the actual funding in fiscal 2023 may be different from the estimate.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements material to our financial position or results of operations. The off-balance sheet arrangements we have are guarantees of obligations related to certain outside third parties, including leases, debt and livestock grower loans, and residual value guarantees covering certain operating leases for various types of equipment. See Part II, Item 8, Notes to Consolidated Financial Statements, Note 20: Commitments and Contingencies for further discussion.

CONTRACTUAL OBLIGATIONS

The following table summarizes our contractual obligations as of October 1, 2022 (in millions):

		Payments Due by Period					
		2023	2024-2025	2026-2027	2028 and thereafter		Total
Debt principal payments ⁽¹⁾	\$	467	\$ 1,302	\$ 2,166	\$ 4,468	\$	8,403
Interest payments ⁽²⁾		364	646	545	3,014		4,569
Guarantees ⁽³⁾		3	36	16	26		81
Operating lease obligations ⁽⁴⁾		154	213	107	53		527
Purchase obligations ⁽⁵⁾		342	364	115	109		930
Capital expenditures ⁽⁶⁾		1,724	679	—	—		2,403
Other long-term liabilities ⁽⁷⁾		—	—	—	—		645
Total contractual commitments	\$	3,054	\$ 3,240	\$ 2,949	\$ 7,670	\$	17,558

(1) In the event of a default on payment, acceleration of the principal payments could occur.

(2) Interest payments include interest on all outstanding debt. Payments are estimated for variable rate and variable term debt based on effective interest rates at October 1, 2022, and expected payment dates.

(3) Amounts include guarantees of obligations related to certain outside third parties, which consist of leases, debt and livestock grower loans, all of which are substantially collateralized by the underlying assets, as well as residual value guarantees covering certain operating leases for various types of equipment. The amounts included are the maximum potential amount of future payments.

(4) For additional information regarding operating leases, refer to Part II, Item 8, Notes to the Consolidated Financial Statements, Note 6: Leases.

(5) Amounts include agreements with a remaining term in excess of one year to purchase goods or services that are enforceable and legally binding and specify all significant terms, including: fixed or minimum quantities to be purchased; fixed, minimum or variable price provisions; and the approximate timing of the transaction. The purchase obligations amount included items, such as future purchase commitments for grains and livestock purchase contracts, that provide terms that meet the above criteria. For certain grain purchase commitments with a fixed quantity provision, we have assumed the future obligations under the commitment based on available commodity futures prices as published in observable active markets as of October 1, 2022. We have excluded future purchase commitments for contracts that do not meet these criteria. Purchase orders are not included in the table, as a purchase order is an authorization to purchase and is cancellable. Contracts for goods or services that contain termination clauses without penalty have also been excluded.

(6) Amounts include estimated amounts to complete buildings and equipment under construction as of October 1, 2022.

(7) Other long-term liabilities primarily consist of deferred compensation, deferred income, self-insurance and asset retirement obligations. We are unable to reliably estimate the amount and timing of the remaining payments beyond fiscal 2022; therefore, we have only included the total liability in the table above. We also have employee benefit obligations consisting of pensions and other postretirement benefits of \$205 million that are excluded from the table above. A discussion of the Company's pension and postretirement plans, including funding matters, is included in Part II, Item 8, Notes to Consolidated Financial Statements, Note 15: Pensions and Other Postretirement Benefits.

In addition to the amounts shown above in the table, we have unrecognized tax benefits of \$130 million and related interest and penalties of \$47 million at October 1, 2022, recorded in Other long-term liabilities.

The potential maximum contractual obligation associated with our cash flow assistance programs at October 1, 2022, based on the estimated fair values of the livestock supplier's net tangible assets on that date, aggregated to approximately \$290 million. After analyzing residual credit risks and general market conditions, we had no allowance for these programs' estimated credit losses at October 1, 2022.

OTHER KEY FINANCIAL MEASURES

The following are other key financial measures used by the Company for the purposes of assessing performance and highlighting operational trends as well as our ability to generate earnings sufficient to service out debt:

	in millions, except ratio data		
	2022	2021	2020
Net income	\$ 3,249	\$ 3,060	\$ 2,071
Less: Interest income	(17)	(8)	(10)
Add: Interest expense	365	428	485
Add: Income tax expense	900	981	593
Add: Depreciation	945	934	900
Add: Amortization (a)	246	261	278
EBITDA	\$ 5,688	\$ 5,656	\$ 4,317
Total gross debt	\$ 8,321	\$ 9,348	\$ 11,339
Less: Cash and cash equivalents	(1,031)	(2,507)	(1,420)
Less: Short-term investments	(1)	—	—
Total net debt	\$ 7,289	\$ 6,841	\$ 9,919
Ratio Calculations:			
Gross debt/EBITDA	1.5x	1.7x	2.6x
Net debt/EBITDA	1.3x	1.2x	2.3x
Return on invested capital (b)	13.4 %	13.3 %	9.2 %
Total debt to capitalization (c)	29.6 %	34.4 %	42.4 %
Book value per share (d)	\$ 55.04	\$ 48.95	\$ 42.25

(a) Excludes the amortization of debt issuance and debt discount expense of \$11 million, \$19 million, \$14 million for fiscal 2022, 2021 and 2020, respectively, as it is included in Interest expense.

(b) Return on invested capital is calculated by dividing after-tax operating income, calculated by applying the Company's effective tax rate to operating income, by the average of beginning and ending total debt and shareholders' equity less cash and cash equivalents.

(c) For the total debt to capitalization calculation, capitalization is defined as total debt plus total shareholders' equity.

(d) Book value per share is calculated by dividing shareholders' equity by the sum of Class A and B shares outstanding.

EBITDA is defined as net income before interest, income taxes, depreciation and amortization. Net debt to EBITDA represents the ratio of our debt, net of cash and short-term investments, to EBITDA. EBITDA and net debt to EBITDA are presented as supplemental financial measurements in the evaluation of our business. We believe the presentation of these financial measures helps investors to assess our operating performance from period to period, including our ability to generate earnings sufficient to service our debt, enhances understanding of our financial performance and highlights operational trends. These measures are widely used by investors and rating agencies in the valuation, comparison, rating and investment recommendations of companies; however, the measurements of EBITDA and net debt to EBITDA may not be comparable to those of other companies, which limits their usefulness as comparative measures. EBITDA and net debt to EBITDA are not measures required by or calculated in accordance with generally accepted accounting principles ("GAAP") and should not be considered as substitutes for net income or any other measure of financial performance reported in accordance with GAAP or as a measure of operating cash flow or liquidity. EBITDA is a useful tool for assessing, but is not a reliable indicator of, our ability to generate cash to service our debt obligations because certain of the items added to net income to determine EBITDA involve outlays of cash. As a result, actual cash available to service our debt obligations will be different from EBITDA. Investors should rely primarily on our GAAP results, and use non-GAAP financial measures only supplementally, in making investment decisions.

RECENTLY ISSUED/ADOPTED ACCOUNTING PRONOUNCEMENTS

Refer to the discussion under Part II, Item 8, Notes to Consolidated Financial Statements, Note 1: Business and Summary of Significant Accounting Policies and Note 2: Changes in Accounting Principles.

CRITICAL ACCOUNTING ESTIMATES

The preparation of consolidated financial statements requires us to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates. The following is a summary of certain accounting estimates we consider critical. These estimates require levels of subjectivity and judgment, which could result in actual results differing from our estimates.

Contingent liabilities

Description

We are subject to lawsuits, investigations and other claims related to wage and hour/labor, antitrust, environmental, product, taxing authorities and other matters, and are required to assess the likelihood of any adverse judgments or outcomes to these matters, as well as potential ranges of probable losses.

A determination of the amount of reserves and disclosures required, if any, for these contingencies is made after considerable analysis of each individual issue. We accrue for contingent liabilities when an assessment of the risk of loss is probable and can be reasonably estimated. We disclose contingent liabilities when the risk of loss is reasonably possible or probable.

Judgments and Uncertainties

Our contingent liabilities contain uncertainties because the eventual outcome will result from future events, and determination of current reserves requires estimates and judgments related to future changes in facts and circumstances, differing interpretations of the law and assessments of the amount of damages, and the effectiveness of strategies or other factors beyond our control.

Effect if Actual Results Differ From Assumptions

We have not made any material changes in the accounting methodology used to establish our contingent liabilities during the past three fiscal years. As set forth in Part II, Item 8, Notes to the Consolidated Financial Statements, Note 20: Commitments and Contingencies, we recognized \$626 million of charges in fiscal 2021 from legal accruals related to our broiler antitrust civil litigation, broiler chicken grower litigation, and wage rate litigation based on our assessment of the likelihood and amount of probable losses. We do not believe there is a reasonable likelihood there will be a material change in the estimates or assumptions used to calculate our contingent liabilities. However, if actual results are not consistent with our estimates or assumptions, we may be exposed to gains or losses that could be material.

Revenue recognition

Description

We recognize revenue for the sale of our product at the point in time when our performance obligation has been satisfied and control of the product has transferred to our customer, which generally occurs upon shipment or delivery to a customer based on terms of the sale. Revenue is measured by the transaction price, which is defined as the amount of consideration we expect to receive in exchange for providing goods to customers. The transaction price is adjusted for estimates of known or expected variable consideration, which includes consumer incentives, trade promotions, and allowances, such as coupons, discounts, rebates, volume-based incentives, cooperative advertising, and other programs. Variable consideration related to these programs is recorded as a reduction to revenue based on amounts we expect to pay.

Judgments and Uncertainties

The transaction price contains estimates of known or expected variable consideration. We base these estimates on current performance, historical utilization, and projected redemption rates of each program. We review and update these estimates regularly until the incentives or product returns are realized and the impact of any adjustments are recognized in the period the adjustments are identified.

Effect if Actual Results Differ From Assumptions

We do not believe there is a reasonable likelihood there will be a material change in the estimates or assumptions used to recognize revenue. As noted above, estimates are made based on historical experience and other factors. Typically, programs that are offered have a short duration, and historically, the difference between actual experience compared to estimated redemptions and performance has not been significant to the quarterly or annual financial statements. However, if the level of redemption rates or performance were to vary significantly from estimates, we may be exposed to gains or losses that could be material. We have not made any material changes in the accounting methodology used to recognize revenue during the past three fiscal years.

Accrued self-insurance

Description

We are self-insured for certain losses related to health and welfare, workers' compensation, auto liability and general liability claims. We use an independent third-party actuary to assist in determining our self-insurance liability. We and the actuary consider a number of factors when estimating our self-insurance liability, including claims experience, demographic factors, severity factors and other actuarial assumptions. We periodically review our estimates and assumptions with our third-party actuary to assist us in determining the adequacy of our self-insurance liability. Our policy is to maintain an accrual at the actuarial estimated median.

Judgments and Uncertainties

Our self-insurance liability contains uncertainties due to assumptions required and judgments used. Costs to settle our obligations, including legal and healthcare costs, could increase or decrease causing estimates of our self-insurance liability to change. Incident rates, including frequency and severity, could increase or decrease causing estimates in our self-insurance liability to change.

Effect if Actual Results Differ From Assumptions

We have not made any material changes in the accounting methodology used to establish our self-insurance liability during the past three fiscal years. We do not believe there is a reasonable likelihood there will be a material change in the estimates or assumptions used to calculate our self-insurance liability. However, if actual results are not consistent with our estimates or assumptions, we may be exposed to gains or losses that could be material. A 10% change in the actuarial estimate at October 1, 2022, would not have a significant impact on our liability.

Income taxes

Description

We estimate total income tax expense based on statutory tax rates and tax planning opportunities available to us in various jurisdictions in which we earn income. Income tax includes an estimate for withholding taxes on earnings of foreign subsidiaries expected to be remitted to the United States but does not include an estimate for taxes on earnings considered to be indefinitely invested in the foreign subsidiary. Deferred income taxes are recognized for the future tax effects of temporary differences between financial and income tax reporting using tax rates in effect for the years in which the differences are expected to reverse. Valuation allowances are recorded when it is likely a tax benefit will not be realized for a deferred tax asset. We record unrecognized tax benefit liabilities for known or anticipated tax issues based on our analysis of whether, and the extent to which, additional taxes will be due.

Judgments and Uncertainties

Changes in projected future earnings could affect the recorded valuation allowances in the future. Our calculations related to income taxes contain uncertainties due to judgment used to calculate tax liabilities in the application of complex tax regulations across the tax jurisdictions where we operate. Our analysis of unrecognized tax benefits contains uncertainties based on judgment used to apply the more likely than not recognition and measurement thresholds.

Effect if Actual Results Differ From Assumptions

Due to the complexity of some of these judgments and uncertainties, the ultimate resolution may result in a payment that is materially different from the current estimate of the tax liabilities. To the extent we prevail in matters for which unrecognized tax benefit liabilities have been established, or are required to pay amounts in excess of our recorded unrecognized tax benefit liabilities, our effective tax rate in a given financial statement period could be materially affected. An unfavorable tax settlement would require use of our cash and generally result in an increase in our effective tax rate in the period of resolution. A favorable tax settlement would generally be recognized as a reduction in our effective tax rate in the period of resolution. Changes in tax laws and rates could affect recorded deferred tax assets and liabilities in the future. Other than those potential impacts, we do not believe there is a reasonable likelihood there will be a material change in the tax related balances or valuation allowances.

Defined benefit pension plans

Description

We sponsor four defined benefit pension plans that provide retirement benefits to certain team members. We also participate in a multi-employer plan that provides defined benefits to certain team members covered by collective bargaining agreements. Such plans are usually administered by a board of trustees composed of the management of the participating companies and labor representatives. We use independent third-party actuaries to assist us in determining our pension obligations and net periodic benefit cost. We and the actuaries review assumptions that include estimates of the present value of the projected future pension payment to all plan participants, taking into consideration the likelihood of potential future events such as salary increases and demographic experience. We accumulate and amortize the effect of actuarial gains and losses over future periods. Net periodic benefit cost for the defined benefit pension plans was \$10 million in fiscal 2022. The projected benefit obligation was \$183 million at the end of fiscal 2022. Unrecognized actuarial gain was \$13 million at the end of fiscal 2022. We currently expect net periodic benefit cost associated with our pension plans to be approximately \$6 million in fiscal 2023. We expect to contribute approximately \$13 million of cash to our pension plans in fiscal 2023. The exact amount of cash contributions made to pension plans in any year is dependent upon a number of factors, including minimum funding requirements.

Judgments and Uncertainties

Our defined benefit pension plans contain uncertainties due to assumptions required and judgments used. The key assumptions used in developing the required estimates include such factors as discount rates, expected returns on plan assets, retirement rates, and mortality. These assumptions can have a material impact upon the funded status and the net periodic benefit cost. The expected liquidation of certain plans has been considered along with these assumptions. The discount rates were determined using a cash flow matching technique whereby the rates of a yield curve, developed from high-quality debt securities, were applied to the benefit obligations to determine the appropriate discount rate. In determining the long-term rate of return on plan assets, we first examined historical rates of return for the various asset classes within the plans. We then determined a long-term projected rate-of-return based on expected returns. Investment, management and other fees paid out of plan assets are factored into the determination of asset return assumptions. Retirement rates are based primarily on actual plan experience, while standard actuarial tables are used to estimate mortality. It is reasonably likely that changes in external factors will result in changes to the assumptions used to measure pension obligations and net periodic benefit cost in future periods.

The risks of participating in multi-employer plans are different from single-employer plans. The net pension cost of the multi-employer plans is equal to the annual contribution determined in accordance with the provisions of negotiated labor contracts. Assets contributed to such plans are not segregated or otherwise restricted to provide benefits only to our team members. The future cost of these plans is dependent on a number of factors including the funded status of the plans and the ability of the other participating companies to meet ongoing funding obligations.

Effect if Actual Results Differ From Assumptions

We have not made any material changes in the accounting methodology used to establish our pension obligations and net periodic benefit cost during the past three fiscal years. We do not believe there is a reasonable likelihood there will be a material change in the estimates or assumptions used to calculate our pension obligations and net periodic benefit cost. However, if actual results are not consistent with our estimates or assumptions, they are accumulated and amortized over future periods and, therefore generally affect the net periodic benefit cost in future periods. A 1% change in the discount rate at October 1, 2022, would not have a significant impact on the projected benefit obligation or net periodic benefit cost. A 1% change in the return on plan assets at October 1, 2022, would not have a significant impact on net periodic benefit cost. The sensitivities reflect the impact of changing one assumption at a time with the remaining assumptions held constant. Economic factors and conditions often affect multiple assumptions simultaneously and the effect of changes in assumptions are not necessarily linear.

Impairment of goodwill and indefinite life intangible assets

Description

Goodwill is evaluated for impairment by first performing a qualitative assessment to determine whether a quantitative goodwill test is necessary. If it is determined, based on qualitative factors, the fair value of the reporting unit may be more likely than not less than its carrying amount or if significant changes to macro-economic factors related to the reporting unit have occurred that could materially impact fair value, a quantitative goodwill impairment test would be required. The quantitative test compares the fair value of a reporting unit with its carrying amount. Additionally, we can elect to forgo the qualitative assessment and perform the quantitative test. Upon performing the quantitative test, if the carrying value of the reporting unit exceeds its fair value, an impairment loss is recognized in an amount equal to that excess, not to exceed the carrying amount of goodwill.

For indefinite life intangible assets, a qualitative assessment can also be performed to determine whether the existence of events and circumstances indicates it is more likely than not an intangible asset is impaired. Similar to goodwill, we can also elect to forgo the qualitative test for indefinite life intangible assets and perform the quantitative test. Upon performing the quantitative test, if the carrying value of the intangible asset exceeds its fair value, an impairment loss is recognized in an amount equal to that excess.

We have elected to make the first day of the fourth quarter the annual impairment assessment date for goodwill and indefinite life intangible assets. However, we could be required to evaluate the recoverability of goodwill and indefinite life intangible assets outside of the required annual assessment if, among other things, we experience disruptions to the business, unexpected significant declines in operating results, divestiture of a significant component of the business or a sustained decline in market capitalization or significant changes in macro-economic factors such as increased interest and discount rates.

Judgments and Uncertainties

We estimate the fair value of our reporting units considering the use of various valuation techniques, with the primary technique being an income approach (discounted cash flow method) and another technique being a market approach (guideline public company method), which use significant unobservable inputs, or Level 3 inputs, as defined by the fair value hierarchy. We include assumptions about sales growth, operating margins, discount rates and valuation multiples which consider our budgets, business plans, economic projections and marketplace data, and are believed to reflect market participant views which would exist in an exit transaction. Assumptions are also made for varying perpetual growth rates for periods beyond the long-term business plan period. Generally, we utilize operating margin assumptions based on future expectations, operating margins historically realized in the reporting units' industries and industry marketplace valuation multiples. All of our material reporting units' estimated fair values exceeded their carrying values by more than 20% at the date of the most recent estimated fair value determination other than one Chicken segment reporting unit and two International reporting units.

One of our Chicken segment reporting units had goodwill at October 1, 2022 of \$0.6 billion. The reporting unit's projected operating margins included in the annual impairment test in fiscal 2022 averaged approximately 5%, which was consistent with the reporting unit's fiscal 2022 performance. Additionally, a hypothetical increase in the discount rate of approximately 100 basis points at the date of the 2022 test, with all other assumptions unchanged, would have caused the carrying value of this reporting unit to approximate its fair value.

Our International reporting units, which are presented in International/Other for segment presentation, had goodwill at October 1, 2022 of \$0.4 billion, which originated from acquisitions in fiscal 2019 and fiscal 2018. We generally assumed operating margins in future years would increase as we continue to integrate recent acquisitions and implement our international growth strategy, as we believe this is consistent with market participant views in an exit transaction. Had we assumed future operating margins consistent with those realized in the current fiscal year, two reporting units with goodwill totaling \$0.2 billion at October 1, 2022 would have failed the quantitative step of the annual impairment test, which may have resulted in a goodwill impairment loss. We are still integrating the recent acquisitions and investing in our international and global business strategy, in addition to managing through the temporary impacts of COVID-19. The reporting units' projected long-term operating margins included in the annual impairment test in fiscal 2022 had to exceed an average of 4% to achieve breakeven results in the analysis. A hypothetical increase in the discount rates of approximately 50 basis points, with all other assumptions unchanged, at the date of the test would have caused the carrying values of the International reporting units to approximate their fair values.

The fair value of our indefinite life intangible assets is calculated principally using multi-period excess earnings and relief-from-royalty valuation approaches, which uses significant unobservable inputs, or Level 3 inputs, as defined by the fair value hierarchy, and is believed to reflect market participant views which would exist in an exit transaction. Under these valuation approaches, we are required to make estimates and assumptions about sales growth, operating margins, royalty rates and discount rates based on budgets, business plans, economic projections, anticipated future cash flows and marketplace data.

Our impairment analysis contains uncertainties due to uncontrollable events and assumptions, many of which are outside the control of management, which could positively or negatively impact the anticipated future economic and operating conditions.

Effect if Actual Results Differ From Assumptions

We have not made material changes in the accounting methodology used to evaluate impairment of goodwill and intangible assets during the last three years. During fiscal 2022, 2021 and 2020, all of our material reporting units and indefinite life intangible assets passed the impairment analysis.

Our impairment analysis contains inherent estimates and assumptions, many of which are outside the control of management including interest rates, cost of capital, tax rates, market EBITDA comparables and credit ratings, which could positively or negatively impact the anticipated future economic and operating conditions. The assumptions and estimates used in determining fair value require considerable judgement and are sensitive to changes in underlying assumptions. These assumptions can change in future periods as a result of overall economic conditions, including the impacts of inflationary pressures, increased interest and discount rates and global supply chain constraints, amongst others. As a result, there can be no assurance that estimates and assumptions made for the purpose of assessing impairments will prove to be an accurate prediction of the future. Potential circumstances that could have a negative effect on the fair value of our reporting units include, but are not limited to, lower than forecasted growth rates or operating margins and changes in discount rates. A reduction in the estimated fair value of the reporting units could trigger an impairment in the future. We cannot predict the occurrence of certain events or changes in circumstances that might adversely affect the carrying value of our goodwill and indefinite lived assets.

All of our material reporting units' estimated fair value exceeded their carrying value by more than 20% at the date of their most recent estimated fair value determination, other than one Chicken segment reporting unit and two International reporting units. Consequently, we do not currently consider any of our other material reporting units at significant risk of impairment.

Our fiscal 2022, 2021, and 2020 indefinite life intangible assets impairment analyses did not result in an impairment charge. All indefinite life intangible assets' estimated fair value exceeded their carrying value by more than 20% at the date of their most recent estimated fair value determination. Consequently, we do not currently consider any of our material indefinite life intangible assets at significant risk of impairment.

We evaluated the changing macro-economic conditions that occurred in the fourth quarter subsequent to the date of our annual impairment assessment, including inflationary pressures, rising interest rates, demand outlook and export markets as well as the Company's decreased market capitalization. Based on this evaluation, we did not identify additional risk of our goodwill reporting units and indefinite life intangible assets in which estimated fair value did not exceed their carrying value by more than 20% as of October 1, 2022, other than the one Chicken segment reporting unit and two International reporting units previously described.

Impairment of long-lived assets and definite life intangibles

Description

Long-lived assets and definite life intangibles are evaluated for impairment whenever events or changes in circumstances indicate the carrying value may not be recoverable. Examples include a significant adverse change in the extent or manner in which we use the asset, a change in its physical condition, or an unexpected change in financial performance.

When evaluating long-lived assets and definite life intangibles for impairment, we compare the carrying value of the asset to the asset's estimated undiscounted future cash flows. An impairment is indicated if the estimated future cash flows are less than the carrying value of the asset group. For assets held for sale, we compare the carrying value of the disposal group to fair value. The impairment is the excess of the carrying value over the fair value of the asset.

We recorded impairment charges related to long-lived assets of \$34 million, \$60 million and \$48 million, in fiscal 2022, 2021 and 2020, respectively.

Judgments and Uncertainties

Our impairment analysis contains uncertainties due to judgment in assumptions, including useful lives and intended use of assets, observable market valuations, forecasted sales growth, operating margins, royalty rates and discount rates based on budgets, business plans, economic projections, anticipated future cash flows and marketplace data that reflects the risk inherent in future cash flows to determine fair value.

Effect if Actual Results Differ From Assumptions

We have not made any material changes in the accounting methodology used to evaluate the impairment of long-lived assets or definite life intangibles during the last three fiscal years. We do not believe there is a reasonable likelihood there will be a material change in the estimates or assumptions used to calculate impairments or useful lives of long-lived assets or definite life intangibles. However, if actual results are not consistent with our estimates and assumptions used to calculate estimated future cash flows, we may be exposed to impairment losses that could be material. We periodically conduct projects to strategically evaluate optimization of such items as network capacity, manufacturing efficiencies and business technology. If we have a significant change in strategies, outlook, or a manner in which we plan to use these assets, we may be exposed to future impairments.

Business Combinations

Description

We account for acquired businesses using the acquisition method of accounting, which requires that once control of a business is obtained, 100% of the assets acquired and liabilities assumed, including amounts attributed to noncontrolling interests, be recorded at the date of acquisition at their respective fair values. Any excess of the purchase price over the estimated fair values of the net assets acquired is recorded as goodwill.

We use various models to determine the value of assets acquired and liabilities assumed such as net realizable value to value inventory, cost method and market approach to value property, relief-from-royalty and multi-period excess earnings to value intangibles and discounted cash flow to value goodwill.

For significant acquisitions we may use independent third-party valuation specialists to assist us in determining the fair value of assets acquired and liabilities assumed.

Judgments and Uncertainties

Significant judgment is often required in estimating the fair value of assets acquired and liabilities assumed, particularly intangible assets. We make estimates and assumptions about projected future cash flows including sales growth, operating margins, attrition rates, and discount rates based on historical results, business plans, expected synergies, perceived risk and marketplace data considering the perspective of marketplace participants.

Determining the useful life of an intangible asset also requires judgment as different types of intangible assets will have different useful lives and certain assets may be considered to have indefinite useful lives.

Effect if Actual Results Differ From Assumptions

While management believes those expectations and assumptions are reasonable, they are inherently uncertain. Unanticipated market or macroeconomic events and circumstances may occur, which could affect the accuracy or validity of the estimates and assumptions, which could result in subsequent impairments. We had no material business combinations during fiscal 2022.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Market risk relating to our operations results primarily from changes in commodity prices, interest rates and foreign exchange rates, as well as credit risk concentrations. To address certain of these risks, we enter into various derivative transactions as described below. If a derivative instrument is accounted for as a hedge, depending on the nature of the hedge, changes in the fair value of the instrument either will be offset against the change in fair value of the hedged assets, liabilities or firm commitments through earnings, or be recognized in Other Comprehensive Income (Loss) until the hedged item is recognized in earnings. The ineffective portion of an instrument's change in fair value is recognized immediately.

Further, we hold certain positions, primarily in grain and livestock futures that either do not meet the criteria for hedge accounting or are not designated as hedges. With the exception of normal purchases and normal sales that are expected to result in physical delivery, we record these positions at fair value, and the unrealized gains and losses are reported in earnings at each reporting date.

The sensitivity analyses presented below are the measures of potential losses of fair value resulting from hypothetical changes in market prices related to commodities. Sensitivity analyses do not consider the actions we may take to mitigate our exposure to changes, nor do they consider the effects such hypothetical adverse changes may have on overall economic activity. Actual changes in market prices may differ from hypothetical changes.

COMMODITIES RISK

We purchase certain commodities, such as grains and livestock, during normal operations. As part of our commodity risk management activities, we use derivative financial instruments, primarily forwards and options, to reduce the effect of changing prices and as a mechanism to procure the underlying commodity. However, as the commodities underlying our derivative financial instruments can experience significant price fluctuations, any requirement to mark-to-market the positions that have not been designated or do not qualify as hedges could result in volatility in our results of operations. Contract terms of a hedge instrument closely mirror those of the hedged item providing a high degree of risk reduction and correlation. Contracts designated and highly effective at meeting this risk reduction and correlation criteria are recorded using hedge accounting. We generally do not hedge anticipated transactions beyond 18 months. The following table presents a sensitivity analysis resulting from a hypothetical change of 10% in market prices as of October 1, 2022 and October 2, 2021, on the fair value of open positions. The fair value of such positions is a summation of the fair values calculated for each commodity by valuing each net position at quoted forward and option prices. The market risk exposure analysis included both derivatives designated as hedge instruments and derivatives not designated as hedge instruments.

Effect of 10% change in fair value	in millions	
	2022	2021
Livestock:		
Live Cattle	\$ 14	\$ 42
Lean Hogs	30	38
Grain:		
Corn	40	24
Soybean Meal	25	26

INTEREST RATE RISK

At October 1, 2022, we had variable rate debt of \$2 million with a weighted average interest rate of 3.0%. A hypothetical 10% increase in interest rates effective at October 1, 2022, and October 2, 2021, would have a minimal effect on interest expense.

Additionally, changes in interest rates impact the fair value of our fixed-rate debt. At October 1, 2022, we had fixed-rate debt of \$8,319 million with a weighted average interest rate of 4.5%. Market risk for fixed-rate debt is estimated as the potential increase in fair value, resulting from a hypothetical 10% decrease in interest rates. A hypothetical 10% change in interest rates would have changed the fair value of our fixed-rate debt by approximately \$215 million at October 1, 2022, and \$154 million at October 2, 2021. The fair values of our debt were estimated based on quoted market prices and/or published interest rates.

We are subject to interest rate risk associated with our pension and post-retirement benefit obligations. Changes in interest rates impact the liabilities associated with these benefit plans as well as the amount of income or expense recognized for these plans. Declines in the value of the plan assets could diminish the funded status of the pension plans and potentially increase the requirements to make cash contributions to these plans. See Part II, Item 8, Notes to Consolidated Financial Statements, Note 15: Pensions and Other Postretirement Benefits for additional information.

FOREIGN CURRENCY RISK

We have foreign exchange exposure from fluctuations in foreign currency exchange rates primarily as a result of certain receivable and payable balances. The primary currencies we have exposure to are the Australian dollar, the Brazilian real, the British pound sterling, the Canadian dollar, the Chinese renminbi, the European euro, the Malaysian ringgit, the Mexican peso, and the Thai baht. We periodically enter into foreign exchange forward and option contracts to hedge some portion of our foreign currency exposure. A hypothetical 10% change in foreign exchange rates related to the foreign exchange forward and option contracts would have had a \$25 million and \$13 million impact on pretax income at October 1, 2022 and October 2, 2021, respectively.

CONCENTRATIONS OF CREDIT RISK

Our financial instruments exposed to concentrations of credit risk consist primarily of cash equivalents and trade receivables. Our cash equivalents are in high quality securities placed with major banks and financial institutions. Concentrations of credit risk with respect to receivables are limited due to our large number of customers and their dispersion across geographic areas. We perform periodic credit evaluations of our customers' financial condition and generally do not require collateral. At October 1, 2022 and October 2, 2021, 16.4% and 16.3%, respectively, of our net accounts receivable balance was due from Walmart Inc. No other single customer or customer group represented 10% or greater of net accounts receivable.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

TYSON FOODS, INC.
CONSOLIDATED STATEMENTS OF INCOME

	Three years ended October 1, 2022 in millions, except per share data					
	2022		2021		2020	
Sales	\$	53,282	\$	47,049	\$	43,185
Cost of Sales		46,614		40,523		37,801
Gross Profit		6,668		6,526		5,384
Selling, General and Administrative		2,258		2,130		2,376
Operating Income		4,410		4,396		3,008
Other (Income) Expense:						
Interest income		(17)		(8)		(10)
Interest expense		365		428		485
Other, net		(87)		(65)		(131)
Total Other (Income) Expense		261		355		344
Income before Income Taxes		4,149		4,041		2,664
Income Tax Expense		900		981		593
Net Income		3,249		3,060		2,071
Less: Net Income Attributable to Noncontrolling Interests		11		13		10
Net Income Attributable to Tyson	\$	3,238	\$	3,047	\$	2,061
Weighted Average Shares Outstanding:						
Class A Basic		290		293		293
Class B Basic		70		70		70
Diluted		363		365		365
Net Income Per Share Attributable to Tyson:						
Class A Basic	\$	9.18	\$	8.57	\$	5.79
Class B Basic	\$	8.25	\$	7.70	\$	5.21
Diluted	\$	8.92	\$	8.34	\$	5.64

See accompanying Notes to Consolidated Financial Statements.

TYSON FOODS, INC.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME

	Three years ended October 1, 2022		
	in millions		
	2022	2021	2020
Net Income	\$ 3,249	\$ 3,060	\$ 2,071
Other Comprehensive Income (Loss), Net of Taxes:			
Derivatives accounted for as cash flow hedges	1	2	9
Investments	(7)	(1)	1
Currency translation	(162)	17	(29)
Postretirement benefits	43	(11)	(43)
Total Other Comprehensive Income (Loss), Net of Taxes	(125)	7	(62)
Comprehensive Income	3,124	3,067	2,009
Less: Comprehensive Income Attributable to Noncontrolling Interests	11	13	10
Comprehensive Income Attributable to Tyson	\$ 3,113	\$ 3,054	\$ 1,999

See accompanying Notes to Consolidated Financial Statements.

TYSON FOODS, INC.
CONSOLIDATED BALANCE SHEETS

October 1, 2022, and October 2, 2021
in millions, except share and per share data
2022 2021

Assets			
Current Assets:			
Cash and cash equivalents	\$	1,031	\$ 2,507
Accounts receivable, net		2,577	2,400
Inventories		5,514	4,382
Other current assets		508	533
Total Current Assets		9,630	9,822
Net Property, Plant and Equipment		8,685	7,837
Goodwill		10,513	10,549
Intangible Assets, net		6,252	6,519
Other Assets		1,741	1,582
Total Assets	\$	36,821	\$ 36,309
Liabilities and Shareholders' Equity			
Current Liabilities:			
Current debt	\$	459	\$ 1,067
Accounts payable		2,483	2,225
Other current liabilities		2,371	3,033
Total Current Liabilities		5,313	6,325
Long-Term Debt		7,862	8,281
Deferred Income Taxes		2,458	2,195
Other Liabilities		1,377	1,654
Commitments and Contingencies (Note 20)			
Shareholders' Equity:			
Common stock (\$0.10 par value):			
Class A-authorized 900 million shares, issued 378 million shares		38	38
Convertible Class B-authorized 900 million shares, issued 70 million shares		7	7
Capital in excess of par value		4,553	4,486
Retained earnings		20,084	17,502
Accumulated other comprehensive gain (loss)		(297)	(172)
Treasury stock, at cost – 88 million shares at October 1, 2022 and 83 million shares at October 2, 2021		(4,683)	(4,138)
Total Tyson Shareholders' Equity		19,702	17,723
Noncontrolling Interests		109	131
Total Shareholders' Equity		19,811	17,854
Total Liabilities and Shareholders' Equity	\$	36,821	\$ 36,309

See accompanying Notes to Consolidated Financial Statements.

TYSON FOODS, INC.
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY

Three years ended October 1, 2022
in millions

	2022		2021		2020	
	Shares	Amount	Shares	Amount	Shares	Amount
Class A Common Stock:						
Balance at beginning and end of year	378	\$ 38	378	\$ 38	378	\$ 38
Class B Common Stock:						
Balance at beginning and end of year	70	7	70	7	70	7
Capital in Excess of Par Value:						
Balance at beginning of year		4,486		4,433		4,378
Stock-based compensation and Other		67		53		55
Balance at end of year		4,553		4,486		4,433
Retained Earnings:						
Balance at beginning of year		17,502		15,100		13,655
Net income attributable to Tyson		3,238		3,047		2,061
Dividends		(656)		(645)		(616)
Balance at end of year		20,084		17,502		15,100
Accumulated Other Comprehensive Income (Loss), Net of Tax:						
Balance at beginning of year		(172)		(179)		(117)
Other Comprehensive Income (Loss)		(125)		7		(62)
Balance at end of year		(297)		(172)		(179)
Treasury Stock:						
Balance at beginning of year	83	(4,138)	83	(4,145)	82	(4,011)
Purchase of Class A common stock	8	(702)	1	(67)	2	(207)
Stock-based compensation	(3)	157	(1)	74	(1)	73
Balance at end of year	88	(4,683)	83	(4,138)	83	(4,145)
Total Shareholders' Equity Attributable to Tyson		\$ 19,702		\$ 17,723		\$ 15,254
Equity Attributable to Noncontrolling Interests:						
Balance at beginning of year		\$ 131		\$ 132		\$ 144
Net income attributable to noncontrolling interests		11		13		10
Distributions to noncontrolling interest		(11)		(8)		(13)
Currency translation and other		(22)		(6)		(9)
Total Equity Attributable to Noncontrolling Interests		\$ 109		\$ 131		\$ 132
Total Shareholders' Equity		\$ 19,811		\$ 17,854		\$ 15,386

See accompanying Notes to Consolidated Financial Statements.

TYSON FOODS, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS

Three years ended October 1, 2022
in millions

	2022	2021	2020
Cash Flows From Operating Activities:			
Net income	\$ 3,249	\$ 3,060	\$ 2,071
Adjustments to reconcile net income to cash provided by operating activities:			
Depreciation	945	934	900
Amortization	257	280	292
Deferred income taxes	264	(125)	18
Gain on disposition of business	—	(784)	—
Impairment of assets	34	60	48
Stock-based compensation expense	93	91	89
Other, net	(51)	(57)	(124)
(Increase) decrease in accounts receivable	(176)	(508)	191
(Increase) decrease in inventories	(1,195)	(567)	86
Increase (decrease) in accounts payable	302	351	(64)
Increase (decrease) in income taxes payable/receivable	(580)	421	62
Increase (decrease) in interest payable	(13)	(5)	(41)
Net changes in other operating assets and liabilities	(442)	689	346
Cash Provided by Operating Activities	2,687	3,840	3,874
Cash Flows From Investing Activities:			
Additions to property, plant and equipment	(1,887)	(1,209)	(1,199)
Purchases of marketable securities	(35)	(72)	(105)
Proceeds from sale of marketable securities	34	70	87
Proceeds from sale of businesses	—	1,188	29
Acquisition of equity investments	(177)	(44)	(183)
Other, net	130	125	(52)
Cash Provided by (Used for) Investing Activities	(1,935)	58	(1,423)
Cash Flows From Financing Activities:			
Proceeds from issuance of debt	103	585	1,609
Payments on debt	(1,191)	(2,632)	(1,212)
Borrowings on revolving credit facility	—	—	1,210
Payments on revolving credit facility	—	—	(1,280)
Proceeds from issuance of commercial paper	—	—	14,272
Repayments of commercial paper	—	—	(15,271)
Purchases of Tyson Class A common stock	(702)	(67)	(207)
Dividends	(653)	(636)	(601)
Stock options exercised	126	41	30
Other, net	(6)	(22)	(18)
Cash Used for Financing Activities	(2,323)	(2,731)	(1,468)
Effect of Exchange Rate Change on Cash	(35)	4	(1)
(Decrease) Increase in Cash and Cash Equivalents and Restricted Cash	(1,606)	1,171	982
Cash and Cash Equivalents and Restricted Cash at Beginning of Year	2,637	1,466	484
Cash and Cash Equivalents and Restricted Cash at End of Year	1,031	2,637	1,466
Less: Restricted Cash at End of Year	—	130	46
Cash and Cash Equivalents at End of Year	\$ 1,031	\$ 2,507	\$ 1,420

See accompanying Notes to Consolidated Financial Statements.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
TYSON FOODS, INC.

NOTE 1: BUSINESS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Description of Business

Tyson Foods, Inc. (collectively, “Company,” “we,” “us” or “our”), is one of the world’s largest food companies and a recognized leader in protein. Founded in 1935 by John W. Tyson and grown under four generations of family leadership, the Company has a broad portfolio of products and brands including Tyson®, Jimmy Dean®, Hillshire Farm®, Ball Park®, Wright®, Aidells®, ibp® and State Fair®. We innovate continually to make protein more sustainable, tailor food for everywhere it’s available and raise the world’s expectations for how much good food can do.

Consolidation

The consolidated financial statements include the accounts of all wholly-owned subsidiaries, as well as majority-owned subsidiaries over which we exercise control and, when applicable, entities for which we have a controlling financial interest or variable interest entities for which we are the primary beneficiary. All significant intercompany accounts and transactions have been eliminated in consolidation.

Fiscal Year

We utilize a 52- or 53-week accounting period ending on the Saturday closest to September 30. The Company’s accounting cycle resulted in a 52-week year for fiscal 2022 and fiscal 2021 and a 53-week year for fiscal 2020.

Cash and Cash Equivalents

Cash equivalents consist of investments in short-term, highly liquid securities having original maturities of three months or less, which are made as part of our cash management activity. The carrying values of these assets approximate their fair values. We primarily utilize a cash management system with a series of separate accounts consisting of lockbox accounts for receiving cash, concentration accounts where funds are moved to, and several zero-balance disbursement accounts for funding payroll, accounts payable, livestock procurement, livestock grower payments, etc. As a result of our cash management system, checks issued, but not presented to the banks for payment, may result in negative book cash balances. These negative book cash balances are included in accounts payable and other current liabilities. Checks outstanding in excess of related book cash balances totaled approximately \$135 million and \$120 million at October 1, 2022, and October 2, 2021, respectively.

Accounts Receivable

We record accounts receivable at net realizable value. This value includes an appropriate allowance for estimated credit losses to reflect any loss anticipated on the accounts receivable balances and charged to the allowance for credit losses. We calculate this allowance based on our history of write-offs, future economic conditions, level of past due accounts, and relationships with and economic status of our customers. At October 1, 2022, and October 2, 2021, our allowance for credit losses was \$29 million and \$25 million, respectively. We generally do not have collateral for our receivables, but we do periodically evaluate the credit worthiness of our customers.

Inventories

Processed products, livestock and supplies and other are valued at the lower of cost or net realizable value. Cost includes purchased raw materials, live purchase costs, livestock growout costs (primarily feed, livestock grower pay and catch and haul costs), labor and manufacturing and production overhead, which are related to the purchase and production of inventories. In fiscal 2022 and fiscal 2021, the cost of inventories was determined by either the first-in, first-out (“FIFO”) method or the weighted-average method. The following table reflects the major components of inventory at October 1, 2022, and October 2, 2021 (in millions):

		2022		2021
Processed products	\$	3,188	\$	2,426
Livestock		1,454		1,215
Supplies and other		872		741
Total inventory	\$	5,514	\$	4,382

Property, Plant and Equipment

Property, plant and equipment are stated at cost and generally depreciated on a straight-line method over the estimated lives for buildings and leasehold improvements of 10 to 33 years, machinery and equipment of 3 to 12 years and land improvements and other of 3 to 20 years. Major repairs and maintenance costs that significantly extend the useful life of the related assets are capitalized. Normal repairs and maintenance costs are charged to operations. We review the carrying value of long-lived assets at each balance sheet date if indication of impairment exists. Recoverability is assessed using undiscounted cash flows based on historical results and current projections of earnings before interest, taxes, depreciation and amortization. We measure impairment as the excess of carrying value over the fair value of an asset group. The fair value of an asset group is generally measured using discounted cash flows including market participant assumptions of future operating results and discount rates.

Goodwill and Intangible Assets

Definite life intangibles are initially recorded at fair value and amortized over the estimated period of benefit. Brands and trademarks are generally amortized using the straight-line method over 20 years or less. Customer relationships and supply arrangements are generally amortized over 7 to 30 years based on the pattern of revenue expected to be generated from the use of the asset. The gross cost and accumulated amortization of intangible assets are removed when the recorded amounts are fully amortized and the asset is no longer in use or the contract has expired. Amortization expense is generally recognized in selling, general, and administrative expense. We review the carrying value of definite life intangibles at each balance sheet date if indication of impairment exists. Recoverability is assessed using undiscounted cash flows based on historical results and current projections of earnings before interest, taxes, depreciation and amortization. We measure impairment as the excess of carrying value over the fair value of the definite life intangible asset group. We use various valuation techniques to estimate fair value, with the primary techniques being discounted cash flows, relief-from-royalty and multi-period excess earnings valuation approaches, which use significant unobservable inputs, or Level 3 inputs, as defined by the fair value hierarchy. Under these valuation approaches, we are required to make estimates and assumptions about sales growth, operating margins, royalty rates and discount rates based on budgets, business plans, economic projections, anticipated future cash flows and marketplace data.

Goodwill and indefinite life intangible assets are initially recorded at fair value and not amortized, but are reviewed for impairment at least annually or more frequently if impairment indicators arise. Our goodwill is allocated by reporting unit and is evaluated for impairment by first performing a qualitative assessment to determine whether a quantitative goodwill test is necessary. If it is determined, based on qualitative factors, the fair value of the reporting unit may be more likely than not less than carrying amount, or if significant changes to macro-economic factors related to the reporting unit have occurred that could materially impact fair value, a quantitative goodwill impairment test would be required. Additionally, we can elect to forgo the qualitative assessment and perform the quantitative test. The quantitative test is to identify if a potential impairment exists by comparing the fair value of a reporting unit with its carrying amount, including goodwill. If the carrying amount of the reporting unit exceeds the fair value, an impairment loss is recognized in an amount equal to that excess, not to exceed the carrying amount of goodwill.

We estimate the fair value of our reporting units considering the use of various valuation techniques, with the primary technique being an income approach (discounted cash flow method), with another technique being a market approach (guideline public company method), which use significant unobservable inputs, or Level 3 inputs, as defined by the fair value hierarchy. We include assumptions about sales growth, operating margins, discount rates and valuations multiples which consider our budgets, business plans, economic projections and marketplace data, and are believed to reflect market participant views which would exist in an exit transaction. Assumptions are also made for varying perpetual growth rates for periods beyond the long-term business plan period. Generally, we utilize operating margin assumptions based on future expectations, operating margins historically realized in the reporting units' industries and industry marketplace valuation multiples.

Some of the inherent estimates and assumptions used in determining fair value of the reporting units are outside the control of management, including interest rates, cost of capital, tax rates, market EBITDA comparables and credit ratings. While we believe we have made reasonable estimates and assumptions to calculate the fair value of the reporting units, it is possible a material change could occur. If our actual results are not consistent with our estimates and assumptions used to calculate fair value, it could result in additional material impairments of our goodwill.

During fiscal 2022, 2021 and 2020, we determined none of our material reporting units' fair values were below its carrying value. All of our material reporting units' estimated fair value exceeded their carrying value by more than 20% at the date of their most recent estimated fair value determination, other than one of our Chicken segment reporting units and two of our International reporting units with goodwill totaling \$0.6 billion and \$0.2 billion, respectively, at October 1, 2022.

For our indefinite life intangible assets, a qualitative assessment can also be performed to determine whether the existence of events and circumstances indicates it is more likely than not an intangible asset is impaired. Similar to goodwill, we can also elect to forgo the qualitative test for indefinite life intangible assets and perform the quantitative test. Upon performing the quantitative test, if the carrying value of the intangible asset exceeds its fair value, an impairment loss is recognized in an amount equal to that excess.

The fair value of our indefinite life intangible assets is calculated principally using multi-period excess earnings and relief-from-royalty valuation approaches, which use significant unobservable inputs, or Level 3 inputs, as defined by the fair value hierarchy, and is believed to reflect market participant views which would exist in an exit transaction. Under these valuation approaches, we are required to make estimates and assumptions about sales growth, operating margins, royalty rates and discount rates based on budgets, business plans, economic projections, anticipated future cash flows and marketplace data. During fiscal 2022, 2021 and 2020, we determined the fair value of each of our indefinite life intangible assets exceeded its carrying value. All of our indefinite life intangible assets' estimated fair value exceeded their carrying value by more than 20% at the date of their most recent estimated fair value determination.

Leases

We determine if an agreement is or contains a lease at its inception by evaluating if an identified asset exists that we control for a period of time. When a lease exists, we classify it as a finance or operating lease and record a right-of-use (“ROU”) asset and a corresponding lease liability at lease commencement. We have elected to not record leases with a term of 12 months or less in our Consolidated Balance Sheets, and accordingly, lease expense for these short-term leases is recognized on a straight-line basis over the lease term. Finance lease assets are presented within Net Property, Plant and Equipment, and finance lease liabilities are presented within Current and Long-Term Debt in our Consolidated Balance Sheets. Finance lease disclosures are omitted as they are deemed immaterial. Operating ROU assets are presented within Other Assets, and operating lease liabilities are recorded within Other current liabilities and Other Liabilities in our Consolidated Balance Sheets. Lease assets are subject to review for impairment within the related long-lived asset group.

ROU assets are presented in our Consolidated Balance Sheets based on the present value of the corresponding liabilities and are adjusted for any prepayments, lease incentives received or initial direct costs incurred. The measurement of our ROU assets and liabilities includes all fixed payments and any variable payments based on an index or rate. Variable lease payments which do not depend on an index, or where rates are unknown, are excluded from lease payments in the measurement of the ROU asset and lease liability, and accordingly, are recognized as lease expense in the period the obligation for those payments is incurred. The present value of lease payments is based on our incremental borrowing rate according to the lease term and information available at the lease commencement date, as our lease arrangements generally do not provide an implicit interest rate. The incremental borrowing rate is derived using a hypothetically-collateralized borrowing cost, based on our revolving credit facility, plus a country risk factor, where applicable. We consider our credit rating and the current economic environment in determining the collateralized rate.

Our lease arrangements can include fixed or variable non-lease components, such as common area maintenance, taxes and labor. We account for each lease and any non-lease components associated with that lease as a single lease component for all asset classes, except production and livestock grower asset classes embedded in service and supply agreements, and other asset classes that include significant maintenance or service components. We account for lease and non-lease components of an agreement separately based on relative stand-alone prices either observable or estimated if observable prices are not readily available. For asset classes where an election was made not to separate lease and non-lease components, all costs associated with a lease contract are disclosed as lease costs. The accounting for some of the Company's leases may require significant judgment when determining whether a contract is or contains a lease, the lease term, and the likelihood of exercising renewal or termination options. Our leases can include options to extend or terminate use of the underlying assets. These options are included in the lease term used to determine ROU assets and corresponding liabilities when we are reasonably certain we will exercise the option. Additionally, certain leases can have residual value guarantees, which are included within our operating lease liabilities when considered probable. Our lease agreements do not include significant restrictions or covenants.

Recognition, measurement and presentation of expenses and cash flows arising from a lease will depend on classification as a finance or operating lease. Operating lease expense is recognized on a straight-line basis over the lease term, whereas the amortization of finance lease assets is recognized on a straight-line basis over the shorter of the estimated useful life of the underlying asset or the lease term. Operating lease expense and finance lease amortization are presented in Cost of Sales or Selling, General and Administrative in our Consolidated Statements of Income depending on the nature of the leased item. Interest expense on finance lease obligations is recorded over the lease term and is presented in Interest expense, based on the effective interest method. All operating lease cash payments and interest on finance leases are presented within Cash flows from operating activities and all finance lease principal payments are presented within cash flows from financing activities in our Consolidated Statements of Cash Flows.

Investments

We have investments in joint ventures and other entities. The equity method of accounting is used for entities in which we exercise significant influence but do not have a controlling interest or a variable interest in which we are the primary beneficiary. Under the equity method of accounting, the initial investment is recorded at cost and the investment is subsequently adjusted for its proportionate share of earnings or losses and dividends, including consideration of basis differences resulting from the difference between the initial carrying amount of the investment and the underlying equity in net assets, as applicable. Equity method investments totaled \$477 million and \$350 million at October 1, 2022 and October 2, 2021, respectively.

Investments not accounted for using the equity method do not have readily determinable fair values and do not qualify for the practical expedient to measure the investment using a net asset value per share. These investments are recorded using the measurement alternative in which our equity interests are recorded at cost, less impairments, adjusted for observable price changes in orderly transactions for an identical or similar investment of the same issuer. At each reporting period, we assess if these investments continue to qualify for this measurement alternative. An impairment is recorded when there is evidence that the expected fair value of the investment has declined to below the recorded cost. Adjustments to the carrying value are recorded in Other, net in the Consolidated Statements of Income. Investments in joint ventures and other entities are reported in the Consolidated Balance Sheets in Other Assets.

We also have investments in marketable debt securities. We have determined all of our marketable debt securities are available-for-sale investments. These investments are reported at fair value based on quoted market prices as of the balance sheet date, with unrealized gains and losses, net of tax, recorded in other comprehensive income.

The amortized cost of debt securities is adjusted for amortization of premiums and accretion of discounts to maturity. Such amortization is recorded in interest income. The cost of securities sold is based on the specific identification method. Realized gains and losses on the sale of debt securities and declines in value due to credit-related factors are recorded on a net basis in other income. Interest and dividends on securities classified as available-for-sale are recorded in interest income.

Accrued Self-Insurance

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

Other Current Liabilities

Other current liabilities at October 1, 2022, and October 2, 2021, include (in millions):

		2022		2021
Accrued salaries, wages and benefits	\$	995	\$	897
Taxes payable		277		729
Accrued current legal contingencies (a)		215		567
Other		884		840
Total other current liabilities	\$	2,371	\$	3,033

(a) \$127 million of funds held in an escrow account for litigation settlements were included as restricted cash within Other current assets in the Consolidated Balance Sheet as of October 2, 2021 and no funds were held in the escrow account as of October 1, 2022.

Defined Benefit Plans

We recognize the funded status of defined pension and postretirement plans in the Consolidated Balance Sheets. The funded status is measured as the difference between the fair value of the plan assets and the benefit obligation. We measure our plan assets and liabilities at the end of our fiscal year. For a defined benefit pension plan, the benefit obligation is the projected benefit obligation; for any other defined benefit postretirement plan, such as a retiree health care plan, the benefit obligation is the accumulated postretirement benefit obligation. Any overfunded status is recognized as an asset and any underfunded status is recognized as a liability. Any transitional asset/liability, prior service cost or actuarial gain/loss that has not yet been recognized as a component of net periodic cost is recognized in accumulated other comprehensive income. Accumulated other comprehensive income will be adjusted as these amounts are subsequently recognized as a component of net periodic benefit costs in future periods.

Derivative Financial Instruments

We purchase certain commodities, such as grains and livestock, during normal operations. As part of our commodity risk management activities, we use derivative financial instruments, primarily futures and options, to reduce our exposure to various market risks related to these purchases, as well as to changes in foreign currency exchange and interest rates. Contract terms of a financial instrument qualifying as a hedge instrument closely mirror those of the hedged item, providing a high degree of risk reduction and correlation. Contracts designated and highly effective at meeting risk reduction and correlation criteria are recorded using hedge accounting. If a derivative instrument is accounted for as a hedge, depending on the nature of the hedge, changes in the fair value of the instrument either will be offset against the change in fair value of the hedged assets, liabilities or firm commitments through earnings, or be recognized in Other Comprehensive Income (Loss) until the hedged item is recognized in earnings. The ineffective portion of an instrument's change in fair value is recognized immediately. Instruments we hold as part of our risk management activities that do not meet the criteria for hedge accounting are marked to fair value with unrealized gains or losses reported currently in earnings. Changes in market value of derivatives used in our risk management activities relating to inputs of forward sales contracts are recorded in Cost of Sales. Changes in market value of derivatives used in our risk management activities surrounding inventories on hand or anticipated purchases of inventories are recorded in Cost of Sales. Changes in market value of derivatives used in our risk management activities related to interest rates are recorded in Interest expense. Changes in the market value of derivatives used in our risk management activities related to foreign exchange contracts are recorded in Other, net. We generally do not hedge anticipated transactions beyond 18 months.

Litigation Accruals

There are a variety of legal proceedings pending or threatened against us. Accruals are recorded when it is probable a liability has been incurred and the amount of the liability can be reasonably estimated based on current law, progress of each case, opinions and views of legal counsel and other advisers, our experience in similar matters and intended response to the litigation. These amounts, which are not discounted and are exclusive of claims against third parties, are adjusted periodically as assessment efforts progress or additional information becomes available. We expense amounts for administering or litigating claims as incurred. Accruals for legal proceedings are included in Other current liabilities in the Consolidated Balance Sheets.

Revenue Recognition

We recognize revenue mainly through retail, foodservice, international, industrial and other distribution channels. Our revenues primarily result from contracts with customers and are generally short term in nature with the delivery of product as the single performance obligation. We recognize revenue for the sale of the product at the point in time when our performance obligation has been satisfied and control of the product has transferred to our customer, which generally occurs upon shipment or delivery to a customer based on terms of the sale. We elected to account for shipping and handling activities that occur after the customer has obtained control of the product as a fulfillment cost rather than an additional promised service. Our contracts are generally less than one year, and therefore we recognize costs paid to third party brokers to obtain contracts as expenses. Additionally, items that are not material in the context of the contract are recognized as expense. Any taxes collected on behalf of government authorities are excluded from net revenues.

Revenue is measured by the transaction price, which is defined as the amount of consideration we expect to receive in exchange for providing goods to customers. The transaction price is adjusted for estimates of known or expected variable consideration, which includes consumer incentives, trade promotions, and allowances, such as coupons, discounts, rebates, volume-based incentives, cooperative advertising, and other programs. Variable consideration related to these programs is recorded as a reduction to revenue based on amounts we expect to pay. We base these estimates on current performance, historical utilization, and projected redemption rates of each program. We review and update these estimates regularly until the incentives or product returns are realized and the impact of any adjustments are recognized in the period the adjustments are identified. In many cases, key sales terms such as pricing and quantities ordered are established on a regular basis such that most customer arrangements and related incentives have a duration of less than one year. Amounts billed and due from customers are short term in nature and are classified as receivables since payments are unconditional and only the passage of time is required before payments are due. Additionally, we do not grant payment financing terms greater than one year. Freight expense associated with products shipped to customers is recognized in cost of sales.

Advertising Expenses

Advertising expense is charged to operations in the period incurred and is recorded as selling, general and administrative expense. Advertising expense totaled \$283 million, \$246 million, and \$283 million in fiscal 2022, 2021 and 2020, respectively.

Research and Development

Research and development costs are expensed as incurred. Research and development costs totaled \$108 million, \$114 million, \$98 million in fiscal 2022, 2021 and 2020, respectively.

Business Combinations

We account for acquired businesses using the acquisition method of accounting, which requires that once control of a business is obtained, 100% of the assets acquired and liabilities assumed, including amounts attributable to noncontrolling interests, be recorded at the date of acquisition at their respective fair values. Any excess of the purchase price over the estimated fair values of the net assets acquired is recorded as goodwill. Acquisition-related expenses including transaction and integration costs are expensed as incurred.

We use various models to determine the value of assets acquired such as net realizable value to value inventory, cost method and market approach to value property, relief-from-royalty and multi-period excess earnings to value intangibles, and discounted cash flow to value goodwill. We make estimates and assumptions about projected future cash flows including sales growth, operating margins, attrition rates, and discount rates based on historical results, business plans, expected synergies, perceived risk, and market place data considering the perspective of marketplace participants. Determining the useful life of an intangible asset also requires judgment as different types of intangible assets will have different useful lives and certain assets may be considered to have indefinite useful lives.

Use of Estimates

The consolidated financial statements are prepared in conformity with accounting principles generally accepted in the United States, which require us to make estimates and assumptions that affect the amounts reported in the consolidated financial statements and accompanying notes. Actual results could differ from those estimates.

Recently Issued Accounting Pronouncements

In September 2022, the FASB issued guidance that requires additional disclosures for supplier finance programs to allow users to better understand the nature, activity and potential magnitude of the programs. The guidance, except for a requirement for rollforward information, is effective for annual reporting periods and interim periods within those annual reporting periods beginning after December 15, 2022, our fiscal 2024. Disclosure of rollforward information is effective for fiscal years after December 15, 2023, our fiscal 2025. Early adoption is permitted and the retrospective transition method should be applied for all amendments except rollforward information, which should be applied prospectively. We are currently evaluating the impact this guidance will have on our consolidated financial statements.

In March 2020, the FASB issued guidance providing optional expedients and exceptions to account for the effects of reference rate reform to contracts, hedging relationships, and other transactions that reference LIBOR or another reference rate expected to be discontinued. The optional guidance, which became effective on March 12, 2020 and can be applied through December 31, 2022, has not impacted our consolidated financial statements. The Company has various contracts that reference LIBOR and is assessing how this standard may be applied to specific contract modifications through December 31, 2022.

NOTE 2: CHANGES IN ACCOUNTING PRINCIPLES

In August 2020, the FASB issued guidance that simplifies the accounting for debt with conversion options, revises the criteria for applying the derivative scope exception for contracts in an entity's own equity and improves the consistency for the calculation of earnings per share. The guidance is effective for annual reporting periods and interim periods within those annual reporting periods beginning after December 15, 2021, our fiscal 2023. Early adoption is permitted for annual periods and interim periods within those annual periods beginning after December 15, 2020, our fiscal 2022. We elected to early adopt this guidance beginning in the first quarter of fiscal 2022 and it did not have an impact on our consolidated financial statements.

In December 2019, the FASB issued guidance that simplifies the accounting for income taxes by removing certain exceptions to general principles in Topic 740 and clarifies other general principles by adding certain requirements to Topic 740. The guidance is effective for annual reporting periods and interim periods within those annual reporting periods beginning after December 15, 2020, our fiscal 2022. We adopted this guidance in the first quarter of fiscal 2022 and it did not have an impact on our consolidated financial statements.

NOTE 3: ACQUISITIONS AND DISPOSITIONS

Acquisitions

In the fourth quarter of fiscal 2022, we acquired a 35% minority interest in a South American-based fully integrated poultry company for approximately \$100 million. We are accounting for the investment under the equity method.

On November 1, 2022, we completed the acquisition of a Saudi Arabia-based Tanmiah Food Company, through which we will acquire a 60% equity stake in Supreme Foods Processing Company, a producer and distributor of value-added and cooked chicken and beef products, and a 15% equity stake in Agricultural Development Company, a fully integrated poultry company, for a total purchase price of approximately \$70 million.

In the third quarter of fiscal 2021, we acquired a 49% minority interest in a Malaysian producer of feed and poultry products for \$44 million in addition to future contingent payments of up to approximately \$65 million. We are accounting for the investment under the equity method.

On January 15, 2020, we acquired a 40% minority interest in a vertically-integrated Brazilian poultry producer for \$122 million. On February 7, 2020, we acquired a 50% interest in a joint venture serving the worldwide fats and oils market for \$61 million. We are accounting for both of these investments under the equity method.

Dispositions

We completed the sale of our pet treats business, which was included in our Prepared Foods segment, on July 6, 2021 for \$1.2 billion, subject to certain adjustments. As a result of the sale, we recorded a pretax gain of \$784 million, or post tax gain of \$510 million, which was reflected in Cost of Sales in our Consolidated Statement of Income for our fiscal 2021. The business had a net carrying value of \$411 million which included \$44 million of working capital consisting of inventory, accounts receivable and accounts payable, \$17 million of property, plant and equipment and \$350 million of goodwill. The goodwill was not deductible for tax purposes. The Company concluded the business was not a significant disposal and did not represent a strategic shift, and therefore was not classified as a discontinued operation for any of the periods presented.

NOTE 4: PROPERTY, PLANT AND EQUIPMENT

The following table reflects major categories of property, plant and equipment and accumulated depreciation at October 1, 2022, and October 2, 2021 (in millions):

		2022		2021
Land	\$	214	\$	210
Building and leasehold improvements		5,742		5,370
Machinery and equipment		9,960		9,507
Land improvements and other		516		453
Buildings and equipment under construction		1,461		976
		17,893		16,516
Less accumulated depreciation		9,208		8,679
Net property, plant and equipment	\$	8,685	\$	7,837

NOTE 5: GOODWILL AND INTANGIBLE ASSETS

The following table reflects goodwill activity for fiscal 2022 and 2021 (in millions):

		Beef		Pork		Chicken		Prepared Foods		International/Other		Unallocated		Consolidated
Balance at October 3, 2020 ^(a)	\$	676	\$	423	\$	3,274	\$	6,134	\$	392	\$	—	\$	10,899
Fiscal 2021 Activity:														
Sale of pet treats business		—		—		—		(350)		—		—		(350)
Balance at October 2, 2021 ^(a)	\$	676	\$	423	\$	3,274	\$	5,784	\$	392	\$	—	\$	10,549
Fiscal 2022 Activity:														
Currency translation		—		—		(1)		—		(35)		—		(36)
Balance at October 1, 2022 ^(a)	\$	676	\$	423	\$	3,273	\$	5,784	\$	357	\$	—	\$	10,513

(a) Included in goodwill as of October 1, 2022, October 2, 2021 and October 3, 2020, are accumulated impairment losses of \$560 million in Beef and \$57 million in International/Other.

The following table reflects intangible assets by type at October 1, 2022, and October 2, 2021 (in millions):

		2022		2021
Amortizable intangible assets:				
Brands and trademarks	\$	951	\$	951
Customer relationships		2,371		2,390
Supply arrangements		310		310
Patents, intellectual property and other		45		44
Land use rights		9		12
Total gross amortizable intangible assets	\$	3,686	\$	3,707
Less accumulated amortization		1,512		1,266
Total net amortizable intangible assets	\$	2,174	\$	2,441
Brands and trademarks not subject to amortization		4,078		4,078
Total intangible assets	\$	6,252	\$	6,519

Amortization expense of \$246 million, \$261 million and \$278 million was recognized during fiscal 2022, 2021 and 2020, respectively. We estimate amortization expense on intangible assets for the next five fiscal years subsequent to October 1, 2022, will be: 2023 - \$227 million; 2024 - \$221 million; 2025 - \$212 million; 2026 - \$206 million; 2027 - \$194 million.

NOTE 6: LEASES

We lease certain equipment, buildings and land related to transportation, distribution, storage, production, livestock grower assets and office activities. These lease arrangements can be structured as a standard lease agreement or embedded in a service or supply agreement and are primarily classified as operating leases. For further description of our lease accounting policy, refer to Note 1: Business and Summary of Significant Accounting Policies. Operating lease ROU assets and liabilities presented in our Consolidated Balance Sheets were as follows (in millions):

	October 1, 2022	October 2, 2021
Other Assets	\$ 507	\$ 531
Other current liabilities	145	155
Other Liabilities	350	368

The components of lease costs were as follows (in millions):

	Twelve Months Ended	
	October 1, 2022	October 2, 2021
Operating lease cost ^(a)	\$ 175	\$ 183
Variable lease cost ^(b)	508	473
Short-term lease cost	30	33
Total	\$ 713	\$ 689

(a) Sublease income is immaterial and not deducted from operating lease cost.

(b) Variable lease costs are determined based on volume of output received, flocks placed or other performance metrics.

Other operating lease information includes the following:

	Twelve Months Ended	
	October 1, 2022	October 2, 2021
Operating cash outflows from operating leases (in millions)	\$ 194	\$ 204
ROU assets obtained in exchange for new operating lease liabilities (in millions)	\$ 159	\$ 197
Weighted-average remaining lease term	5 years	5 years
Weighted-average discount rate	3 %	2 %

At October 1, 2022, future maturities of operating leases were as follows (in millions):

	Operating Lease Commitments
2023	\$ 154
2024	121
2025	92
2026	66
2027	41
2028 and beyond	53
Total undiscounted operating lease payments	\$ 527
Less: Imputed interest	32
Present value of total operating lease liabilities	\$ 495

At October 1, 2022, our leases that had not yet commenced were not significant.

NOTE 7: RESTRUCTURING AND RELATED CHARGES

2022 Program

In the fourth quarter of fiscal 2022, the Company approved a restructuring program (the “2022 Program”), which is expected to improve business performance, increase collaboration, enhance team member agility, enable faster decision-making and reduce redundancies. In conjunction with the 2022 Program, the Company plans to bring together all its corporate team members from the Chicago, Downers Grove and Dakota Dunes area corporate locations to its world headquarters in Springdale, Arkansas, through a phased relocation commencing in early calendar year 2023. We anticipate the 2022 Program and associated expenses will be substantially complete in our fiscal 2025. The following table reflects the total pretax anticipated expenses associated with the 2022 Program (in millions):

	Beef	Pork	Chicken	Prepared Foods	International/Other	Total
Severance costs	\$ 24	\$ 9	\$ 7	\$ 52	\$ 8	100
Relocation and related costs	37	16	—	63	1	117
Accelerated depreciation	9	4	1	18	—	32
Contract and lease terminations	—	—	—	31	—	31
Professional and other fees	4	1	—	7	1	13
Total 2022 Program	\$ 74	\$ 30	\$ 8	\$ 171	\$ 10	293

Restructuring costs include severance expenses, and related charges include costs directly associated with the 2022 Program such as relocation, contract and lease terminations, professional fees and accelerated depreciation resulting from the closure of facilities. We anticipate that \$50 million and \$243 million of the total pretax anticipated expense will be recorded in Cost of Sales and Selling, General and Administrative, respectively, in our Consolidated Statements of Income. Included in the table above are \$264 million of charges that have resulted or will result in cash outflows and \$29 million in non-cash charges.

The following table reflects the pretax impact of the 2022 Program's restructuring and related charges during fiscal 2022, which is also the cumulative costs since the inception of the plan, by reportable segment (in millions):

	Beef	Pork	Chicken	Prepared Foods	International/Other	Total
Severance costs	\$ 16	\$ 5	\$ 6	\$ 36	\$ 3	66
Relocation and related costs	—	—	—	—	—	—
Accelerated depreciation	—	—	—	—	—	—
Contract and lease terminations	—	—	—	—	—	—
Professional and other fees	—	—	—	—	—	—
Total 2022 Program charges to date	\$ 16	\$ 5	\$ 6	\$ 36	\$ 3	66

During fiscal 2022, we recorded restructuring and related charges associated with the 2022 Program of \$18 million and \$48 million in Cost of Sales and Selling, General and Administrative, respectively, in our Consolidated Statements of Income. Included in the above results are \$66 million of charges that have resulted or will result in cash outflows and no non-cash charges.

The following table reflects our liability related to the 2022 Program, which was recognized in other current liabilities in our Consolidated Balance sheet as of October 1, 2022 (in millions):

	Balance as of October 2, 2021	Restructuring Expense	Payments	Changes in Estimates	Balance at October 1, 2022
Severance costs	\$ —	\$ 66	\$ —	\$ —	\$ 66
Relocation and related costs	—	—	—	—	—
Contract and lease terminations	—	—	—	—	—
Professional and other fees	—	—	—	—	—
Total	\$ —	\$ 66	\$ —	\$ —	\$ 66

2020 Program

In the first quarter of fiscal 2020, the Company approved a restructuring program (the "2020 Program") to contribute to the Company's overall strategy of financial fitness through the elimination of overhead and consolidation of certain enterprise functions. We recognized \$60 million of cumulative pretax charges in fiscal 2020 associated with the 2020 Program consisting of severance and employee related costs. The 2020 Program was completed in fiscal 2022, and there was no significant activity in fiscal 2022 or fiscal 2021 and no remaining liabilities associated with this plan.

As the Company continues to evaluate its business strategies and long-term growth targets, additional restructuring activities may occur.

NOTE 8: DEBT

The following table reflects major components of debt as of October 1, 2022, and October 2, 2021 (in millions):

	2022	2021
Revolving credit facility	\$ —	\$ —
Commercial Paper	—	—
Senior notes:		
4.50% Senior notes due June 2022	—	1,000
3.90% Notes due September 2023	400	400
3.95% Notes due August 2024	1,250	1,250
4.00% Notes due March 2026 (“2026 Notes”)	800	800
3.55% Notes due June 2027	1,350	1,350
7.00% Notes due January 2028	18	18
4.35% Notes due March 2029 (“2029 Notes”)	1,000	1,000
6.13% Notes due November 2032	160	160
4.88% Notes due August 2034	500	500
5.15% Notes due August 2044	500	500
4.55% Notes due June 2047	750	750
5.10% Notes due September 2048 (“2048 Notes”)	1,500	1,500
Discount on senior notes	(39)	(42)
Other	175	212
Unamortized debt issuance costs	(43)	(50)
Total debt	8,321	9,348
Less current debt	459	1,067
Total long-term debt	\$ 7,862	\$ 8,281

Annual maturities of debt for the five fiscal years subsequent to October 1, 2022 are: 2023 - \$467 million; 2024 - \$1,282 million; 2025 - \$20 million; 2026 - \$812 million; 2027 - \$1,354 million.

Revolving Credit Facility and Letters of Credit

We have a \$2.25 billion revolving credit facility that supports short-term funding needs and serves as a backstop to our commercial paper program. The facility will mature and the commitments thereunder will terminate in September 2026 with options for two one-year extensions. At October 1, 2022, amounts available for borrowing under this facility totaled \$2.25 billion and we had no borrowings and no outstanding letters of credit issued under this facility. At October 1, 2022 we had \$97 million of bilateral letters of credit issued separately from the revolving credit facility, none of which were drawn upon. Our letters of credit are issued primarily in support of workers’ compensation insurance programs and other legal obligations. In the future, if any of our subsidiaries shall guarantee any of our material indebtedness, such subsidiary shall be required to guarantee the indebtedness, obligations and liabilities under this facility. In November 2022, we entered into an amendment to change the reference rate from the London interbank offered rate (commonly referred to as LIBOR) to a rate based on the secured overnight financing rate (commonly referred to as SOFR).

Commercial Paper Program

We have a commercial paper program under which we may issue unsecured short-term promissory notes up to an aggregate maximum principal amount of \$1.5 billion. As of October 1, 2022, we had no commercial paper outstanding. Our ability to access commercial paper in the future may be limited or its costs increased.

June 2022 Notes

On March 15, 2022, we redeemed the \$1 billion outstanding balance of the Senior Notes due June 2022 using cash on hand.

Debt Covenants

Our revolving credit facility contains affirmative and negative covenants that, among other things, may limit or restrict our ability to: create liens and encumbrances; incur debt; merge, dissolve, liquidate or consolidate; make acquisitions and investments; dispose of or transfer assets; change the nature of our business; engage in certain transactions with affiliates; and enter into hedging transactions, in each case, subject to certain qualifications and exceptions. In addition, we are required to maintain a minimum interest expense coverage ratio.

Our senior notes also contain affirmative and negative covenants that, among other things, may limit or restrict our ability to: create liens; engage in certain sale/leaseback transactions; and engage in certain consolidations, mergers and sales of assets.

We were in compliance with all debt covenants at October 1, 2022.

NOTE 9: EQUITY

Capital Stock

We have two classes of capital stock, Class A Common stock, \$0.10 par value ("Class A stock") and Class B Common Stock, \$0.10 par value ("Class B stock"). Holders of Class B stock may convert such stock into Class A stock on a share-for-share basis. Holders of Class B stock are entitled to 10 votes per share, while holders of Class A stock are entitled to one vote per share on matters submitted to shareholders for approval. As of October 1, 2022, TLP owned 99.985% of the outstanding shares of Class B stock and the TLP and members of the Tyson family owned, in the aggregate, 2.27% of the outstanding shares of Class A stock, giving them, collectively, control of approximately 71.15% of the total voting power of the outstanding voting stock.

The Class B stock is considered a participating security requiring the use of the two-class method for the computation of basic earnings per share. The two-class computation method for each period reflects the cash dividends paid for each class of stock, plus the amount of allocated undistributed earnings (losses) computed using the participation percentage, which reflects the dividend rights of each class of stock. Basic earnings per share were computed using the two-class method for all periods presented. The shares of Class B stock are considered to be participating convertible securities since the shares of Class B stock are convertible on a share-for-share basis into shares of Class A stock. Diluted earnings per share were computed assuming the conversion of the Class B shares into Class A shares as of the beginning of each period.

Dividends

Cash dividends cannot be paid to holders of Class B stock unless they are simultaneously paid to holders of Class A stock. The per share amount of the cash dividend paid to holders of Class B stock cannot exceed 90% of the cash dividend simultaneously paid to holders of Class A stock. We pay quarterly cash dividends to Class A and Class B shareholders. We paid Class A dividends per share of \$1.84, \$1.78, and \$1.68 in fiscal 2022, 2021, and 2020, respectively. We paid Class B dividends per share of \$1.66, \$1.60, and \$1.51 in fiscal 2022, 2021, and 2020, respectively. Effective November 11, 2022, the Board of Directors increased the quarterly dividend previously declared on August 11, 2022, to \$0.48 per share on our Class A stock and \$0.432 per share on our Class B stock. The increased quarterly dividend is payable on December 15, 2022, to shareholders of record at the close of business on December 1, 2022.

Share Repurchases

As of October 1, 2022, 12.0 million shares remained available for repurchase under the Company's share repurchase program. The program has no fixed or scheduled termination date and the timing and extent to which we repurchase shares will depend upon, among other things, our working capital needs, markets, industry conditions, liquidity targets, limitations under our debt obligations and regulatory requirements. In addition to the share repurchase program, we purchase shares on the open market to fund certain obligations under our equity compensation plans.

A summary of cumulative share repurchases of our Class A stock for fiscal 2022, 2021 and 2020 is as follows (in millions):

	October 1, 2022		October 2, 2021		October 3, 2020	
	Shares	Dollars	Shares	Dollars	Shares	Dollars
Shares repurchased:						
Under share repurchase program	6.9	\$ 587	—	\$ —	1.8	\$ 150
To fund certain obligations under equity compensation plans	1.3	115	0.9	67	0.7	57
Total share repurchases	8.2	\$ 702	0.9	\$ 67	2.5	\$ 207

NOTE 10: INCOME TAXES

Detail of the provision for income taxes from continuing operations consists of the following (in millions):

		2022		2021		2020
Federal	\$	764	\$	791	\$	477
State		94		163		98
Foreign		42		27		18
	\$	900	\$	981	\$	593
Current	\$	636	\$	1,106	\$	575
Deferred		264		(125)		18
	\$	900	\$	981	\$	593

The reasons for the difference between the statutory federal income tax rate and our effective income tax rate from continuing operations are as follows:

	2022	2021	2020
Federal income tax rate	21.0 %	21.0 %	21.0 %
State income taxes	2.0	3.3	2.9
Foreign-derived intangible income deduction	(1.0)	(1.1)	(0.6)
Goodwill	—	1.8	—
Other	(0.3)	(0.7)	(1.0)
	21.7 %	24.3 %	22.3 %

During fiscal 2022, state tax expense, net of federal benefit, was \$83 million, which includes \$36 million benefit related to the remeasurement of deferred income taxes, primarily due to legislation decreasing state tax rates enacted in fiscal 2022. The tax benefit from foreign-derived intangible income deduction was \$42 million.

During fiscal 2021, state tax expense, net of federal benefit, was \$135 million, and the tax benefit from foreign-derived intangible income deduction was \$44 million. Non-deductible goodwill associated with the sale of our pet treats business increased the effective tax rate by 1.8%.

During fiscal 2020, state tax expense, net of federal benefit, was \$78 million.

Approximately \$4,025 million, \$3,963 million and \$2,605 million of income from continuing operations before income taxes for fiscal 2022, 2021 and 2020, respectively, were from our operations based in the United States.

We recognize deferred income taxes for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets and liabilities are measured using tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled.

The tax effects of major items recorded as deferred tax assets and liabilities as of October 1, 2022, and October 2, 2021, are as follows (in millions):

	2022		2021	
	Assets	Liabilities	Assets	Liabilities
Property, plant and equipment	\$ —	\$ 1,091	\$ —	\$ 990
Intangible assets	—	1,515	—	1,564
ROU assets	—	144	—	158
Accrued expenses	410	—	558	—
Lease liabilities	126	—	133	—
Net operating loss and other carryforwards	198	—	167	—
Other	87	326	79	251
	\$ 821	\$ 3,076	\$ 937	\$ 2,963
Valuation allowance	\$ (195)	\$ —	\$ (151)	\$ —
Net deferred tax liability	\$ —	\$ 2,450	\$ —	\$ 2,177

At October 1, 2022, our gross state net operating loss carryforwards approximated \$1,480 million, of which \$1,345 million expire in fiscal years 2023 through 2042, and the remainder has no expiration. Gross foreign net operating loss carryforwards approximated \$321 million, of which \$137 million expire in fiscal years 2023 through 2038, and the remainder has no expiration. We also have tax credit carryforwards of approximately \$52 million which expire in fiscal years 2023 through 2037.

We have accumulated undistributed earnings of foreign subsidiaries aggregating approximately \$570 million at October 1, 2022. Our undistributed earnings are generally expected to be indefinitely reinvested outside of the United States, except for excess cash (net of applicable withholding taxes) not subject to regulatory requirements. Dividends after December 31, 2017 from foreign subsidiaries are generally not subject to U.S. federal income taxes. Accordingly, no deferred income taxes have been provided on these earnings, and due to the uncertainty of the manner in which the outside basis difference associated with these earnings would reverse, it is not currently practicable to estimate the tax liability that might be payable on the repatriation of these foreign earnings; however, we do not expect any tax due to be material.

The following table summarizes the activity related to our gross unrecognized tax benefits at October 1, 2022, October 2, 2021, and October 3, 2020 (in millions):

	2022		2021		2020
Balance as of the beginning of the year	\$	152	\$	165	\$ 169
Increases related to current year tax positions		16		25	21
Increases related to prior year tax positions		20		7	5
Reductions related to prior year tax positions		(13)		(7)	(9)
Reductions related to settlements		(3)		(1)	(3)
Reductions related to expirations of statutes of limitations		(20)		(37)	(18)
Balance as of the end of the year	\$	152	\$	152	\$ 165

The amount of unrecognized tax benefits, if recognized, that would impact our effective tax rate was \$112 million at October 1, 2022 and \$111 million at October 2, 2021. We classify interest and penalties on unrecognized tax benefits as income tax expense. At October 1, 2022, and October 2, 2021, before tax benefits, we had \$47 million and \$49 million, respectively, of accrued interest and penalties on unrecognized tax benefits.

In December 2021, we received an assessment from the Mexican tax authorities related to the 2015 sale of our direct and indirect equity interests in subsidiaries which held our Mexico operations. At October 1, 2022, the assessment totaled approximately \$411 million (8.3 billion Mexican pesos), which includes tax, inflation adjustment, interest and penalties. We believe the assertions made in the assessment letter have no merit and will defend our positions through the Mexican administrative appeal process and litigation, if necessary. Based on our analysis of this assessment in accordance with FASB guidance related to unrecognized tax benefits, we have not recorded a liability related to the issue.

As of October 1, 2022, certain United States federal income tax returns are subject to examination for fiscal years 2013 through 2021. We are also subject to income tax examinations by major state and foreign jurisdictions for fiscal years 2015 through 2021 and 2017 through 2021, respectively. We do not expect material changes to our unrecognized tax benefits during the next twelve months.

On August 16, 2022, the Inflation Reduction Act of 2022 (“IRA”) was signed into law. The IRA made several changes to the U.S. tax code effective after December 31, 2022, including, but not limited to, a 15% minimum tax on large corporations with average annual financial statement income of more than \$1 billion for a three tax-year period and a 1% excise tax on public company stock buybacks, which will be accounted for in treasury stock. We do not expect these changes to have a material impact on our provision for income taxes or financial statements.

NOTE 11: EARNINGS PER SHARE

The earnings and weighted average common shares used in the computation of basic and diluted earnings per share are as follows (in millions, except per share data):

	2022	2021	2020
Numerator:			
Net income	\$ 3,249	\$ 3,060	\$ 2,071
Less: Net income attributable to noncontrolling interests	11	13	10
Net income attributable to Tyson	3,238	3,047	2,061
Less dividends declared:			
Class A	539	532	508
Class B	117	113	108
Undistributed earnings	\$ 2,582	\$ 2,402	\$ 1,445
Class A undistributed earnings	\$ 2,122	\$ 1,977	\$ 1,189
Class B undistributed earnings	460	425	256
Total undistributed earnings	\$ 2,582	\$ 2,402	\$ 1,445
Denominator:			
Denominator for basic earnings per share:			
Class A weighted average shares	290	293	293
Class B weighted average shares, and shares under if-converted method for diluted earnings per share	70	70	70
Effect of dilutive securities:			
Stock options, restricted stock and performance units	3	2	2
Denominator for diluted earnings per share – adjusted weighted average shares and assumed conversions	363	365	365
Net Income Per Share Attributable to Tyson:			
Class A Basic	\$ 9.18	\$ 8.57	\$ 5.79
Class B Basic	\$ 8.25	\$ 7.70	\$ 5.21
Diluted	\$ 8.92	\$ 8.34	\$ 5.64
Dividends Declared Per Share:			
Class A	\$ 1.855	\$ 1.805	\$ 1.725
Class B	\$ 1.670	\$ 1.625	\$ 1.553

Approximately 2 million, 4 million, and 2 million of our stock-based compensation shares were antidilutive for fiscal 2022, 2021, and 2020. These shares were not included in the dilutive earnings per share calculation.

We have two classes of capital stock, Class A stock and Class B stock. Cash dividends cannot be paid to holders of Class B stock unless they are simultaneously paid to holders of Class A stock. The per share amount of cash dividends paid to holders of Class B stock cannot exceed 90% of the cash dividends paid to holders of Class A stock.

We allocate undistributed earnings based upon a 1 to 0.9 ratio per share to Class A stock and Class B stock, respectively. We allocate undistributed earnings based on this ratio due to historical dividend patterns, voting control of Class B shareholders and contractual limitations of dividends to Class B stock.

NOTE 12: DERIVATIVE FINANCIAL INSTRUMENTS

Our business operations give rise to certain market risk exposures mostly due to changes in commodity prices, foreign currency exchange rates and interest rates. We manage a portion of these risks through the use of derivative financial instruments to reduce our exposure to commodity price risk, foreign currency risk and interest rate risk. Our risk management programs are periodically reviewed by our Board of Directors' Audit Committee. These programs and risks are monitored by senior management and may be revised as market conditions dictate. Our current risk management programs utilize various industry-standard models that take into account the implicit cost of hedging. Credit risks associated with our derivative contracts are not significant as we minimize counterparty exposure by dealing with credit-worthy counterparties and utilizing exchange traded instruments, margin accounts or letters of credit. Additionally, our derivative contracts are mostly short-term in duration and we generally do not make use of credit-risk-related contingent features. No significant concentrations of credit risk existed at October 1, 2022.

We had the following aggregated outstanding notional amounts related to our derivative financial instruments (in millions, except soybean meal tons):

	Metric	October 1, 2022	October 2, 2021
Commodity:			
Corn	Bushels	44	37
Soybean Meal	Tons	532,700	1,026,733
Live Cattle	Pounds	280	417
Lean Hogs	Pounds	339	413
Foreign Currency	United States dollar	\$ 249	\$ 130

We recognize all derivative instruments as either assets or liabilities at fair value in the Consolidated Balance Sheets, with the exception of normal purchases and normal sales expected to result in physical delivery. For those derivative instruments that are designated and qualify as hedging instruments, we designate the hedging instrument based upon the exposure being hedged (i.e., cash flow hedge or fair value hedge). We designate certain forward contracts as follows:

- Cash Flow Hedges – include certain commodity forward and option contracts of forecasted purchases (i.e., grains), interest rate swaps and locks, and certain foreign exchange forward contracts.
- Fair Value Hedges – include certain commodity forward contracts of firm commitments (i.e., livestock).

Cash Flow Hedges

Derivative instruments are designated as hedges against changes in the amount of future cash flows related to procurement of certain commodities utilized in our production processes as well as interest rates to our variable rate debt. For the derivative instruments we designate and qualify as a cash flow hedge, the effective portion of the gain or loss on the derivative is reported as a component of other comprehensive income ("OCI") and reclassified into earnings in the same period or periods during which the hedged transaction affects earnings. Gains and losses representing hedge ineffectiveness are recognized in earnings in the current period. Ineffectiveness related to our cash flow hedges was not significant during fiscal 2022, 2021 and 2020. As of October 1, 2022, we have \$14 million of realized losses related to treasury rate locks in connection with the issuance of the 2026, 2029 and 2048 Notes, which will be reclassified to earnings over the lives of these notes. During fiscal 2022, 2021 and 2020, we did not reclassify significant pretax gains or losses into earnings as a result of the discontinuance of cash flow hedges. The following table sets forth the pretax impact of cash flow hedge derivative instruments in Other Comprehensive Income (in millions):

Gain (Loss) Recognized in OCI on Derivatives	2022	2021	2020
Cash Flow Hedge – Derivatives designated as hedging instruments:			
Commodity contracts	\$ —	\$ —	\$ (17)
Interest rate hedges	—	—	—
Total	\$ —	\$ —	\$ (17)

Fair Value Hedges

We designate certain derivative contracts as fair value hedges of firm commitments to purchase livestock for harvest. Our objective of these hedges is to minimize the risk of changes in fair value created by fluctuations in commodity prices associated with fixed price livestock firm commitments. For these derivative instruments we designate and qualify as a fair value hedge, the gain or loss on the derivative, as well as the offsetting gain or loss on the hedged item attributable to the hedged risk, are recognized in earnings in the same period. We include the gain or loss on the hedged items (i.e., livestock purchase firm commitments) in the same line item, Cost of Sales, as the offsetting gain or loss on the related livestock forward position. Ineffectiveness related to our fair value hedges was not significant during fiscal 2022, 2021 and 2020. The carrying amount of fair value hedge (assets) liabilities as of fiscal 2022, 2021 and 2020 were as follows (in millions):

Consolidated Balance Sheets Classification	2022	2021	2020
Inventory	\$ (12)	\$ (6)	\$ 6

Undesignated Positions

In addition to our designated positions, we also hold derivative contracts for which we do not apply hedge accounting. These include certain derivative instruments related to commodities price risk, including grains, livestock, energy and foreign currency risk. We mark these positions to fair value through earnings at each reporting date.

Reclassification to Earnings

The following table sets forth the total amounts of each income and expense line item presented in the Consolidated Statements of Income in which the effects of hedges are recorded (in millions):

Consolidated Statements of Income Classification	2022	2021	2020
Cost of Sales	\$ 46,614	\$ 40,523	\$ 37,801
Interest Expense	365	428	485
Other, net	(87)	(65)	(131)

The following table sets forth the pretax impact of the cash flow, fair value and undesignated derivative instruments in the Consolidated Statements of Income (in millions):

Consolidated Statements of Income Classification	2022	2021	2020
Cost of Sales			
Gain (Loss) on cash flow hedges reclassified from OCI to Earnings:			
Commodity contracts	\$ —	\$ (1)	\$ (24)
Gain (Loss) on fair value hedges:			
Commodity contracts (a)	(29)	(55)	135
Gain (Loss) on derivatives not designated as hedging instruments:			
Commodity contracts	254	70	(103)
Total	\$ 225	\$ 14	\$ 8
Interest Expense			
Gain (Loss) on cash flow hedges reclassified from OCI to Earnings:			
Interest rate contracts	\$ (1)	\$ (1)	\$ (6)
Other, net			
Gain (Loss) on derivatives not designated as hedging instruments:			
Foreign exchange contracts	\$ (9)	\$ (5)	\$ (5)

(a) Amounts represent gains/(losses) on commodity contracts designated as fair value hedges of firm commitments that were realized during the period presented, which were offset by a corresponding gain/(loss) on the underlying hedged inventory. Gains or losses related to changes in the fair value of unrealized commodity contracts, along with the offsetting gain or loss on the hedged inventory, are also marked-to-market through earnings with no impact on a net basis.

The fair value of all outstanding derivative instruments in the Consolidated Balance Sheets are included in Note 13: Fair Value Measurements.

NOTE 13: FAIR VALUE MEASUREMENTS

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date. The fair value hierarchy contains three levels as follows:

Level 1 — Unadjusted quoted prices available in active markets for the identical assets or liabilities at the measurement date.

Level 2 — Other observable inputs available at the measurement date, other than quoted prices included in Level 1, either directly or indirectly, including:

- Quoted prices for similar assets or liabilities in active markets;
- Quoted prices for identical or similar assets in non-active markets;
- Inputs other than quoted prices that are observable for the asset or liability; and
- Inputs derived principally from or corroborated by other observable market data.

Level 3 — Unobservable inputs that cannot be corroborated by observable market data and reflect the use of significant management judgment. These values are generally determined using pricing models for which the assumptions utilize management's estimates of market participant assumptions.

Assets and Liabilities Measured at Fair Value on a Recurring Basis

The fair value hierarchy requires the use of observable market data when available. In instances where the inputs used to measure fair value fall into different levels of the fair value hierarchy, the fair value measurement has been determined based on the lowest level input significant to the fair value measurement in its entirety. Our assessment of the significance of a particular item to the fair value measurement in its entirety requires judgment, including the consideration of inputs specific to the asset or liability.

The following tables set forth by level within the fair value hierarchy our financial assets and liabilities accounted for at fair value on a recurring basis according to the valuation techniques we used to determine their fair values (in millions):

October 1, 2022	Level 1		Level 2		Level 3		Netting (a)		Total
Other Current Assets:									
Derivative financial instruments:									
Designated as hedges	\$	—	\$	14	\$	—	\$	(6)	\$ 8
Undesignated		—		154		—		(58)	96
Available for sale securities (current)		—		1		—		—	1
Other Assets:									
Available for sale securities (non-current)		—		65		35		—	100
Deferred compensation assets		38		327		—		—	365
Total Assets	\$	38	\$	561	\$	35	\$	(64)	\$ 570
Other Current Liabilities:									
Derivative financial instruments:									
Designated as hedges	\$	—	\$	2	\$	—	\$	(2)	\$ —
Undesignated		—		106		—		(72)	34
Total Liabilities	\$	—	\$	108	\$	—	\$	(74)	\$ 34

October 2, 2021	Level 1	Level 2	Level 3	Netting (a)	Total
Other Current Assets:					
Derivative financial instruments:					
Designated as hedges	\$ —	\$ 18	\$ —	\$ (10)	\$ 8
Undesignated	—	169	—	(89)	80
Available for sale securities (current)	—	—	—	—	—
Other Assets:					
Available for sale securities (non-current)	—	61	48	—	109
Deferred Compensation assets	14	397	—	—	411
Total Assets	\$ 14	\$ 645	\$ 48	\$ (99)	\$ 608

Other Current Liabilities:					
Derivative financial instruments:					
Designated as hedges	\$ —	\$ 12	\$ —	\$ (12)	\$ —
Undesignated	—	159	—	(143)	16
Total liabilities	\$ —	\$ 171	\$ —	\$ (155)	\$ 16

(a) Our derivative assets and liabilities are presented in our Consolidated Balance Sheets on a net basis when a legally enforceable master netting arrangement exists between the counterparty to a derivative contract and us. Additionally, at October 1, 2022, and October 2, 2021, we had \$10 million and \$56 million respectively, of net cash collateral posted with various counterparties where master netting arrangements exist and held no cash collateral.

The following table provides a reconciliation between the beginning and ending balance of marketable debt securities measured at fair value on a recurring basis in the table above that used significant unobservable inputs (Level 3) (in millions):

	October 1, 2022	October 2, 2021
Balance at beginning of year	\$ 48	\$ 53
Total realized and unrealized gains (losses):		
Included in other comprehensive income (loss)	(3)	(1)
Purchases	8	20
Settlements	(18)	(24)
Balance at end of year	\$ 35	\$ 48

The following methods and assumptions were used to estimate the fair value of each class of financial instrument:

Derivative Assets and Liabilities

Our derivative financial instruments primarily include exchange-traded and over-the-counter contracts which are further described in Note 12: Derivative Financial Instruments. We record our derivative financial instruments at fair value using quoted market prices, adjusted where necessary for credit and non-performance risk and internal models that use readily observable market inputs as their basis, including current and forward market prices and rates. We classify these instruments in Level 2 when quoted market prices can be corroborated utilizing observable current and forward commodity market prices on active exchanges or observable market transactions.

Available for Sale Securities

Our investments in marketable debt securities are classified as available-for-sale and are reported at fair value based on pricing models and quoted market prices adjusted for credit and non-performance risk. Short-term investments with maturities of less than 12 months are included in Other current assets in the Consolidated Balance Sheets and primarily include certificates of deposit and commercial paper. All other marketable debt securities are included in Other Assets in the Consolidated Balance Sheets and have maturities ranging up to 47 years.

We classify our investments in U.S. government, U.S. agency, certificates of deposit and commercial paper debt securities as Level 2 as fair value is generally estimated using discounted cash flow models that are primarily industry-standard models that consider various assumptions, including time value and yield curve as well as other readily available relevant economic measures. We classify certain corporate, asset-backed and other debt securities as Level 3 as there is limited activity or less observable inputs into valuation models, including current interest rates and estimated prepayment, default and recovery rates on the underlying portfolio or structured investment vehicle. Significant changes to assumptions or unobservable inputs in the valuation of our Level 3 instruments would not have a significant impact to our consolidated financial statements.

The following table sets forth our available-for-sale securities' amortized cost basis, fair value and unrealized gain (loss) by significant investment category (in millions):

	October 1, 2022			October 2, 2021		
	Amortized Cost Basis	Fair Value	Unrealized Gain/(Loss)	Amortized Cost Basis	Fair Value	Unrealized Gain/(Loss)
Available for Sale Securities:						
Debt Securities:						
United States Treasury and Agency	\$ 71	\$ 66	\$ (5)	\$ 61	\$ 61	\$ —
Corporate and Asset-Backed	37	35	(2)	47	48	1

Unrealized holding gains (losses), net of tax, are excluded from earnings and reported in OCI until the security is settled or sold. On a quarterly basis, we evaluate whether losses related to our available-for-sale securities are due to credit or noncredit factors. Losses on debt securities where we have the intent, or will more than likely be required, to sell the security prior to recovery, would be recorded as a direct write-off of amortized cost basis through earnings. Losses on debt securities where we do not have the intent, or would not more than likely be required to sell the security prior to recovery, would be further evaluated to determine whether the loss is credit or non-credit related. Credit-related losses would be recorded through an allowance for credit losses through earnings and non-credit related losses through OCI.

We consider many factors in determining whether a loss is credit-related, including the financial condition and near-term prospects of the issuer, borrower repayment characteristics for asset-backed securities, and our ability and intent to hold the investment for a period of time sufficient to allow for any anticipated recovery. We recognized no direct write-offs or allowances for credit losses in earnings in fiscal 2022, 2021 or 2020.

Deferred Compensation Assets

We maintain non-qualified deferred compensation plans for certain executives and other highly compensated team members. Investments are generally maintained within a trust and include money market funds, mutual funds and life insurance policies. The cash surrender value of the life insurance policies is invested primarily in mutual funds. The investments are recorded at fair value based on quoted market prices and are included in Other Assets in the Consolidated Balance Sheets. We classify the investments which have observable market prices in active markets in Level 1 as these are generally publicly-traded mutual funds. The remaining deferred compensation assets are classified in Level 2, as fair value can be corroborated based on observable market data. Realized and unrealized gains (losses) on deferred compensation are included in earnings.

Assets and Liabilities Measured at Fair Value on a Nonrecurring Basis

In addition to assets and liabilities that are recorded at fair value on a recurring basis, we record assets and liabilities at fair value on a nonrecurring basis. Generally, assets are recorded at fair value on a nonrecurring basis as a result of impairment charges and, with respect to our equity investments without readily determinable fair values, recorded by applying the measurement alternative for which such investments are recorded at cost and adjusted for an observable price change in an orderly transaction for an identical or similar investment of the same issuer.

In fiscal 2022, we recognized gains of \$37 million in Other, net in the Consolidated Statements of Income, based upon observable price changes. Equity investments without readily determinable fair values are measured using Level 3 inputs and are included in Other Assets in the Consolidated Balance Sheets. We did not have any significant measurements of assets or liabilities at fair value on a nonrecurring basis subsequent to their initial recognition during the twelve months ended October 2, 2021 and October 3, 2020.

Other Financial Instruments

Fair value of our debt is principally estimated using Level 2 inputs based on quoted prices for those or similar instruments. Fair value and carrying value for our debt are as follows (in millions):

	October 1, 2022		October 2, 2021	
	Fair Value	Carrying Value	Fair Value	Carrying Value
Total Debt	\$ 7,762	\$ 8,321	\$ 10,810	\$ 9,348

Concentrations of Credit Risk

Our financial instruments exposed to concentrations of credit risk consist primarily of cash and cash equivalents and accounts receivable. Our cash equivalents are in high quality securities placed with major banks and financial institutions. Concentrations of credit risk with respect to receivables are limited due to the large number of customers and their dispersion across geographic areas. We perform periodic credit evaluations of our customers' financial condition and generally do not require collateral. At October 1, 2022, and October 2, 2021, 16.4% and 16.3%, respectively, of our net accounts receivable balance was due from Walmart Inc. No other single customer or customer group represented greater than 10% of net accounts receivable.

NOTE 14: STOCK-BASED COMPENSATION

We issue shares under our stock-based compensation plans by issuing Class A stock from treasury. The total number of shares available for future grant under the Tyson Foods, Inc. 2000 Stock Incentive Plan (“Incentive Plan”) was 8,459,910 at October 1, 2022.

Stock Options

Shareholders approved the Incentive Plan in January 2001. The Incentive Plan is administered by the Compensation and Leadership Development Committee of the Board of Directors (“Compensation Committee”). The Incentive Plan includes provisions for granting incentive stock options for shares of Class A stock at a price not less than the fair value at the date of grant. Nonqualified stock options may be granted at a price equal to or more than the fair value of Class A stock on the date the option is granted. Stock options under the Incentive Plan generally become exercisable ratably over three years from the date of grant and must be exercised within 10 years from the date of grant. Our policy is to recognize compensation expense on a straight-line basis over the requisite service period for the entire award. Forfeitures are recognized as they occur.

	Shares Under Option	Weighted Average Exercise Price Per Share	Weighted Average Remaining Contractual Life (in Years)	Aggregate Intrinsic Value (in millions)
Outstanding, October 2, 2021	7,207,026	\$ 63.82		
Exercised	(2,094,198)	61.16		
Forfeited or expired	(539,743)	75.78		
Granted	1,456,544	81.51		
Outstanding, October 1, 2022	6,029,629	\$ 67.95	6.6	\$ 37
Exercisable, October 1, 2022	3,536,020	\$ 63.12	5.2	\$ 32

The weighted average grant-date fair value of options granted in fiscal 2022, 2021 and 2020 was \$16.53, \$11.03 and \$16.77, respectively. The fair value of each option grant is established on the date of grant using a binomial lattice method. We use historical volatility for a period of time comparable to the expected life of the option to determine volatility assumptions. Expected life is calculated based on the contractual term of each grant and takes into account the historical exercise and termination behavior of participants. Risk-free interest rates are based on the five-year Treasury bond rate. Assumptions used in the fair value calculation are as of the grant dates and are outlined in the following table.

	2022	2021	2020
Expected life (in years)	4.4	4.3	4.3
Risk-free interest rate	1.1 %	0.3 %	1.6 %
Expected volatility	30.0 %	32.2 %	25.7 %
Expected dividend yield	2.4 %	3.4 %	2.0 %

We recognized stock-based compensation expense related to stock options, net of income taxes, of \$13 million, \$19 million and \$16 million for fiscal 2022, 2021 and 2020, respectively. The related tax benefit for fiscal 2022, 2021 and 2020 was \$3 million, \$4 million and \$4 million, respectively. We had 1.5 million, 1.9 million and 1.3 million options vest in fiscal 2022, 2021 and 2020, respectively, with a grant date fair value of \$19 million, \$25 million and \$17 million, respectively.

In fiscal 2022, 2021 and 2020, we received cash of \$126 million, \$41 million and \$30 million, respectively, for the exercise of stock options. Shares are issued from treasury for stock option exercises. The related tax benefit realized from stock options exercised during fiscal 2022, 2021 and 2020, was \$12 million, \$5 million and \$6 million, respectively. The total intrinsic value of options exercised in fiscal 2022, 2021 and 2020, was \$22 million, \$20 million and \$21 million, respectively.

As of October 1, 2022, we had \$21 million of total unrecognized compensation cost related to stock option plans that will be recognized over a weighted average period of 1.2 years.

Restricted Stock

We issue restricted stock at the market value as of the date of grant, with restrictions expiring over periods through fiscal 2025. Unearned compensation is recognized over the vesting period for the particular grant using a straight-line method.

	Number of Shares	Weighted Average Grant- Date Fair Value Per Share	Weighted Average Remaining Contractual Life (in Years)	Aggregate Intrinsic Value (in millions)
Nonvested, October 2, 2021	1,974,136	\$ 68.88		
Granted	708,855	82.37		
Dividends	12,833	82.51		
Vested	(884,444)	64.92		
Forfeited	(204,849)	74.87		
Nonvested, October 1, 2022	1,606,531	\$ 76.36	1.4	\$ 106

As of October 1, 2022, we had \$53 million of total unrecognized compensation cost related to restricted stock awards that will be recognized over a weighted average period of 1.9 years.

We recognized stock-based compensation expense related to restricted stock, net of income taxes, of \$28 million, \$35 million and \$36 million for fiscal 2022, 2021 and 2020, respectively. The related tax benefit for fiscal 2022, 2021 and 2020 was \$7 million, \$9 million and \$9 million, respectively. We had 0.9 million, 0.5 million and 0.6 million restricted stock awards vest in fiscal 2022, 2021 and 2020, respectively, with a grant date fair value of \$57 million, \$37 million and \$34 million, respectively.

Performance-Based Shares

We award performance-based shares of our Class A stock to certain team members. These awards are typically granted once a year. Performance-based shares vest based upon the passage of time and the achievement of performance or market performance criteria, ranging from 0% to 200%, as determined by the Compensation Committee prior to the date of the award. Vesting periods for these awards are three years. We review progress toward the attainment of the performance criteria each quarter during the vesting period. When it is probable the minimum performance criteria for an award will be achieved, we begin recognizing the expense equal to the proportionate share of the total fair value of the Class A stock price on the grant date. The total expense recognized over the duration of performance awards will equal the Class A stock price on the date of grant multiplied by the number of shares ultimately awarded based on the level of attainment of the performance criteria. For grants with market performance criteria, the fair value is determined on the grant date and is calculated using the same inputs for expected volatility, expected dividend yield, and risk-free rate as stock options, noted above, with a duration of three years. The total expense recognized over the duration of the award will equal the fair value, regardless if the market performance criteria is met.

The following table summarizes the performance-based shares at the maximum award amounts based upon the respective performance share agreements. Actual shares that will vest depend on the level of attainment of the performance-based criteria.

	Number of Shares	Weighted Average Grant- Date Fair Value Per Share	Weighted Average Remaining Contractual Life (in Years)	Aggregate Intrinsic Value (in millions)
Nonvested, October 2, 2021	2,055,568	\$ 51.63		
Granted	745,246	63.30		
Vested	(395,310)	45.66		
Forfeited	(623,985)	50.80		
Nonvested, October 1, 2022	1,781,519	\$ 58.13	1.2	\$ 117

We recognized stock-based compensation expense related to performance shares, net of income taxes, of \$37 million, \$19 million and \$18 million for fiscal 2022, 2021 and 2020, respectively. The related tax benefit for fiscal 2022, 2021 and 2020 was \$7 million, \$4 million and \$4 million, respectively. As of October 1, 2022, we had \$34 million of total unrecognized compensation based upon our progress toward the attainment of criteria related to performance-based share awards that will be recognized over a weighted average period of 1.8 years.

NOTE 15: PENSIONS AND OTHER POSTRETIREMENT BENEFITS

We have four defined benefit pension plans consisting of one frozen and noncontributory funded qualified plan and three unfunded non-qualified plans. The benefits provided under these plans are based on a formula using years of service and either a specified benefit rate or compensation level. The non-qualified defined benefit plans are for certain officers and use a formula based on years of service and final average salary. We also have other postretirement benefit plans for which substantially all of our team members may receive benefits if they satisfy applicable eligibility criteria. The postretirement healthcare plans are contributory with participants' contributions adjusted when deemed necessary.

We have defined contribution retirement programs for various groups of team members. We recognized expenses of \$114 million, \$106 million and \$103 million in fiscal 2022, 2021 and 2020, respectively.

We use a fiscal year end measurement date for our defined benefit plans and other postretirement plans. We recognize the effect of actuarial gains and losses into earnings immediately for other postretirement plans rather than amortizing the effect over future periods. Other postretirement benefits include postretirement medical costs and life insurance.

During fiscal 2019, we issued a notice of intent to terminate three qualified pension plans. The settlements of the terminated plans occurred during fiscal 2020, through purchased annuities, and we incurred settlement gains of approximately \$112 million related to the plan terminations, recorded in Other, net in our Consolidated Statements of Income. No significant contributions to purchase annuities at the time of settlement were necessary. Due to favorable annuity pricing at the time of settlement, approximately \$52 million in residual plan assets remained in the plan following the annuity purchase. A portion of these funds were transferred to a qualified replacement plan during fiscal 2020, with the remaining funds transferred in the first quarter of fiscal 2021.

During fiscal 2021, we amended one of the Company's other postretirement benefit plans, which resulted in the recognition of a gain of \$34 million, recorded in Other, net in our Consolidated Statements of Income

Benefit Obligations and Funded Status

The following table provides a reconciliation of the changes in the plans' benefit obligations, assets and funded status at October 1, 2022, and October 2, 2021 (in millions):

	Pension Benefits				Other Postretirement Benefits	
	Qualified		Non-Qualified			
	2022	2021	2022	2021	2022	2021
Change in benefit obligation						
Benefit obligation at beginning of year	\$ 28	\$ 31	\$ 220	\$ 238	\$ 65	\$ 74
Service cost	—	—	—	—	1	2
Interest cost	1	—	6	6	1	1
Plan amendments	—	—	—	—	—	(8)
Actuarial (gain)/loss	(11)	—	(47)	(4)	(8)	(1)
Benefits paid	(1)	(1)	(13)	(12)	(4)	(3)
Benefits paid due to settlement	—	—	—	(2)	—	—
Plan terminations	—	(2)	—	(6)	—	—
Benefit obligation at end of year	17	28	166	220	55	65
Change in plan assets						
Fair value of plan assets at beginning of year	33	35	—	—	—	—
Actual return on plan assets	(9)	1	—	—	—	—
Employer contributions	1	1	13	14	4	3
Benefits paid	(1)	(1)	(13)	(12)	(4)	(3)
Benefits paid due to settlement	—	—	—	(2)	—	—
Plan terminations	—	(3)	—	—	—	—
Fair value of plan assets at end of year	24	33	—	—	—	—
Funded status	\$ 7	\$ 5	\$ (166)	\$ (220)	\$ (55)	\$ (65)

Amounts recognized in the Consolidated Balance Sheets consist of (in millions):

	Pension Benefits				Other Postretirement Benefits	
	Qualified		Non-Qualified			
	2022	2021	2022	2021	2022	2021
Other assets	\$ 7	\$ 5	\$ —	\$ —	\$ —	\$ —
Other current liabilities	—	—	(13)	(13)	(3)	(3)
Other liabilities	—	—	(153)	(207)	(52)	(62)
Total assets (liabilities)	\$ 7	\$ 5	\$ (166)	\$ (220)	\$ (55)	\$ (65)

Amounts recognized in Accumulated Other Comprehensive Income consist of (in millions):

	Pension Benefits				Other Postretirement Benefits	
	Qualified		Non-Qualified			
	2022	2021	2022	2021	2022	2021
Accumulated other comprehensive (income)/loss:						
Actuarial (gain) loss	\$ 2	\$ 4	\$ (15)	\$ 36	\$ 13	\$ 18
Prior service (credit) cost	—	—	2	2	(5)	(5)
Total accumulated other comprehensive (income)/loss:	\$ 2	\$ 4	\$ (13)	\$ 38	\$ 8	\$ 13

We had three pension plans at October 1, 2022, and October 2, 2021, that had an accumulated benefit obligation in excess of plan assets. Plans with accumulated benefit obligations in excess of plan assets are as follows (in millions):

	Pension Benefits			
	Qualified		Non-Qualified	
	2022	2021	2022	2021
Projected benefit obligation	\$ —	\$ —	\$ 166	\$ 220
Accumulated benefit obligation	—	—	166	220
Fair value of plan assets	—	—	—	—

The accumulated benefit obligation for all qualified pension plans was \$17 million and \$28 million at October 1, 2022, and October 2, 2021, respectively.

Net Periodic Benefit Cost (Credit)

Components of net periodic benefit cost (credit) for pension and postretirement benefit plans recognized in the Consolidated Statements of Income are as follows (in millions):

	Pension Benefits						Other Postretirement Benefits		
	Qualified			Non-Qualified					
	2022	2021	2020	2022	2021	2020	2022	2021	2020
Service cost	\$ —	\$ —	\$ —	\$ —	\$ —	\$ —	\$ 1	\$ 2	\$ 2
Interest cost	1	—	14	6	6	8	1	1	1
Expected return on plan assets	(1)	—	(17)	—	—	—	—	—	—
Amortization of prior service cost	—	—	—	1	1	1	4	(2)	(6)
Recognized actuarial loss (gain), net	—	—	—	3	4	3	(8)	—	4
Recognized settlement gain	—	—	(112)	—	—	—	—	(34)	—
Net periodic benefit cost (credit)	\$ —	\$ —	\$ (115)	\$ 10	\$ 11	\$ 12	\$ (2)	\$ (33)	\$ 1

Each of the components other than the service cost component were recorded in the Consolidated Statements of Income in Other, net. As of October 1, 2022, we expect no amounts to be reclassified into earnings within the next 12 months related to net periodic benefit cost (credit) for the qualified pension plans. As of October 1, 2022, the amounts expected to be reclassified into earnings within the next 12 months related to net periodic benefit cost (credit) for the non-qualified pension plans and the other postretirement benefit plans are not significant.

Assumptions

Weighted average assumptions are as follows:

	Pension Benefits						Other Postretirement Benefits		
	Qualified			Non-Qualified					
	2022	2021	2020	2022	2021	2020	2022	2021	2020
Discount rate to determine net periodic benefit cost	2.00 %	1.70 %	3.23 %	2.83 %	2.63 %	3.19 %	2.07 %	1.95 %	2.68 %
Discount rate to determine benefit obligations	5.20 %	2.00 %	1.70 %	5.42 %	2.83 %	2.63 %	4.59 %	2.07 %	1.95 %
Rate of compensation increase	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Expected return on plan assets	2.00 %	1.70 %	3.50 %	n/a	n/a	n/a	n/a	n/a	n/a

To determine the expected return on plan assets assumption, we first examined historical rates of return for the various asset classes within the plans. We then determined a long-term projected rate-of-return based on expected returns. Our discount rate assumptions used to account for pension and other postretirement benefit plans reflect the rates at which the benefit obligations could be effectively settled. The discount rates for two of our plans that were settled in fiscal 2020 were determined using a composite rate comprised of an annuity purchase rate and a lump sum conversion discount rate based on the portions of the populations that were purchased under the annuity contract with the insurance company versus those who elected lump sums, respectively. The discount rates for our other plans were determined using a cash flow matching technique whereby the rates of a yield curve, developed from high-quality debt securities, were applied to the benefit obligations to determine the appropriate discount rate.

We have eight other postretirement benefit plans, of which five are healthcare and life insurance related. Two of these plans, with benefit obligations totaling \$10 million at October 1, 2022, were not impacted by healthcare cost trend rates as one consists of fixed annual payments and one is life insurance related. One of the healthcare plans, with benefit obligations less than \$1 million at October 1, 2022, was not impacted by healthcare cost trend rates due to previous plan amendments. The remaining two plans, with benefit obligations totaling \$1 million and \$3 million, at October 1, 2022, utilized assumed healthcare cost trend rates of 6.8% and 7.5%, respectively. The healthcare cost trend rates for the two plans will be grading down to an ultimate rate of 4.5% in 2031.

Contributions

Our policy is to fund at least the minimum contribution required to meet applicable federal employee benefit and local tax laws. In our sole discretion, we may from time to time fund additional amounts. Expected contributions to pension plans for fiscal 2023 are approximately \$13 million. For fiscal 2022, 2021 and 2020, we funded \$13 million, \$15 million and \$19 million, respectively, to pension plans.

Estimated Future Benefit Payments

The following benefit payments are expected to be paid (in millions):

	Pension Benefits		Other Postretirement Benefits
	Qualified	Non-Qualified	
2023	\$ —	\$ 13	\$ 3
2024	1	13	2
2025	1	13	2
2026	—	13	3
2027	—	13	2
2028-2032	3	62	6

The above benefit payments for other postretirement benefit plans are not expected to be offset by Medicare Part D subsidies in fiscal 2023.

Multi-Employer Plan

Additionally, we participate in one multi-employer plan that provides defined benefits to certain team members covered by collective bargaining agreements. Such plans are usually administered by a board of trustees composed of the management of the participating companies and labor representatives.

The risks of participating in multi-employer plans are different from single-employer plans. Assets contributed to the multi-employer plan by one employer may be used to provide benefits to team members of other participating employers. If a participating employer stops contributing to the plan, the unfunded obligation of the plan may be borne by the remaining participating employers. If we stop participating in a plan, we may be required to pay that plan an amount based on the underfunded status of the plan, referred to as a withdrawal liability.

The net pension cost of the plan is equal to the annual contributions determined in accordance with the provisions of negotiated labor contracts. Contributions to the plan were \$2 million in fiscal 2022 and \$1 million fiscal 2021. Assets contributed to such plans are not segregated or otherwise restricted to provide benefits only to our team members. The future cost of the plans is dependent on a number of factors including the funded status of the plans and the ability of the other participating companies to meet ongoing funding obligations.

Our participation in the multi-employer plan for fiscal 2022 is outlined below. The EIN/Pension Plan Number column provides the Employer Identification Number (“EIN”) and the three-digit plan number. The most recent Pension Protection Act (“PPA”) zone status available in fiscal 2022 and fiscal 2021 is for the plan’s year beginning January 1, 2022, and 2021, respectively. The zone status is based on information that we have received from the plan and is certified by the plan’s actuaries. Among other factors, plans in the red zone are generally less than 65 percent funded. Plans that are critical and declining status are projected to have an accumulated funding deficiency. The FIP/RP Status column indicates plans for which a financial improvement plan (“FIP”) or rehabilitation plan (“RP”) is either pending or has been implemented. The last column lists the expiration date of the collective-bargaining agreement to which the plan is subject. During fiscal 2020, we initiated our withdrawal from the Pension Fund of Local 227, which was acquired in conjunction with our acquisition of Keystone Foods. As a result of our withdrawal from the Pension Fund of Local 227, we recorded a \$1 million termination liability.

In addition to regular contributions, we could be obligated to pay additional contributions (known as complete or partial withdrawal liabilities) if it has unfunded vested benefits.

Pension Fund Plan Name	EIN/Pension Plan Number	PPA Zone Status		FIP/RP Status	Contributions (in millions)			Surcharge Imposed	Expiration Date of Collective Bargaining Agreement
		2022	2021		2022	2021	2020		
Bakery and Confectionery Union and Industry International Pension Fund	52-6118572/001	Red	Red	Nov 2012	\$2	\$1	\$1	10%	2024-08-02

NOTE 16: COMPREHENSIVE INCOME (LOSS)

The components of accumulated other comprehensive loss are as follows (in millions):

	2022	2021
Accumulated other comprehensive income (loss), net of taxes:		
Unrealized net hedging loss	\$ (12)	\$ (13)
Unrealized net gain (loss) on investments	(6)	1
Currency translation adjustment	(281) 31	(119)
Postretirement benefits reserve adjustments	2	(41)
Total accumulated other comprehensive income (loss)	\$ (297)	\$ (172)

The before and after tax changes in the components of other comprehensive income (loss) are as follows (in millions):

	2022			2021			2020		
	Before Tax	Tax	After Tax	Before Tax	Tax	After Tax	Before Tax	Tax	After Tax
Derivatives accounted for as cash flow hedges:									
(Gain) loss reclassified to interest expense	\$ 1	\$ —	\$ 1	\$ 1	\$ —	\$ 1	\$ 6	\$ (2)	\$ 4
(Gain) loss reclassified to cost of sales	—	—	—	1	—	1	24	(7)	17
Unrealized gain (loss)	—	—	—	—	—	—	(17)	5	(12)
Investments:									
Unrealized gain (loss)	(8)	1	(7)	(1)	—	(1)	1	—	1
Currency translation:									
Translation adjustment	(166)	4	(162)	17	—	17	(29)	—	(29)
Postretirement benefits:									
Unrealized gain (loss)	58	(15)	43	10	(2)	8	1	—	1
Pension settlement reclassified to other (income) expense	—	—	—	(26)	7	(19)	(58)	14	(44)
Total other comprehensive income (loss)	\$ (115)	\$ (10)	\$ (125)	\$ 2	\$ 5	\$ 7	\$ (72)	\$ 10	\$ (62)

NOTE 17: SEGMENT REPORTING

We operate in four reportable segments: Beef, Pork, Chicken, and Prepared Foods. We measure segment profit as operating income (loss). International/Other primarily includes our foreign operations in Australia, China, Malaysia, Mexico, the Netherlands, South Korea and Thailand, third-party merger and integration costs and corporate overhead related to Tyson New Ventures, LLC.

Beef

Beef includes our operations related to processing live fed cattle and fabricating dressed beef carcasses into primal and sub-primal meat cuts and case-ready products. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international export markets. This segment also includes sales from specialty products such as hides and variety meats, as well as logistics operations to move products through the supply chain.

Pork

Pork includes our operations related to processing live market hogs and fabricating pork carcasses into primal and sub-primal cuts and case-ready products. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, healthcare facilities, the military and other food processors, as well as to international export markets. This segment also includes our live swine group, related specialty product processing activities and logistics operations to move products through the supply chain.

Chicken

Chicken includes our domestic operations related to raising and processing live chickens into, and purchasing raw materials for fresh, frozen and value-added chicken products, as well as sales from specialty products. Our value-added chicken products primarily include breaded chicken strips, nuggets, patties and other ready-to-fix or fully cooked chicken parts. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, convenience stores, healthcare facilities, the military and other food processors, as well as to international export markets. This segment also includes logistics operations to move products through our domestic supply chain and the global operations of our chicken breeding stock subsidiary.

Prepared Foods

Prepared Foods includes our operations related to manufacturing and marketing frozen and refrigerated food products and logistics operations to move products through the supply chain. This segment includes brands such as Jimmy Dean®, Hillshire Farm®, Ball Park®, Wright®, State Fair®, as well as artisanal brands Aidells® and Gallo Salame®. Products primarily include ready-to-eat sandwiches, sandwich components such as flame-grilled hamburgers and Philly steaks, pepperoni, bacon, breakfast sausage, turkey, lunchmeat, hot dogs, flour and corn tortilla products, appetizers, snacks, prepared meals, ethnic foods, side dishes, meat dishes, breadsticks and processed meats. Products are marketed domestically to food retailers, foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, convenience stores, healthcare facilities, the military and other food processors, as well as to international export markets.

We allocate expenses related to corporate activities to the segments, except for third-party merger and integration costs of \$5 million, \$2 million and \$5 million in fiscal 2022, 2021 and 2020, respectively, and corporate overhead related to Tyson New Ventures, LLC, which are included in International/Other. Intersegment sales transactions, which were at market price, are included in the segment sales in the table below. Assets and additions to property, plant and equipment relating to corporate activities remain in International/Other.

Information on segments and a reconciliation to income from continuing operations before income taxes are as follows (in millions):

	Beef		Pork		Chicken		Prepared Foods		International/Other		Intersegment Sales		Consolidated	
2022														
Sales	\$	19,854	\$	6,414	\$	16,961	\$	9,689	\$	2,355	\$	(1,991)	\$	53,282
Operating Income (Loss)		2,502		193		955		746		14				4,410
Total Other (Income) Expense														261
Income before Income Taxes														4,149
Depreciation and amortization		128		70		563		372		58				1,191
Total Assets		3,883		1,697		12,386		14,920		3,935				36,821
Additions to property, plant and equipment		136		82		906		456		307				1,887
2021														
Sales	\$	17,999	\$	6,277	\$	13,733	\$	8,853	\$	1,990	\$	(1,803)	\$	47,049
Operating Income (Loss)		3,240		328		(625)		1,456		(3)				4,396
Total Other (Income) Expense														355
Income before Income Taxes														4,041
Depreciation and amortization		108		61		564		385		77				1,195
Total Assets		3,678		1,583		11,373		14,630		5,045				36,309
Additions to property, plant and equipment		246		100		518		237		108				1,209
2020														
Sales	\$	15,742	\$	5,128	\$	13,234	\$	8,532	\$	1,856	\$	(1,307)	\$	43,185
Operating Income (Loss)		1,580		565		122		743		(2)				3,008
Total Other (Income) Expense														344
Income before Income Taxes														2,664
Depreciation and amortization		106		56		553		398		65				1,178
Total Assets		3,223		1,516		11,028		14,883		3,806				34,456
Additions to property, plant and equipment		219		117		577		211		75				1,199

Our largest customer, Walmart Inc., accounted for 17.7%, 18.3% and 18.7% of consolidated sales in fiscal 2022, 2021 and 2020, respectively. Sales to Walmart Inc. were included in all the segments. Any extended discontinuance of sales to this customer could, if not replaced, have a material impact on our operations.

The majority of our operations are domiciled in the United States. Approximately 95% of sales to external customers for each of fiscal 2022, 2021 and 2020 were sourced from the United States. Approximately \$25.7 billion and \$25.1 billion of long-lived assets were located in the United States at October 1, 2022, and October 2, 2021, respectively. Excluding goodwill and intangible assets, long-lived assets located in the United States totaled approximately \$9.5 billion and \$8.7 billion at October 1, 2022, and October 2, 2021, respectively. Approximately \$1.5 billion and \$1.4 billion of long-lived assets were located in foreign locations, primarily Brazil, China, the European Union, New Zealand and Thailand at October 1, 2022, and October 2, 2021, respectively. Excluding goodwill and intangible assets, long-lived assets in foreign countries totaled approximately \$916 million and \$745 million at October 1, 2022, and October 2, 2021, respectively.

We sell certain products in foreign markets, primarily Australia, Canada, Central America, Chile, China, the European Union, the United Kingdom, Japan, Mexico, Malaysia, the Middle East, Singapore, South Korea, Taiwan and Thailand. Our export sales from the United States totaled \$5.8 billion, \$4.9 billion and \$4.0 billion for fiscal 2022, 2021 and 2020, respectively. Substantially all of our export sales are facilitated through unaffiliated brokers, marketing associations and foreign sales staffs. Sales of products produced in a country other than the United States were less than 10% of consolidated sales for each of fiscal 2022, 2021 and 2020.

The following tables further disaggregate our sales to customers by major distribution channels (in millions):

Twelve months ended October 1, 2022										
		Retail ^(a)		Foodservice ^(b)		International ^(c)		Industrial and Other ^(d)	Intersegment	Total
Beef	\$	8,687	\$	4,940	\$	3,247	\$	2,439	\$ 541	\$ 19,854
Pork		1,817		516		1,180		1,616	1,285	6,414
Chicken		7,194		6,475		1,131		1,996	165	16,961
Prepared Foods		5,587		3,751		191		160	—	9,689
International/Other		—		—		2,355		—	—	2,355
Intersegment		—		—		—		—	(1,991)	(1,991)
Total	\$	23,285	\$	15,682	\$	8,104	\$	6,211	\$ —	\$ 53,282

Twelve months ended October 2, 2021										
		Retail ^(a)		Foodservice ^(b)		International ^(c)		Industrial and Other ^(d)	Intersegment	Total
Beef	\$	8,779	\$	4,326	\$	2,720	\$	1,719	\$ 455	\$ 17,999
Pork		1,787		474		1,173		1,563	1,280	6,277
Chicken		6,112		5,566		770		1,217	68	13,733
Prepared Foods		5,231		3,311		140		171	—	8,853
International/Other		—		—		1,990		—	—	1,990
Intersegment		—		—		—		—	(1,803)	(1,803)
Total	\$	21,909	\$	13,677	\$	6,793	\$	4,670	\$ —	\$ 47,049

Twelve months ended October 3, 2020										
		Retail ^(a)		Foodservice ^(b)		International ^(c)		Industrial and Other ^(d)	Intersegment	Total
Beef	\$	8,155	\$	3,669	\$	2,183	\$	1,345	\$ 390	\$ 15,742
Pork		1,590		403		1,026		1,244	865	5,128
Chicken		5,935		4,892		642		1,713	52	13,234
Prepared Foods		5,137		3,090		126		179	—	8,532
International/Other		—		—		1,856		—	—	1,856
Intersegment		—		—		—		—	(1,307)	(1,307)
Total	\$	20,817	\$	12,054	\$	5,833	\$	4,481	\$ —	\$ 43,185

(a) Includes sales to consumer products and food retailers, such as grocery retailers, warehouse club stores, and internet-based retailers.

(b) Includes sales to foodservice distributors, restaurant operators, hotel chains and noncommercial foodservice establishments such as schools, convenience stores, healthcare facilities and the military.

(c) Includes sales to international markets related to internationally produced products or export sales of domestically produced products.

(d) Includes sales to industrial food processing companies that further process our product to sell to end consumers and any remaining sales not included in the Retail, Foodservice or International categories. For fiscal 2021, the Chicken segment included a \$545 million reduction in Other due to the recognition of legal contingency accruals.

NOTE 18: SUPPLEMENTAL CASH FLOWS INFORMATION

The following table summarizes cash payments for interest and income taxes (in millions):

		2022		2021		2020
Interest, net of amounts capitalized	\$	363	\$	444	\$	536
Income taxes, net of refunds		1,216		683		511

NOTE 19: TRANSACTIONS WITH RELATED PARTIES

We have related party leases for two wastewater facilities with an entity owned by the Donald J. Tyson Revocable Trust (for which Mr. John Tyson, Chairman of the Company, is a trustee), Berry Street Waste Water Treatment Plant, LP (90% of which is owned by the TLP), and the sisters of Mr. Tyson. As of October 1, 2022 and October 2, 2021, one lease was classified as a finance lease with a debt balance of \$7 million which is primarily recognized as Long-term debt in our Consolidated Balance Sheet. The other lease was classified as an operating lease with a lease liability balance of \$3 million as of October 1, 2022 and October 2, 2021, respectively, which is primarily recognized within Other Liabilities in our Consolidated Balance Sheet. Total payments of approximately \$1 million in each of fiscal 2022, 2021 and 2020 were paid to lease the facilities.

As of October 1, 2022, the TLP, of which John Tyson and director Barbara Tyson are general partners, owned 70 million shares, or 99.985% of our outstanding Class B stock and, along with the members of the Tyson family, owned 6.7 million shares of Class A stock, giving it control of approximately 71.15% of the total voting power of our outstanding voting stock.

In fiscal 2022, 2021 and 2020, the Company provided administrative services to the TLP, the beneficial owner of 70 million shares of Class B stock, and the TLP, through TLP Investment, L.P., reimbursed the Company \$0.2 million in each of fiscal 2022, 2021 and 2020.

NOTE 20: COMMITMENTS AND CONTINGENCIES

Commitments

We guarantee obligations of certain outside third parties, consisting primarily of grower loans, which are substantially collateralized by the underlying assets. The remaining terms of the underlying obligations cover periods up to 9 years, and the maximum potential amount of future payments as of October 1, 2022, was not significant. The likelihood of material payments under these guarantees is not considered probable. At October 1, 2022, and October 2, 2021, no significant liabilities for guarantees were recorded.

We have cash flow assistance programs in which certain livestock suppliers participate. Under these programs, we pay an amount for livestock equivalent to a standard cost to grow such livestock during periods of low market sales prices. The amounts of such payments that are in excess of the market sales price are recorded as receivables and accrue interest. Participating suppliers are obligated to repay these receivables balances when market sales prices exceed this standard cost, or upon termination of the agreement. Our potential maximum obligation associated with these programs is limited to the fair value of each participating livestock supplier's net tangible assets. The potential maximum obligation as of October 1, 2022, was approximately \$290 million. The total receivables under these programs were \$6 million and \$5 million at October 1, 2022 and October 2, 2021, respectively. These receivables are included, net of allowance for uncollectible amounts, in Accounts Receivable in our Consolidated Balance Sheets. Even though these programs are limited to the net tangible assets of the participating livestock suppliers, we also manage a portion of our credit risk associated with these programs by obtaining security interests in livestock suppliers' assets. After analyzing residual credit risks and general market conditions, we had no allowance for these programs' estimated uncollectible receivables at October 1, 2022, and October 2, 2021.

When constructing new facilities or making major enhancements to existing facilities, we will occasionally enter into incentive agreements with local government agencies in order to reduce certain state and local tax expenditures. These funds are generally considered restricted cash, which is reported in the Consolidated Balance Sheets in Other Assets. We had no deposits at October 1, 2022 and \$3 million at October 2, 2021. Additionally, under certain agreements, we transfer the related assets to various local government entities and receive Industrial Revenue Bonds. We immediately lease the facilities from the local government entities and have an option to repurchase the facilities for a nominal amount upon tendering the Industrial Revenue Bonds to the local government entities at various predetermined dates. The Industrial Revenue Bonds and the associated obligations for the leases of the facilities offset, and the underlying assets remain in property, plant and equipment. At October 1, 2022, total amounts under these types of arrangements totaled \$709 million.

Additionally, we enter into other purchase commitments for various items such as grains, livestock contracts and variable livestock grower commitments that are estimable and have a remaining term in excess of one year, which at October 1, 2022 were (in millions):

	Purchase Obligations
2023	\$ 342
2024	233
2025	131
2026	72
2027	43
2028 and beyond	109
Total	\$ 930

Contingencies

In the normal course of business, we are involved in various claims, lawsuits, investigations and legal proceedings, including those specifically identified below. Each quarter, we determine whether to accrue for loss contingencies based on our assessment of whether the potential loss is probable, reasonably possible or remote and to the extent a loss is probable, whether it is reasonably estimable. We record accruals in the Company's Consolidated Financial Statements for matters that we conclude are probable and the financial impact is reasonably estimable. Regardless of the manner of resolution, frequently the most significant changes in the status of a matter may occur over a short time period, often following a lengthy period of little substantive activity. While these accruals reflect the Company's best estimate of the probable loss for those matters as of the dates of those accruals, the recorded amounts may differ materially from the actual amount of the losses for those matters. Listed below are certain claims made against the Company for which the magnitude of the potential exposure could be material to the Company's Consolidated Financial Statements.

Broiler Antitrust Civil Litigation

Beginning in September 2016, a series of purported federal class action lawsuits styled *In re Broiler Chicken Antitrust Litigation* (the "Broiler Antitrust Civil Litigation") were filed in the United States District Court for the Northern District of Illinois against us and certain of our poultry subsidiaries, as well as several other poultry processing companies. The operative complaints, which have been amended throughout the litigation, contain allegations that, among other things, assert that beginning in January 2008, the defendants conspired and combined to fix, raise, maintain, and stabilize the price of broiler chickens in violation of United States antitrust laws. The plaintiffs also allege that defendants "manipulated and artificially inflated a widely used Broiler price index, the Georgia Dock." The plaintiffs further allege that the defendants concealed this conduct from the plaintiffs and the members of the putative classes. The plaintiffs seek treble damages, injunctive relief, pre- and post-judgment interest, costs, and attorneys' fees on behalf of the putative classes. In addition, the complaints on behalf of the putative classes of indirect purchasers include causes of action under various state unfair competition laws, consumer protection laws, and unjust enrichment common laws. Since the original filing, certain putative class members have opted out of the matter and are proceeding with individual direct actions making similar claims, and others may do so in the future.

Settlements

On January 19, 2021, we announced that we had reached agreements to settle certain class claims related to the Broiler Antitrust Civil Litigation. Settlement terms were reached with the putative Direct Purchaser Plaintiff Class, the putative Commercial and Institutional Indirect Purchaser Plaintiff Class and the putative End-User Plaintiff Class (collectively, the "Classes"). Under the terms of the settlements, we agreed to pay the Classes an aggregate amount of \$221.5 million in settlement of all outstanding claims brought by the Classes. On February 23, 2021, March 22, 2021 and October 15, 2021, the Court granted preliminary approval of the settlements with the putative Direct Purchaser Plaintiff Class, the putative End-User Plaintiff Class and the putative Commercial and Institutional Indirect Purchaser Plaintiff Class, respectively. On June 29, 2021, December 20, 2021 and April 18, 2022, the Court granted final approval to the settlements with the Direct Purchaser Plaintiff Class, the End-User Plaintiff Class and the Commercial and Institutional Indirect Purchaser Plaintiff Class, respectively. The foregoing settlements do not settle claims made by plaintiffs who opt out of the Classes in the Broiler Antitrust Civil Litigation. In the first quarter of fiscal 2021, the Company recorded an aggregate legal contingency accrual of \$320 million for the above-referenced settlements and to resolve the remaining claims brought by opt-out plaintiffs.

In the third quarter of fiscal 2021, the Company accrued an additional \$225 million for the estimated costs to resolve the remaining claims brought by opt-out plaintiffs, bringing the total recorded legal contingency accrual for claims related to this matter to \$545 million, which amount includes our existing settlements. This amount reflects an estimate of the probable losses with respect to claims in the Broiler Antitrust Civil Litigation and bid-rigging claims of potentially affected parties identified by the DOJ in the indictments noted below. We are currently pursuing settlement discussions with the remaining opt-out plaintiffs with respect to the remaining claims. While we do not admit any liability as part of the settlements, we believe that the settlements were in the best interests of the Company and its shareholders to avoid the uncertainty, risk, expense and distraction of protracted litigation. During fiscal 2022 and fiscal 2021, the Company reduced its total recorded legal contingency accrual by \$343 million and \$80 million, respectively, for amounts it had paid related to this matter. Accordingly, at October 1, 2022 and October 2, 2021, the legal contingency accrual for claims related to this matter was \$122 million and \$465 million, respectively.

Government Investigations

U.S. Department of Justice (“DOJ”) Antitrust Division. On June 21, 2019, the DOJ filed a motion to intervene and sought a limited stay of discovery in the Broiler Antitrust Civil Litigation, which the court granted in part. Subsequently, we received a grand jury subpoena from the DOJ seeking additional documents and information related to the chicken industry. On June 2, 2020, a grand jury for the District of Colorado returned an indictment charging four individual executives employed by two other poultry processing companies with conspiracy to engage in bid-rigging in violation of federal antitrust laws. On June 10, 2020, we announced that we uncovered information in connection with the grand jury subpoena that we had previously self-reported to the DOJ and have been cooperating with the DOJ as part of our application for leniency under the DOJ’s Corporate Leniency Program. Subsequently, the DOJ has announced indictments against additional individuals, as well as other poultry processing companies, alleging a conspiracy to fix prices and rig bids for broiler chicken products from at least 2012 until at least early 2019. In August 2021, the Company was granted conditional leniency by the DOJ for the matters we self-reported, which means that provided the Company continues to cooperate with the DOJ, neither the Company nor any of our cooperating employees will face prosecution or criminal fines or penalties. We continue to cooperate with the DOJ in connection with the ongoing federal antitrust investigation.

State Matters. The Offices of the Attorney General in New Mexico, Alaska and Washington have filed complaints against us and certain of our poultry subsidiaries, as well as several other poultry processing companies and Agri Stats, Inc., an information services provider (“Agri Stats”). The complaints are based on allegations similar to those asserted in the Broiler Antitrust Civil Litigation and allege violations of state antitrust, unfair trade practice, and unjust enrichment laws. In October 2022, we reached an agreement to settle all claims with the Washington Attorney General for \$10.5 million for which the Company recorded an accrual in its Consolidated Financial Statements as of October 1, 2022, and on October 24, 2022, the Court entered the related consent decree resolving all claims in this matter between us and the Washington Attorney General. While we do not admit any liability as part of the settlement, we believe that the settlement was in the best interests of the Company and its shareholders to avoid the uncertainty, risk, expense and distraction of protracted litigation. In addition, we are cooperating with various state governmental agencies and officials, including the Offices of the Attorney General for Florida and Louisiana, investigating or otherwise seeking information, testimony and/or documents, regarding the conduct alleged in the Broiler Antitrust Civil Litigation and related matters.

Broiler Chicken Grower Litigation

On January 27, 2017 and March 26, 2017, putative class action complaints were filed against us and certain of our poultry subsidiaries, as well as several other vertically integrated poultry processing companies, in the United States District Court for the Eastern District of Oklahoma styled *In re Broiler Chicken Grower Litigation*. The plaintiffs allege, among other things, that the defendants colluded not to compete for broiler raising services “with the purpose and effect of fixing, maintaining, and/or stabilizing grower compensation below competitive levels.” The plaintiffs also allege that the defendants “agreed to share detailed data on [g]rower compensation with one another, with the purpose and effect of artificially depressing [g]rower compensation below competitive levels.” The plaintiffs contend these alleged acts constitute violations of the Sherman Antitrust Act and Section 202 of the Grain Inspection, Packers and Stockyards Act of 1921. The plaintiffs are seeking treble damages, pre- and post-judgment interest, costs, and attorneys’ fees on behalf of the putative class. Additional named plaintiffs filed similar class action complaints in federal district courts in North Carolina, Colorado, Kansas and California. All actions were subsequently consolidated in the Eastern District of Oklahoma. In June 2021, we reached an agreement to settle with the putative class of broiler chicken farmers all claims raised in this consolidated action on terms not material to the Company for which the Company recorded an accrual in its Consolidated Financial Statements as of October 2, 2021. The Court granted preliminary approval of the settlement on August 23, 2021 and final approval on February 18, 2022, and the Company paid the settlement during fiscal 2022.

The DOJ’s Antitrust Division has opened a civil investigation into grower contracts and performance-based compensation. We will cooperate with the investigation.

Pork Antitrust Litigation

Beginning June 18, 2018, a series of putative class action complaints were filed against us and certain of our pork subsidiaries, as well as several other pork processing companies, in the United States District Court for the District of Minnesota styled *In re Pork Antitrust Litigation* (the “Pork Antitrust Civil Litigation”). The plaintiffs allege, among other things, that beginning in January 2009, the defendants conspired and combined to fix, raise, maintain, and stabilize the price of pork and pork products in violation of federal antitrust laws. The complaints on behalf of the putative classes of indirect purchasers also include causes of action under various state unfair competition laws, consumer protection laws, and unjust enrichment common laws. The plaintiffs seek treble damages, injunctive relief, pre- and post-judgment interest, costs, and attorneys’ fees on behalf of the putative classes. Since the original filing, certain putative class members have opted out of the matter and are proceeding with individual direct actions making similar claims, and others may do so in the future. The Company has not recorded any liability for this matter as it does not believe a loss is probable or reasonably estimable because the Company believes that it has valid and meritorious defenses against the allegations and because the classes have not yet been defined or certified by the court.

The Offices of the Attorney General in New Mexico and Alaska have filed complaints against us and certain of our pork subsidiaries, as well as several other pork processing companies and Agri Stats. The complaints are based on allegations similar to those asserted in the Pork Antitrust Civil Litigation and allege violations of state antitrust, unfair trade practice, and unjust enrichment laws based on allegations of conspiracies to exchange information and manipulate the supply of pork. The Company has not recorded any liability for the foregoing matters as it does not believe a loss is probable or reasonably estimable at this time because the proceedings are in preliminary stages.

Beef Antitrust Litigation

On April 23, 2019, a putative class action complaint was filed against us and our beef and pork subsidiary, Tyson Fresh Meats, Inc. (“Tyson Fresh Meats”), as well as other beef packer defendants, in the United States District Court for the Northern District of Illinois. The plaintiffs allege that the defendants engaged in a conspiracy from January 2015 to the present to reduce fed cattle prices in violation of federal antitrust laws, the Grain Inspection, Packers and Stockyards Act of 1921, and the Commodities Exchange Act by periodically reducing their slaughter volumes so as to reduce demand for fed cattle, curtailing their purchases and slaughters of cash-purchased cattle during those same periods, coordinating their procurement practices for fed cattle settled on a cash basis, importing foreign cattle at a loss so as to reduce domestic demand, and closing and idling plants. In addition, the plaintiffs also allege the defendants colluded to manipulate live cattle futures and options traded on the Chicago Mercantile Exchange. The plaintiffs seek, among other things, treble monetary damages, punitive damages, restitution, and pre- and post-judgment interest, as well as declaratory and injunctive relief. Other similar lawsuits were filed by cattle ranchers in other district courts which were then transferred to the United States District Court for the District of Minnesota and consolidated and styled as *In Re Cattle Antitrust Litigation*. On February 18, 2021, we moved to dismiss the amended complaints, and on September 14, 2021, the court granted the motion with respect to certain state law claims but denied the motion with respect to the plaintiffs’ federal antitrust claims. The Company has not recorded any liability for this matter as it does not believe a loss is probable or reasonably estimable at this time because the Company believes that it has valid and meritorious defenses against the allegations and because the classes have not yet been defined or certified by the court.

On April 26, 2019, a putative class of indirect purchasers filed a class action complaint against us, other beef packers, and Agri Stats in the United States District Court for the District of Minnesota. The plaintiffs allege that the packer defendants conspired to reduce slaughter capacity by closing or idling plants, limiting their purchases of cash cattle, coordinating their procurement of cash cattle, and reducing their slaughter numbers so as to reduce beef output, all in order to artificially raise prices of beef. The plaintiffs seek, among other things, damages under state antitrust and consumer protection statutes and the common law of approximately 30 states, as well as injunctive relief. The indirect consumer purchaser litigation is styled *Peterson v. JBS USA Food Company Holdings, et al.* Additional complaints have been filed on behalf of a putative class of direct purchasers of beef containing allegations of violations of Section 1 of the Sherman Act based on an alleged conspiracy to artificially fix, raise, and stabilize the wholesale price for beef, as well as on behalf of a putative class of commercial and institutional indirect purchasers of beef containing allegations of violations of Section 1 of the Sherman Act, various state antitrust laws and unjust enrichment based on an alleged conspiracy to artificially inflate the price for beef. On February 18, 2021, we moved to dismiss the plaintiffs’ amended complaints, and on September 23, 2021, the court granted the motion with respect to certain state law claims but denied the motion with respect to the plaintiffs’ federal antitrust claims. Since the original filing, certain putative class members have opted out of the matter and are proceeding with individual direct actions making similar claims, and others may do so in the future. The Company has not recorded any liability for this matter as it does not believe a loss is probable or reasonably estimable at this time because the Company believes that it has valid and meritorious defenses against the allegations and because the classes have not yet been defined or certified by the court.

On October 31, 2022, a class action complaint was filed on behalf of putative classes of indirect cattle producers against us, Tyson Fresh Meats, and other beef packer defendants in the United States District Court for the District of Kansas. The plaintiffs allege that the defendants engaged in a conspiracy in violation of Section 1 of the Sherman Act, the Packers and Stockyards Act of 1921 and various state unfair competition and consumer protection laws from January 2015 to the present to reduce the price of cows, cattle, calves, steers or heifers by periodically reducing their slaughter volumes so as to reduce demand for fed cattle, curtailing their purchases and slaughters of cash-purchased cattle during those same periods, coordinating their procurement practices for fed cattle settled on a cash basis, importing foreign cattle at a loss so as to reduce domestic demand, and closing and idling plants. The plaintiffs seek, among other things, treble monetary damages, punitive damages, restitution, and pre- and post-judgment interest under state antitrust and consumer protection statutes and the common law of approximately 33 states, as well as declaratory and injunctive relief. The indirect producer litigation is styled *Sprecht et. al. v. Tyson, Inc., et al.* A notice of potential tag-along has been filed with the Judicial Panel on Multi-District Litigation to transfer and consolidate the case with *In re Cattle and Beef Antitrust Litigation*, MDL No. 3031. The Company has not recorded any liability for this matter as it does not believe a loss is probable or reasonably estimable at this time because the Company believes that it has valid and meritorious defenses against the allegations and because the classes have not yet been defined or certified by the court.

On February 18, 2022, a putative class action was commenced against us, Tyson Fresh Meats, and other beef packer defendants in the Supreme Court of British Columbia styled *Bui v. Cargill, Incorporated et al.* The plaintiff alleges that the defendants conspired to fix, maintain, increase, or control the price of beef, as well as to fix, maintain, control, prevent, or lessen the production or supply of beef by agreeing to reduce the number of cattle slaughtered, reduce slaughter capacity, refrain from increasing slaughter and beef processing capacity, limit purchases of cattle on the cash market, and coordinate purchases of and bids for cattle to lower the supply of fed cattle. The plaintiff advances causes of action under the Competition Act, civil conspiracy, unjust enrichment, and the Civil Code of Québec. The plaintiff seeks to certify a class comprised of all persons or entities in Canada who directly or indirectly purchased beef in Canada, either for resale or for their own consumption between January 1, 2015, and the present and seeks declarations regarding the alleged conspiracy, general damages, aggravated, exemplary, and punitive damages, injunctive relief, costs, and interest. On March 24, 2022, a putative class action was commenced against the same defendants in the Superior Court of Québec styled *De Bellefeuille v. Cargill, Incorporated et al.* The plaintiff is making substantially the same allegations as those made in the British Columbia action. On behalf of the putative class of persons who purchased beef in Québec since January 1, 2015, the plaintiff is seeking compensatory damages, costs of investigation and interest. The Company has not recorded any liability for the foregoing matters as it does not believe a loss is probable or reasonably estimable at this time because the proceedings are in preliminary stages.

On May 22, 2020, December 23, 2020 and October 29, 2021, we received civil investigative demands (“CIDs”) from the DOJ’s Civil Antitrust Division. The CIDs request information related to the fed cattle and beef packing markets. We have been cooperating with the DOJ with respect to the CIDs. The Offices of the Attorney General for multiple states are participating in the investigation and coordinating with the DOJ.

We received a subpoena dated April 21, 2022 from the New York Attorney General’s Bureau of Consumer Frauds & Protection seeking information regarding our sales, prices and production costs of beef, pork and chicken products. After we had made an initial production of information, we were unable to agree with the New York Attorney General’s office on the appropriate scope of the subpoena and, as of August 3, 2022, the parties are litigating the issue before a New York state court.

Wage Rate Litigation

On August 30, 2019, a putative class of non-supervisory production and maintenance employees at chicken processing plants in the continental United States filed class action complaints against us and certain of our subsidiaries, as well as several other poultry processing companies, in the United States District Court for the District of Maryland. The plaintiffs allege that the defendants directly and through a wage survey and benchmarking service exchanged information regarding labor rates in an effort to depress and fix the rates of wages for non-supervisory production and maintenance workers in violation of federal antitrust laws. The plaintiffs seek, among other things, treble monetary damages, punitive damages, restitution, and pre- and post-judgment interest, as well as declaratory and injunctive relief. Additional lawsuits making similar allegations were consolidated including an amended consolidated complaint containing additional allegations concerning turkey processing plants naming additional defendants. We moved to dismiss the amended consolidated complaint. On September 16, 2020, the court dismissed claims against us and certain other defendants without prejudice because the complaint improperly grouped together corporate subsidiaries. The court otherwise denied the defendants’ motions to dismiss and sustained claims based on alleged conspiracies to fix wages and exchange information against five other defendants. The plaintiffs filed a second amended consolidated complaint on November 2, 2020. We moved to dismiss the complaint on December 18, 2020 based on a lack of standing to assert claims on behalf of the purported class. The court denied the motion to dismiss on March 10, 2021. On February 16, 2022, the plaintiffs filed a third amended consolidated complaint naming additional poultry processors as defendants and expanding the scope of the claims to include employees at hatcheries and feed mills. We moved to dismiss the claims related to hatchery and feed mill employees. The court denied the motion to dismiss on July 19, 2022. In the third quarter of fiscal 2021, the Company recorded an accrual for the estimated probable losses that it expects to incur for this matter in the Company’s Consolidated Financial Statements. There was no change to the accrual in fiscal 2022.

The DOJ’s Antitrust Division has opened a civil investigation into human resources at several poultry companies. We are cooperating with the investigation.

Other Matters

Our subsidiary, The Hillshire Brands Company (formerly named Sara Lee Corporation), is a party to a consolidation of cases filed by individual complainants with the Republic of the Philippines, Department of Labor and Employment and the National Labor Relations Commission ("NLRC") from 1998 through July 1999. The complaint was filed against Aris Philippines, Inc., Sara Lee Corporation, Sara Lee Philippines, Inc., Fashion Accessories Philippines, Inc., and Attorney Cesar C. Cruz (collectively, the "respondents"). The complaint alleges, among other things, that the respondents engaged in unfair labor practices in connection with the termination of manufacturing operations in the Philippines in 1995 by Aris Philippines, Inc., a former subsidiary of The Hillshire Brands Company. In late 2004, a labor arbiter ruled against the respondents and awarded the complainants approximately \$59 million in damages and fees. From 2004 through 2014, the parties filed numerous appeals, motions for reconsideration and petitions for review, certain of which remained outstanding for several years. On December 15, 2016, we learned that the NLRC rendered its decision on November 29, 2016, regarding the respondents' appeals from the labor arbiter's 2004 ruling in favor of the complainants. The NLRC increased the award for 4,922 of the total 5,984 complainants to approximately \$253 million. However, the NLRC approved a prior settlement reached with the group comprising approximately 18% of the class of 5,984 complainants, pursuant to which The Hillshire Brands Company agreed to pay each settling complainant approximately \$1,200. The parties filed numerous appeals, motions for reconsideration and petitions for review related to the NLRC award and settlement payment. The Court of Appeals subsequently vacated the NLRC's award on April 12, 2018. Complainants have filed motions for reconsideration with the Court of Appeals which were denied. Claimants have since filed petitions for writ of certiorari with the Supreme Court of the Philippines, which has accepted. The Company continues to maintain an accrual for estimated probable losses for this matter in the Company's Consolidated Financial Statements.

Various claims have been asserted against the Company, its subsidiaries, and its officers and agents by, and on behalf of, team members who claim to have contracted COVID-19 in our facilities. The Company has not recorded any liability for these matters as it does not believe a loss is probable or reasonably estimable at this time because it believes the allegations in the claims are without merit.

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of Tyson Foods, Inc.

Opinions on the Financial Statements and Internal Control over Financial Reporting

We have audited the accompanying consolidated balance sheets of Tyson Foods, Inc. and its subsidiaries (the “Company”) as of October 1, 2022 and October 2, 2021, and the related consolidated statements of income, of comprehensive income, of shareholders’ equity and of cash flows for each of the three years in the period ended October 1, 2022, including the related notes and schedule of valuation and qualifying accounts for each of the three years in the period ended October 1, 2022 appearing under Item 15 (collectively referred to as the “consolidated financial statements”). We also have audited the Company’s internal control over financial reporting as of October 1, 2022, based on criteria established in Internal Control - Integrated Framework (2013) issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of the Company as of October 1, 2022 and October 2, 2021, and the results of its operations and its cash flows for each of the three years in the period ended October 1, 2022 in conformity with accounting principles generally accepted in the United States of America. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of October 1, 2022, based on criteria established in Internal Control - Integrated Framework (2013) issued by the COSO.

Basis for Opinions

The Company’s management is responsible for these consolidated financial statements, for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting, included in Management’s Annual Report on Internal Control Over Financial Reporting appearing under Item 9A. Our responsibility is to express opinions on the Company’s consolidated financial statements and on the Company’s internal control over financial reporting based on our audits. We are a public accounting firm registered with the Public Company Accounting Oversight Board (United States) (PCAOB) and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud, and whether effective internal control over financial reporting was maintained in all material respects.

Our audits of the consolidated financial statements included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

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 (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company’s assets that could have a material effect on the financial statements.

Because of 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.

Critical Audit Matters

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

Goodwill Impairment Assessment – Chicken Segment Reporting Units

As described in Notes 1 and 5 to the consolidated financial statements, the Company's consolidated goodwill balance was \$10.5 billion as of October 1, 2022, which included \$3.3 billion for the Chicken segment reporting units. As disclosed by management, a goodwill impairment test is conducted as of the first day of the fourth quarter each year, or more frequently if impairment indicators arise. Management estimates the fair value of reporting units considering the use of various valuation techniques, with the primary technique being an income approach (discounted cash flow method) and another technique being a market approach (guideline public company method). The determination of fair value using these techniques includes assumptions about sales growth, operating margins, discount rates and valuation multiples which consider budgets, business plans, economic projections and marketplace data.

The principal considerations for our determination that performing procedures relating to the goodwill impairment assessment of the Chicken segment reporting units is a critical audit matter are (i) the significant judgment by management when developing the fair value measurements of the reporting units, (ii) the high degree of auditor judgment, subjectivity and effort in performing procedures and evaluating audit evidence related to management's anticipated future cash flows and significant assumptions related to sales growth, operating margins, discount rates and valuation multiples, and (iii) the audit effort involved the use of professionals with specialized skill and knowledge.

Addressing the matter involved performing procedures and evaluating audit evidence in connection with forming our overall opinion on the consolidated financial statements. These procedures included testing the effectiveness of controls relating to management's goodwill impairment assessment, including controls over the valuation of the Company's Chicken segment reporting units. These procedures also included, among others, testing management's process for developing the fair value estimates of the Chicken segment reporting units; evaluating the appropriateness of the income and market valuation approaches; testing the completeness and accuracy of underlying data used in the valuation approaches; and evaluating the reasonableness of management's anticipated future cash flows and significant assumptions related to sales growth, operating margins, discount rates and valuation multiples. Evaluating management's assumptions related to sales growth, operating margins, discount rates and valuation multiples involved evaluating whether the assumptions used were reasonable considering (i) the current and past performance of the reporting unit, (ii) the consistency with external market and industry data, and (iii) whether these assumptions were consistent with evidence obtained in other areas of the audit. Professionals with specialized skill and knowledge were used to assist in the evaluation of the Company's valuation approaches and the sales growth, operating margins, discount rates and valuation multiples significant assumptions.

/s/ PricewaterhouseCoopers LLP

Fayetteville, Arkansas

November 14, 2022

We have served as the Company's auditor since 2009.

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

Not applicable.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

An evaluation was performed, under the supervision and with the participation of management, including the Chief Executive Officer ("CEO") and the Chief Financial Officer ("CFO"), of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, as amended (the "1934 Act")). Based on that evaluation, the CEO and CFO concluded that, as of October 1, 2022, our disclosure controls and procedures were effective.

Management's Annual Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting, as defined in Rule 13a-15(f) and 15d-15(f) of the 1934 Act. Our internal control over financial reporting was 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. 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 the degree of compliance with the policies or procedures may deteriorate.

Management conducted an evaluation of the effectiveness of our internal control over financial reporting as of October 1, 2022. In making this assessment, we used criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") in *Internal Control - Integrated Framework* (2013). Based on this evaluation under the framework in *Internal Control - Integrated Framework* (2013) issued by COSO, management concluded the Company's internal control over financial reporting was effective as of October 1, 2022.

The Company's independent registered public accounting firm, PricewaterhouseCoopers LLP, who has audited the fiscal 2022 financial statements included in this Annual Report on Form 10-K, has also audited the effectiveness of the Company's internal control over financial reporting as of October 1, 2022 as stated in its report which appears in Part II, Item 8 of this Annual Report on Form 10-K.

Changes in Internal Control Over Financial Reporting

There were no changes in the Company's internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the 1934 Act) during the quarter ended October 1, 2022 that have materially affected, or are reasonably likely to materially affect, the Company's internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

Entry into Material Definitive Agreement (Information Required Under Item 1.01 of Form 8-K):

On November 9, 2022, the Company entered into an amendment (the "SOFR Amendment") of its existing \$2.25 billion revolving credit facility dated September 30, 2021 with certain subsidiaries of the Company from time to time party thereto as subsidiary borrowers, the lenders from time to time party thereto and JPMorgan Chase Bank, N.A., as administrative agent, to change the reference rate for certain loans from the London interbank offered rate (commonly referred to as LIBOR) to a rate based either on Term SOFR or Daily Simple SOFR (each as defined in the SOFR Amendment), as applicable. All other terms and conditions of the revolving credit facility remain in full force and effect.

The foregoing description of the SOFR Amendment does not purport to be complete and is qualified in its entirety by reference to the complete text of the SOFR Amendment, a copy of which is attached hereto as Exhibit 10.2 and incorporated herein by reference.

Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant (Information Required Under Item 2.03 of Form 8-K)

The information set forth above under Item 1.01 is incorporated herein by reference.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

See information set forth under the captions "Election of Directors" and "Board of Directors and Corporate Governance Information" in the Company's definitive Proxy Statement for the Company's Annual Meeting of Shareholders to be held February 9, 2023 (the "Proxy Statement"), which information is incorporated herein by reference. Pursuant to general instruction G(3) of Annual Report on Form 10-K, certain information concerning our executive officers is included under the caption "Information About Our Executive Officers" in Part I of this Annual Report on Form 10-K. The information required by this item regarding delinquent filers pursuant to Item 405 of Regulation S-K will be included under the caption "Delinquent Section 16(a) Reports" in the Proxy Statement and is incorporated by reference herein.

We have a code of ethics as defined in Item 406 of Regulation S-K, which applies to all of our directors and team members, including our principal executive officer, principal financial officer, principal accounting officer or controller, and persons performing similar functions. This code of ethics, titled "Tyson Code of Conduct," is available, free of charge on our website at <http://ir.tyson.com>.

We will post any amendments to the Code of Conduct, and any waivers that are required to be disclosed by the rules of either the SEC or the New York Stock Exchange, on our website.

ITEM 11. EXECUTIVE COMPENSATION

See the information set forth under the captions "Executive Compensation," "Director Compensation For Fiscal Year 2022," "Compensation Discussion and Analysis," "Report of the Compensation and Leadership Development Committee" and "Compensation Committee Interlocks and Insider Participation" in the Proxy Statement, which information is incorporated herein by reference. However, pursuant to instructions to Item 407(e)(5) of Regulation S-K, the material appearing under the sub-heading "Report of the Compensation and Leadership Development Committee" shall be deemed "furnished" and not be deemed to be "filed" with the SEC, other than as provided in this Item 11.

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

See the information included under the captions "Security Ownership of Certain Beneficial Owners" and "Security Ownership of Management" in the Proxy Statement, which information is incorporated herein by reference.

Securities Authorized for Issuance Under Equity Compensation Plans

The following information reflects certain information about our equity compensation plans as of October 1, 2022:

Equity Compensation Plan Information			
	Number of Securities to be issued upon exercise of outstanding options	Weighted average exercise price of outstanding options	Number of Securities remaining available for future issuance under equity compensation plans (excluding Securities reflected in the first column (a))
Equity compensation plans approved by security holders	6,029,628	\$ 67.95	25,570,072
Equity compensation plans not approved by security holders	—	—	—
Total	6,029,628	\$ 67.95	25,570,072

(a) Shares of Class A Common Stock available for future issuance as of October 1, 2022, under the Stock Incentive Plan (8,459,910), the Employee Stock Purchase Plan (9,462,554) and the Retirement Savings Plan (7,647,608).

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

See the information included under the captions “Election of Directors,” “Board of Directors and Corporate Governance Information” and “Certain Transactions” in the Proxy Statement, which information is incorporated herein by reference.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

See the information included under the captions “Audit Fees,” “Audit-Related Fees,” “Tax Fees,” “All Other Fees,” and “Audit Committee Pre-Approval Policy” in the Proxy Statement, which information is incorporated herein by reference.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

(a) The following documents are filed as a part of this report:

(1) Consolidated Financial Statements

Consolidated Statements of Income for the three years ended October 1, 2022
Consolidated Statements of Comprehensive Income for the three years ended October 1, 2022
Consolidated Balance Sheets at October 1, 2022, and October 2, 2021
Consolidated Statements of Shareholders' Equity for the three years ended October 1, 2022
Consolidated Statements of Cash Flows for the three years ended October 1, 2022
Notes to Consolidated Financial Statements
Report of Independent Registered Public Accounting Firm (PCAOB ID 238)

(2) Consolidated Financial Statement Schedules

Financial Statement Schedule - Schedule II Valuation and Qualifying Accounts for the three years ended October 1, 2022

All other schedules are omitted because they are neither applicable nor required.

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

EXHIBIT INDEX

Exhibit No.

- | | |
|-----|---|
| 3.1 | <u>Restated Certificate of Incorporation of the Company (previously filed as Exhibit 3.1 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 1998, and incorporated herein by reference).</u> |
| 3.2 | <u>Sixth Amended and Restated By-Laws of the Company (previously filed as Exhibit 3.1 to the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on February 12, 2020, and incorporated herein by reference).</u> |
| 4.1 | <u>Description of the Registrant's Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934 (previously filed as Exhibit 4.1 to the Company's Annual Report on Form 10-K for the period ended September 28, 2019, and incorporated herein by reference).</u> |
| 4.2 | <u>Indenture dated June 1, 1995, by and between the Company and The Chase Manhattan Bank, N.A., as Trustee (the "Company Indenture") (previously filed as Exhibit 4 to Registration Statement on Form S-3, filed with the Commission on December 18, 1997, Registration No. 333-42525, and incorporated herein by reference).</u> |

- 4.3 [Form of 7.0% Note due January 15, 2028, issued under the Company Indenture \(previously filed as Exhibit 4.2 to the Company's Quarterly Report on Form 10-Q for the period ended December 27, 1997, and incorporated herein by reference\).](#)
- 4.4 [Supplemental Indenture dated as of June 13, 2012, by and between the Company and The Bank of New York Mellon Trust Company, National Association \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as Exhibit 4.1 to the Company's Current Report on Form 8-K filed June 13, 2012, and incorporated herein by reference\).](#)
- 4.5 [Form of 4.50% Senior Note due 2022 \(previously filed as Exhibit 4.2 and included in Exhibit 4.1 to the Company's Current Report on Form 8-K filed June 13, 2012, and incorporated herein by reference\).](#)
- 4.6 [Supplemental Indenture dated as of August 8, 2014, by and between the Company and The Bank of New York Mellon Trust Company, National Association \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as Exhibit 4.2 to the Company's Current Report on Form 8-K filed August 8, 2014, and incorporated herein by reference\).](#)
- 4.7 [Supplemental Indenture dated as of August 8, 2014, by and between the Company and The Bank of New York Mellon Trust Company, National Association \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as Exhibit 4.4 to the Company's Current Report on Form 8-K filed August 8, 2014, and incorporated herein by reference\).](#)
- 4.8 [Form of 3.95% Senior Note due 2024 \(included in Exhibit 4.4 to the Company's Current Report on Form 8-K filed August 8, 2014, and incorporated herein by reference\).](#)
- 4.9 [Supplemental Indenture dated as of August 8, 2014, by and between the Company and The Bank of New York Mellon Trust Company, National Association \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as Exhibit 4.6 to the Company's Current Report on Form 8-K filed August 8, 2014, and incorporated herein by reference\).](#)
- 4.10 [Form of 4.875% Senior Note due 2034 \(included in Exhibit 4.6 to the Company's Current Report on Form 8-K filed August 8, 2014, and incorporated herein by reference\).](#)
- 4.11 [Supplemental Indenture dated as of August 8, 2014, by and between the Company and The Bank of New York Mellon Trust Company, National Association \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as Exhibit 4.8 to the Company's Current Report on Form 8-K filed August 8, 2014, and incorporated herein by reference\).](#)
- 4.12 [Form of 5.15% Senior Note due 2044 \(previously filed as Exhibit 4.8 to the Company's Current Report on Form 8-K filed August 8, 2014, and incorporated herein by reference\).](#)
- 4.13 Indenture dated October 2, 1990, between Sara Lee Corporation and Continental Bank, N.A., as Trustee (the "Sara Lee Indenture") (previously filed as Exhibit 4.1 to Amendment No. 1 to Registration Statement No. 33-33603 on Form S-3 by Sara Lee Corporation, predecessor in interest to The Hillshire Brands Company, filed with the Commission on October 5, 1990, and incorporated herein by reference).
- 4.14 [Form of 61/8% Notes due 2032 issued pursuant to the Sara Lee Indenture \(previously filed as Exhibit 4.25 to the Company's Annual Report on Form 10-K for the fiscal year ended September 27, 2014, and incorporated herein by reference\).](#)
- 4.15 [Supplemental Indenture dated June 2, 2017, by and between the Company and The Bank of New York Mellon Trust Company, N.A. \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as Exhibit 4.2 to the Company's Current Report on Form 8-k filed on June 2, 2017, and incorporated herein by reference\).](#)
- 4.16 [Supplemental Indenture dated June 2, 2017, by and between the Company and The Bank of New York Mellon Trust Company, N.A. \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as Exhibit 4.4 to the Company's Current Report on Form 8-K filed on June 2, 2017, and incorporated herein by reference\).](#)
- 4.17 [Supplemental Indenture dated June 2, 2017, by and between the Company and The Bank of New York Mellon Trust Company, N.A. \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as Exhibit 4.6 to the Company's Current Report on Form 8-K filed on June 2, 2017, and incorporated herein by reference\).](#)
- 4.18 [Form of 3.55% Senior Notes due 2027 \(previously filed as Exhibit 4.6 to the Company's Current Report on Form 8-K filed on June 2, 2017, and incorporated herein by reference\).](#)
- 4.19 [Supplemental Indenture dated June 2, 2017, by and between the Company and The Bank of New York Mellon Trust Company, N.A. \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as Exhibit 4.8 to the Company's Current Report on Form 8-K filed on June 2, 2017, and incorporated herein by reference\).](#)

- 4.20 [Form of 4.55% Senior Notes due 2047 \(previously filed as Exhibit 4.8 to the Company's Current Report on Form 8-K filed on June 2, 2017, and incorporated herein by reference\).](#)
- 4.21 [Supplemental Indenture, dated September 28, 2018, by and between the Company and the Bank of New York Mellon Trust Company, N.A. \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as exhibit 4.2 to the Company's Current Report on Form 8-K filed on September 28, 2018, and incorporated herein by reference\).](#)
- 4.22 [Form of 3.900% Senior Notes due 2023 \(previously filed as Exhibit 4.2 to the Company's Current Report on Form 8-K filed on September 28, 2018, and incorporated herein by reference\).](#)
- 4.23 [Supplemental Indenture, dated September 28, 2018, by and between the Company and the Bank of New York Mellon Trust Company, N.A. \(as successor to JPMorgan Chase Bank, N.A. \(formerly The Chase Manhattan Bank, N.A.\)\), as Trustee, supplementing the Company Indenture \(previously filed as exhibit 4.4 to the Company's Current Report on Form 8-K filed on September 28, 2018, and incorporated herein by reference\).](#)
- 4.24 [Form of 5.100% Senior Notes due 2048 \(previously filed as Exhibit 4.5 to the Company's Current Report on Form 8-K filed on September 28, 2018, and incorporated herein by reference\).](#)
- 10.1 [Revolving Credit Agreement, dated September 30, 2021, among Tyson Foods, Inc., the subsidiary borrowers party thereto, the lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent \(previously filed as Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on October 4, 2021, and incorporated herein by reference\).](#)
- 10.2 ** [First Amendment to the Revolving Credit Agreement, dated as of November 9, 2022, among Tyson Foods, Inc. and JPMorgan Chase Bank, N.A., as administrative agent.](#)
- 10.3 * [Second Amended and Restated Employment Agreement, dated November 9, 2017, by and between the Company and John Tyson \(previously filed as Exhibit 10.76 to the Company's Annual Report on Form 10-K for the fiscal year ended September 30, 2017, and incorporated herein by reference\).](#)
- 10.4 * [Employment Agreement, effective as of June 2, 2021, by and between the Company and Donnie King \(previously filed as Exhibit 10.1 to the Company's Current Report on Form 8-K, filed with the Securities and Exchange Commission on June 2, 2021, and incorporated herein by reference\).](#)
- 10.5 * [Compensatory arrangement by and between the Company and John Randal Tyson \(previously filed as Exhibit 10.17 to the Company's Current Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.6 * [Compensatory arrangement by and between the Company and Noelle O'Mara \(previously filed as Exhibit 10.18 to the Company's Current Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.7 * [Offer Letter between Tyson Foods, Inc. and Christopher Langholz \(previously filed as Exhibit 10.19 to the Company's Current Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.8 * [Second Amended and Restated Employment Agreement dated as of October 2nd, 2020, entered into between the Company and Noel W. White \(previously filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed October 8, 2020, and incorporated herein by reference\).](#)
- 10.9 * [Offer Letter between Tyson Foods, Inc. and Johanna Söderström \(previously filed as Exhibit 10.11 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 2020, and incorporated herein by reference\).](#)
- 10.10 * [Indemnity Agreement, dated as of September 28, 2007, between the Company and John Tyson \(previously filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed September 28, 2007, and incorporated herein by reference\).](#)
- 10.11 * [Form of Indemnity Agreement between Tyson Foods, Inc. and its directors and certain executive officers \(previously filed as Exhibit 10.13 to the Company's Annual Report on Form 10-K for the fiscal year ended October 3, 2020, and incorporated herein by reference\).](#)
- 10.12 * [Tyson Foods, Inc. Annual Incentive Compensation Plan for Senior Executives adopted February 4, 2005, and amended effective August 4, 2021 \(previously filed as Exhibit 10.31 to the Company's Quarterly Report on Form 10-Q for the fiscal period ended January 1, 2022, and incorporated herein by reference\).](#)
- 10.13 * [Amended and Restated Tyson Foods, Inc. Employee Stock Purchase Plan, effective as of February 1, 2013 \(previously filed as Exhibit 99.2 to Registration Statement on Form S-8 on February 22, 2013, Registration No. 333-186797, and incorporated herein by reference\).](#)
- 10.14 * [First Amendment to the Tyson Foods, Inc. Employee Stock Purchase Plan, effective February 1, 2013 \(previously filed as Exhibit 10.26 to the Company's Annual Report on Form 10-K for the fiscal year ended September 28, 2013, and incorporated herein by reference\).](#)

- 10.15 * [Amended and Restated Executive Savings Plan of Tyson Foods, Inc. effective January 1, 2013 \(previously filed as Exhibit 10.27 to the Company's Annual Report on Form 10-K for the fiscal year ended September 28, 2013, and incorporated herein by reference\).](#)
- 10.16 * [First Amendment to the Executive Savings Plan of Tyson Foods, Inc. effective November 16, 2017 \(previously filed as Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 30, 2017, and incorporated herein by reference\).](#)
- 10.17 * [Tyson Foods, Inc. 2000 Stock Incentive Plan, amended and restated as of February 11, 2021 \(previously filed as Exhibit A-1 to the Company's Definitive Proxy Statement, filed with the Securities and Exchange Commission on December 23, 2020, and incorporated herein by reference\).](#)
- 10.18 * [Amended and Restated Tyson Foods, Inc. Supplemental Executive Retirement and Life Insurance Premium Plan effective January 1, 2017 \(previously filed as Exhibit 10.68 to the Company's Annual report on Form 10-K for the fiscal year ended October 1, 2016, and incorporated herein by reference\).](#)
- 10.19 * [First Amendment to the Tyson Foods, Inc. Supplemental Executive Retirement and Life Insurance Premium Plan effective November 16, 2017 \(previously filed as Exhibit 10.6 to the Company's Quarterly Report on Form 10-Q for the quarter ended 12/30/2017, and incorporated herein by reference\).](#)
- 10.20 * [Second Amendment to the Tyson Foods, Inc. Supplemental Executive Retirement and Life Insurance Premium Plan effective February 2018 \(previously filed as Exhibit 10.16 to the Company's Quarterly Report on Form 10-Q for the quarter ended 12/30/2017, and incorporated herein by reference\).](#)
- 10.21 * [Retirement Savings Plan of Tyson Foods, Inc. effective January 1, 2011 \(previously filed as Exhibit 10.33 to the Company's Annual Report on Form 10-K for the fiscal year ended October 1, 2011, and incorporated herein by reference\).](#)
- 10.22 * [First Amendment to the Retirement Savings Plan of Tyson Foods, Inc., as Amended and Restated as of January 1, 2011 \(previously filed as Exhibit 10.32 to the Company's Annual Report on Form 10-K for the fiscal year ended September 28, 2013, and incorporated herein by reference\).](#)
- 10.23 * [Amended and Restated Retirement Income Plan of IBP, inc. effective August 1, 2000, and Amendment to Freeze the Retirement Income Plan of IBP, inc. effective December 31, 2002 \(previously filed as Exhibit 10.46 to the Company's Annual Report on Form 10-K for the fiscal year ended September 27, 2008, and incorporated herein by reference\).](#)
- 10.24 * [Tyson Foods, Inc. Severance Pay Plan for Contracted Employees, as amended and restated effective December 1, 2017 \(previously filed as Exhibit 10.15 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 30, 2017, and incorporated herein by reference\).](#)
- 10.25 * [Executive Severance Plan effective October 15, 2018 \(previously filed as Exhibit 10.65 to the Company's Annual Report on Form 10-K for the period ended September 29, 2018, and incorporated herein by reference\).](#)
- 10.26 * [Executive Severance Plan, as amended and restated effective February 15, 2020 \(previously filed as Exhibit 10.4 to the Company's Annual Report on Form 10-Q for the period ended January 1, 2022, and incorporated herein by reference\).](#)
- 10.27 * [Form of Performance Shares - Operating Income - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.28 * [Form of Performance Shares - Operating Income \(5+1\) - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.29 * [Form of Restricted Stock Subject to Performance Criteria - Stock Incentive Award Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.6 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.30 * [Form of Restricted Stock Subject to Performance Criteria \(5+1\) - Stock Incentive Award Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.31 * [Form of Stock Options \(Contracted\) - Stock Incentive Award Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.8 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)

- 10.32 * [Form of Stock Options \(5+1\) - Stock Incentive Award Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.9 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.33 * [Form of Restricted Stock \(Contracted\) - Stock Incentive Award Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.11 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.34 * [Form of Restricted Stock \(Director/Non-contract\) - Stock Incentive Award Agreement pursuant to which restricted share awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.12 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.35 * [Form of Restricted Stock \(5+1\) - Stock Incentive Award Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.13 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.36 * [Form of Performance Shares - Total Shareholder Return - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.14 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.37 * [Form of Performance Shares - Total Shareholder Return \(5+1\) - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.15 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.38 * [Form of Stock Appreciation Rights Award Agreement pursuant to which stock appreciation rights are awarded under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 17, 2017 \(previously filed as Exhibit 10.16 to the Company's Quarterly Report on Form 10-Q for the period ended December 29, 2018, and incorporated herein by reference\).](#)
- 10.39 * [Form of Performance Shares - Operating Income - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.40 * [Form of Performance Shares - Operating Income \(5+1\) - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.41 * [Form of Performance Shares - Total Shareholder Return - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.42 * [Form of Performance Shares - Total Shareholder Return \(5+1\) - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.43 * [Form of Restricted Stock Subject to Performance Criteria - Stock Incentive Award Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.44 * [Form of Restricted Stock Subject to Performance Criteria \(5+1\) - Stock Incentive Award Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.6 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.45 * [Form of Restricted Stock \(Contracted\) - Stock Incentive Award Agreement pursuant to which restricted share awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)

- 10.46 * [Form of Restricted Stock \(Director/Non-Contract\) - Stock Incentive Award Agreement pursuant to which restricted share awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.8 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.47 * [Form of Restricted Stock \(5+1\) - Stock Incentive Award Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.9 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.48 * [Form of Restricted Stock \(International Director/Non-Contract\) - Stock Incentive Award Agreement pursuant to which restricted share awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.10 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.49 * [Form of Restricted Stock \(International Contracted\) - Stock Incentive Award Agreement pursuant to which restricted share awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.11 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.50 * [Form of Stock Options \(Contracted\) - Stock Incentive Award Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.12 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.51 * [Form of Stock Options \(5+1\) - Stock Incentive Award Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.13 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.52 * [Form of Stock Options \(Director/Non-Contract\) - Stock Incentive Award Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 18, 2019 \(previously filed as Exhibit 10.14 to the Company's Quarterly Report on Form 10-Q for the period ended December 28, 2019, and incorporated herein by reference\).](#)
- 10.53 * [Form of Stock Options \(Contracted\) - Stock Incentive Award Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.54 * [Form of Stock Options \(5+1\) - Stock Incentive Award Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.55 * [Form of Stock Options \(Director/Non-Contract\) - Stock Incentive Award Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.56 * [Form of Stock Options \(CEO Special\) - Stock Incentive Aware Agreement pursuant to which stock option awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective October 5, 2020 \(previously filed as Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.57 * [Form of Restricted Stock \(Contracted\) - Stock Incentive Award Agreement pursuant to which restricted share awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.58 * [Form of Restricted Stock \(Director/Non-Contract\) - Stock Incentive Award Agreement pursuant to which restricted share awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.6 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.59 * [Form of Restricted Stock \(5+1\) - Stock Incentive Award Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.7 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)

- 10.60 * [Form of Performance Shares - Operating Income - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.8 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.61 * [Form of Performance Shares - Operating Income \(5+1\) - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.9 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.62 * [Form of Performance Shares - Total Shareholder Return - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.10 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.63 * [Form of Performance Shares - Total Shareholder Return \(5+1\) - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.11 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.64 * [Form of Restricted Stock \(5+1 Special\) - Stock Incentive Award Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.12 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.65 * [Form of Restricted Stock \(Contracted Special\) - Stock Incentive Award Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.13 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.66 * [Form of Restricted Stock \(International Non-Contract\) - Stock Incentive Award Agreement pursuant to which restricted share awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.14 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.67 * [Form of Restricted Stock \(International Contracted\) - Stock Incentive Award Agreement pursuant to which restricted share awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 20, 2020 \(previously filed as Exhibit 10.15 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.68 * [Form of Restricted Stock \(Chairman and CEO Special\) - Stock Incentive Aware Agreement pursuant to which restricted stock awards are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective October 5, 2020 \(previously filed as Exhibit 10.16 to the Company's Quarterly Report on Form 10-Q for the period ended January 2, 2021, and incorporated herein by reference\).](#)
- 10.69 [Form of Performance Shares – Return on Invested Capital \(5+1\) - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 19, 2021 \(previously filed as Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the period ended January 1, 2022, and incorporated herein by reference\).](#)
- 10.70 [Form of Performance Shares – Return on Invested Capital \(Contracted\) - Stock Incentive Award Agreement pursuant to which performance shares are granted under the Tyson Foods, Inc. 2000 Stock Incentive Plan effective November 19, 2021 \(previously filed as Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the period ended January 1, 2022, and incorporated herein by reference\).](#)
- 21 ** [Subsidiaries of the Company.](#)
- 23 ** [Consent of PricewaterhouseCoopers LLP.](#)
- 31.1 ** [Certification of Chief Executive Officer pursuant to SEC Rule 13a-14\(a\)/15d-14\(a\), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)
- 31.2 ** [Certification of Chief Financial Officer pursuant to SEC Rule 13a-14\(a\)/15d-14\(a\), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)
- 32.1 *** [Certification of Chief Executive Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.](#)
- 32.2 *** [Certification of Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.](#)

- 101 The following financial information from our Annual Report on Form 10-K for the year ended October 1, 2022, formatted in iXBRL (inline eXtensible Business Reporting Language): (i) Consolidated Statements of Income, (ii) Consolidated Statements of Comprehensive Income, (iii) Consolidated Balance Sheets, (iv) Consolidated Statements of Shareholders' Equity, (v) Consolidated Statements of Cash Flows, (vi) the Notes to Consolidated Financial Statements, and (vii) Financial Statement Schedule.
- 104 Cover Page Interactive Data File formatted in iXBRL.
- * Indicates a management contract or compensatory plan or arrangement.
- ** Filed herewith
- *** Furnished herewith

FINANCIAL STATEMENT SCHEDULE
TYSON FOODS, INC.
SCHEDULE II
VALUATION AND QUALIFYING ACCOUNTS

Three years ended October 1, 2022

			Balance at Beginning of Period	Additions		Charged to Other Accounts	(Deductions)	Balance at End of Period	
				Charged to Costs and Expenses					
in millions									
Allowance for Credit Losses:									
	2022	\$	25	\$	6	\$	—	\$ (2)	\$ 29
	2021		26		5		—	(6)	25
	2020		21		9		—	(4)	26
Inventory Lower of Cost or Net Realizable Value Allowance:									
	2022	\$	47	\$	36	\$	—	\$ (23)	\$ 60
	2021		27		79		—	(59)	47
	2020		34		102		—	(109)	27
Valuation Allowance on Deferred Tax Assets:									
	2022	\$	151	\$	44	\$	—	\$ —	\$ 195
	2021		127		24		—	—	151
	2020		86		35		13	(7)	127

ITEM 16. Form 10-K Summary

None.

SIGNATURES

Pursuant to 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.

TYSON FOODS, INC.

By: /s/ John R. Tyson November 14, 2022
John R. Tyson
Executive Vice President and Chief Financial Officer (Principal
Financial Officer)

By: /s/ Phillip W. Thomas November 14, 2022
Phillip W. Thomas
Vice President, Controller and Chief Accounting Officer (Principal
Accounting Officer)

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 date indicated.

<u>/s/ John H. Tyson</u> John H. Tyson	Chairman of the Board of Directors	November 14, 2022
<u>/s/ Les R. Baledge</u> Les R. Baledge	Director	November 14, 2022
<u>/s/ Mike Beebe</u> Mike Beebe	Director	November 14, 2022
<u>/s/ Maria Claudia Borrás</u> Maria Claudia Borrás	Director	November 14, 2022
<u>/s/ David J. Bronczek</u> David J. Bronczek	Director	November 14, 2022
<u>/s/ Mikel A. Durham</u> Mikel A. Durham	Director	November 14, 2022
<u>/s/ Donnie King</u> Donnie King	President, Chief Executive Officer, and Director (Principal Executive Officer)	November 14, 2022
<u>/s/ Jonathan D. Mariner</u> Jonathan D. Mariner	Director	November 14, 2022
<u>/s/ Kevin M. McNamara</u> Kevin M. McNamara	Vice Chairman of the Board of Directors	November 14, 2022
<u>/s/ Cheryl S. Miller</u> Cheryl S. Miller	Director	November 14, 2022
<u>/s/ Jeffrey K. Schomburger</u> Jeffrey K. Schomburger	Director	November 14, 2022
<u>/s/ Phillip W. Thomas</u> Phillip W. Thomas	Vice President, Controller and Chief Accounting Officer (Principal Accounting Officer)	November 14, 2022
<u>/s/ Barbara A. Tyson</u> Barbara A. Tyson	Director	November 14, 2022
<u>/s/ John R. Tyson</u> John R. Tyson	Executive Vice President and Chief Financial Officer (Principal Financial Officer)	November 14, 2022
<u>/s/ Noel White</u> Noel White	Executive Vice Chairman of the Board of Directors	November 14, 2022

FIRST AMENDMENT dated as of November 9, 2022 (this “Amendment”), among TYSON FOODS, INC., a Delaware corporation (the “Company”), and JPMORGAN CHASE BANK, N.A., as Administrative Agent.

WHEREAS, reference is made to the Revolving Credit Agreement dated as of September 30, 2021 (the “Revolving Credit Agreement”), among the Company, certain Subsidiaries of the Company that may be Subsidiary Borrowers from time to time, the Lenders from time to time party hereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the “Administrative Agent”).

WHEREAS, a Benchmark Transition Event with respect to the Eurocurrency Rate has occurred, and the Administrative Agent and the Company desire to jointly elect to trigger a fallback from the Eurocurrency Rate, all as contemplated by the definition of the term Early Opt-in Election set forth in the Revolving Credit Agreement and as set forth herein.

WHEREAS, pursuant to the terms of the Revolving Credit Agreement, a Benchmark Replacement Date would occur with respect to such Early Opt-in Election on the sixth Business Day after the date notice of such Early Opt-in Election is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m., New York City time, on the fifth Business Day after the date notice of such Early Opt-in Election is provided to the Lenders (the “Objection Deadline”), written notice of objection to such Early Opt-in Election from Lenders comprising the Required Lenders.

WHEREAS, pursuant to Section 2.14(b) of the Revolving Credit Agreement, upon the occurrence of an Early Opt-In Election and its related Benchmark Replacement Date, (a) the Benchmark Replacement set forth herein will replace the Eurocurrency Rate for all purposes under the Revolving Credit Agreement and the other Loan Documents, without any amendment to, or further action or consent of any other party to, the Revolving Credit Agreement or any other Loan Document, and (b) in connection with the implementation of such Benchmark Replacement, the Administrative Agent, in consultation with the Company, has the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary in the Revolving Credit Agreement or 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 the Revolving Credit Agreement or any other Loan Document.

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

SECTION 1. Defined Terms. Capitalized terms used but not otherwise defined herein (including in the preamble and the recitals hereto) have the meanings assigned to them in the Revolving Credit Agreement (where applicable, as amended hereby).

SECTION 2. Early Opt-in Election. The Company and the Administrative Agent hereby confirm their joint election to trigger a fallback from the Eurocurrency Rate to the Adjusted Term SOFR, all as set forth herein.

SECTION 3. Benchmark Replacement Conforming Changes. On and as of the Effective Date (as defined below):

(a) The Revolving Credit Agreement is hereby amended by inserting the language indicated in single or double underlined text (indicated textually in the same manner as the following examples: single-underlined text or double-underlined text) in Annex I hereto and by deleting the language indicated by strikethrough text (indicated textually in the same manner as the following example: ~~stricken text~~) in Annex I hereto.

(b) Exhibit B of the Revolving Credit Agreement is hereby amended and restated in its entirety to be in the form of Exhibit B hereto.

(c) Exhibit D of the Revolving Credit Agreement is hereby amended and restated in its entirety to be in the form of Exhibit D hereto.

SECTION 4. Representations and Warranties. The Company represents and warrants to the Administrative Agent and the Lenders that:

(a) This Amendment has been duly authorized by all necessary corporate action on behalf of the Company and has been duly executed and delivered by the Company and constitutes a legal, valid and binding obligation of the Company, 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.

(b) As of the Effective Date and after giving effect to the effectiveness of this Amendment:

(i) the representations and warranties of the Loan Parties set forth in the Loan Documents that are qualified by materiality are true and correct and such representations and warranties that are not so qualified are true and correct in all material respects on and as of the Effective Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties that are qualified by materiality are true and correct and such representations and warranties that are not so qualified are true and correct in all material respects, in each case, as of such earlier date); and

(ii) no Default has occurred and is continuing.

SECTION 5. Conditions to Effectiveness. This Amendment shall become effective on the first date (the "Effective Date") on which each of the following conditions is satisfied:

(a) The Administrative Agent shall have executed this Amendment and shall have received from the Company a counterpart of this Amendment signed on behalf of the Company (which, subject to Section 9.06(b) of the Revolving Credit Agreement, may include any Electronic Signatures transmitted by e-mailed .pdf or any other electronic means that reproduces an image of an actual executed signature page).

(b) The Administrative Agent has not received, by the Objection Deadline, written notice of objection to the Early Opt-in Election set forth herein from Lenders comprising the Required Lenders.

The Administrative Agent shall notify the Company and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 6. Effect of this Amendment. (a) Except as expressly set forth herein, this Amendment shall not by implication or otherwise limit, impair, constitute a waiver of, or otherwise affect the rights and remedies of the Administrative Agent, any Issuing Lender or any Lender under the Revolving Credit Agreement or any other Loan Document, and shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Revolving Credit Agreement or any other Loan Document, all of which are ratified and affirmed in all respects and shall continue in full force and effect. Nothing herein shall be deemed to entitle any Borrower to any other consent to, or any other waiver, amendment, modification or other change of, any of the terms, conditions, obligations, covenants or agreements contained in the Revolving Credit Agreement or any other Loan Document in similar or different circumstances.

(b) On and after the Effective Date, each reference in the Revolving Credit Agreement to “this Agreement”, “herein”, “hereunder”, “hereto”, “hereof” and words of similar import shall, unless the context otherwise requires, refer to the Revolving Credit Agreement as amended hereby, and each reference to the Revolving Credit Agreement in any other Loan Document shall be deemed to be a reference to the Revolving Credit Agreement as amended hereby. This Amendment shall constitute a “Loan Document” for all purposes of the Revolving Credit Agreement and the other Loan Documents.

SECTION 7. Applicable Law. THIS AMENDMENT, AND ALL ACTIONS, CAUSES OF ACTION OR CLAIMS OF ANY KIND (WHETHER AT LAW, IN EQUITY, IN CONTRACT, IN TORT OR OTHERWISE) THAT MAY BE BASED UPON, ARISE OUT OF OR RELATED TO THIS AMENDMENT, SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

SECTION 8. Counterparts; Integration; Effectiveness. This Amendment may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Amendment, the Revolving Credit Agreement and the other Loan Documents constitute the entire contract among the parties hereto and thereto 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 for any provisions set forth in any related fee letters or any provisions expressed not be superseded by Section 9.06 of the Revolving Credit Agreement). This Amendment shall become effective as provided in Section 4 hereof and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

SECTION 9. Headings. The Section headings used herein are for convenience of reference only, are not part of this Amendment and are not to affect the construction of, or to be taken into consideration in interpreting, this Amendment.

SECTION 10. Incorporation by Reference. The provisions of Sections 9.09(b), 9.09(c), 9.09(d) and 9.10 of the Revolving Credit Agreement are hereby incorporated by reference as if set forth in full herein, mutatis, mutandis.

[Remainder of page intentionally left blank.]

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

TYSON FOODS, INC.,
by /s/ Curt Calaway

Name: Curt Calaway
Title: SVP Finance & Treasurer

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

by /s/ Gregory Martin

Name: Gregory Martin

Title: Executive Director

REVOLVING CREDIT AGREEMENT

dated as of September 30, 2021,

among

TYSON FOODS, INC.,

The SUBSIDIARY BORROWERS Party Hereto,

The LENDERS Party Hereto

and

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

JPMORGAN CHASE BANK, N.A., BARCLAYS BANK PLC, BOFA SECURITIES, INC., MORGAN STANLEY SENIOR FUNDING, INC.,
COBANK, ACB, COÖPERATIEVE RABOBANK U.A., NEW YORK BRANCH and RBC CAPITAL MARKETS,
as Joint Lead Arrangers and Joint Bookrunners

BANK OF AMERICA, N.A., BARCLAYS BANK PLC and MORGAN STANLEY SENIOR FUNDING, INC.,
as Syndication Agents

COBANK, ACB, COÖPERATIEVE RABOBANK U.A., NEW YORK BRANCH
and ROYAL BANK OF CANADA,
as Documentation Agents

[CS&M Ref. No. 6701-803]

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Schedule 2.06B –	LC Commitments
Schedule 3.06 –	Disclosed Matters
Schedule 6.01 –	Existing Indebtedness
Schedule 6.02 –	Existing Liens
Schedule 9.04(c)(vi) –	Voting Participants

EXHIBITS:

Exhibit A –	Form of Assignment and Assumption
Exhibit B –	Form of Borrowing Request
Exhibit C –	Form of Guarantee Agreement
Exhibit D –	Form of Interest Election Request
Exhibit E –	Form of Compliance Certificate
Exhibit F –	Form of Revolving Note
Exhibit G-1 –	Form of U.S. Tax Compliance Certificate (For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)
Exhibit G-2 –	Form of U.S. Tax Compliance Certificate (For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)
Exhibit G-3 –	Form of U.S. Tax Compliance Certificate (For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)
Exhibit G-4 –	Form of U.S. Tax Compliance Certificate (For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)
Exhibit H –	Form of Subsidiary Borrower Joinder Agreement
Exhibit I –	Form of Subsidiary Borrower Termination Agreement

REVOLVING CREDIT AGREEMENT dated as of September 30, 2021 (as it may be amended, restated or otherwise modified from time to time, this “Agreement”), among TYSON FOODS, INC., a Delaware corporation (the “Company”), certain Subsidiaries of the Company that may be SUBSIDIARY BORROWERS from time to time, the LENDERS from time to time party hereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent.

The Company has requested that the Lenders (as defined below) and the Issuing Lenders (as defined below) make Loans to and issue Letters of Credit for the account of the Company and the Subsidiary Borrowers (as defined below) in an aggregate principal or stated amount not exceeding \$2,250,000,000 at any one time outstanding. The Lenders and the Issuing Lenders are willing to extend such credit upon the terms and conditions hereof.

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

ARTICLE I

Definitions

SECTION 1.01. Defined Terms. As used in this Agreement and, unless otherwise specified therein, in any Schedules and Exhibits to this Agreement, the following terms have the meanings specified below:

“ABR Borrowing” means, ~~when used in reference to any Loan or Borrowing, whether such Loan, or the Loans comprising such Borrowing, are bearing~~ interest at a rate determined by reference to the Alternate Base Rate comprised of ABR Loans.

“~~Adjusted Eurocurrency Rate~~ABR Loan” means any Loan that bears 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) 0.11448% per annum; provided that if the Adjusted Daily Simple SOFR as so determined would be less than zero, such rate shall be deemed to be zero.

“Adjusted Term SOFR” means, ~~with respect to any Eurocurrency Borrowing~~ for any Interest Period, an interest rate per annum ~~(rounded upwards, if necessary, to the next 1/100 of 1%)~~ equal to (a) the ~~Eurocurrency Rate~~Term SOFR for such Interest Period ~~multiplied by~~ plus (b) ~~the Statutory Reserve Rate for such~~ (i) in the case of any Interest Period with a duration of one month, 0.11448% per annum, (ii) in the case of any Interest Period with a duration of three months, 0.26161% per annum and (iii) in the case of any Interest Period with a duration of six months, 0.42826% per annum; provided that if the Adjusted Term SOFR as so determined would be less than zero, such rate shall be deemed to be zero.

“Administrative Agent” means JPMorgan, in its capacity as administrative agent for the Lenders hereunder and under the other Loan Documents, and its successors in such capacity as provided in Article VIII.

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

“Affected Financial Institution” means (a) any EEA Financial Institution and (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; provided, however, that for purposes of Section 6.05, the term “Affiliate” shall also mean any Person that is an executive officer or director of the Person specified, any Person that directly or indirectly beneficially owns Equity Interests in the Person specified representing 10% or more of the aggregate ordinary voting power or the aggregate equity value represented by the issued and outstanding Equity Interests in the Person specified and any Person that would be an Affiliate of any such beneficial owner pursuant to this definition (but without giving effect to this proviso).

“Agreement” has the meaning set forth 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 0.50% per annum and (c) the Adjusted ~~Eurocurrency Rate~~ Term SOFR for a one month Interest Period as published two U.S. Government Securities Business Days prior to on such day (or if such day is not a U.S. Government Securities Business Day, the immediately preceding U.S. Government Securities Business Day) ~~for a deposit in dollars with a maturity of one month plus 1.00% per annum. For purposes of clause (c) above, the Adjusted Eurocurrency Rate~~ Term SOFR on any day shall be based on the ~~LIBO Screen Rate (or, if the LIBO Screen Rate is not available for a maturity of one month but is available for periods both longer and shorter than such period, the Interpolated Screen Rate)~~ Term SOFR Reference Rate at approximately ~~11:00~~ 5:00 a.m., ~~London Chicago~~ time, on such day ~~for deposits in dollars with a maturity of one month~~ (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); provided that (i) if such rate shall be less than zero, such rate shall be deemed to be zero and (ii) if such rate is not available or cannot be determined, such rate shall be deemed to be zero. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted ~~Eurocurrency Rate~~ Term SOFR shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted ~~Eurocurrency Rate~~ Term SOFR, as the case may be. 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. Notwithstanding anything to the contrary in this definition, if the Alternate Base Rate as determined pursuant to the foregoing would be less than 1.00% per annum, such rate shall be deemed to be 1.00% per annum.

“Ancillary Document” has the meaning set forth in Section 9.06(b).

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

“Applicable Percentage” means at any time, with respect to any Lender, a percentage equal to a fraction, the numerator of which is such Lender’s Commitment and the denominator of which is the Total Commitment, in each case, at such time; provided that, for purposes of Section 2.21 when a Defaulting Lender shall exist, “Applicable Percentage” shall mean, with respect to any Lender, a percentage equal to a fraction, the numerator of which is such Lender’s Commitment and the denominator is the Total Commitment (but disregarding any Defaulting Lender’s Commitment). If, however, 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 the facility fee or to any Term SOFR Loan, any Daily Simple SOFR Loan (if applicable pursuant to Section 2.14) or any ABR ~~Loan or Eurocurrency~~ Loan, the applicable rate per annum set forth below under the caption “Facility Fee”, “ABR Term SOFR/Daily Simple SOFR Spread” or “Eurocurrency ABR Spread”, as the case may be, based upon the Applicable Ratings on such date:

<u>Ratings Level Moody's/S&P</u>	<u>Facility Fee</u>	<u>Eurocurrency Term SOFR/Daily Simple SOFR Spread</u>	<u>ABR Spread</u>
<u>Level 1</u> A2/A or above	0.070%	0.805%	0.000%
<u>Level 2</u> A3/A-	0.090%	0.910%	0.000%
<u>Level 3</u> Baa1/BBB+	0.100%	1.025%	0.025%
<u>Level 4</u> Baa2/BBB	0.125%	1.125%	0.125%
<u>Level 5</u> Baa3/BBB- or below	0.175%	1.200%	0.200%

In the event the Applicable Ratings fall within different Levels, the Applicable Rate will be based upon the higher of the two Levels or, if there is more than a one-notch split between the two Levels, then the Applicable Rate will be based upon the Level that is one Level below the higher Level. If any Rating Agency shall not have in effect an Applicable Rating (other than by reason of the circumstances referred to in the last sentence of this definition), such Rating Agency shall be deemed to have an Applicable Rating that falls in Level 5. If the Applicable Rating established by any Rating Agency shall be changed (other than as a result of a change in the rating system of such Rating Agency), such change shall be effective as of the date on which it is first announced by such Rating Agency, irrespective of when notice of such change shall have been furnished by the Company pursuant to Section 5.01 or otherwise. Each change in the Applicable Rate shall apply during the period commencing on the effective date of such change and ending on the date immediately preceding the effective date of the next such change. If the rating system of any Rating Agency shall change, or if any Rating Agency shall cease to be in the business of rating corporate debt obligations, the Company and the Required Lenders shall negotiate in good faith to amend this definition to reflect such changed rating system or the unavailability of an Applicable Rating from such Rating Agency and, pending the effectiveness of any such amendment, the Applicable Rating of such Rating Agency shall be determined by reference to the Applicable Rating from such Rating Agency most recently in effect prior to such change or cessation.

“Applicable Rating” means, with respect to any Rating Agency at any time, (a) the Index Rating assigned by such Rating Agency or (b) if such Rating Agency shall not have in effect an Index Rating, the Corporate Rating assigned by such Rating Agency.

“Approved Electronic Platform” has the meaning set forth in Section 8.03(a).

“Approved Fund” means any Person (other than a natural person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person) that is engaged in making, purchasing, holding or investing in commercial loans and similar extensions of credit in the ordinary course 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.

“Arrangers” means, collectively, the Persons named as the joint lead arrangers on the cover of this Agreement.

“ASC 815” means Financial Accounting Standards Board, Accounting Standards Codification 815, *Derivatives and Hedging* (as it may be amended, supplemented or replaced).

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any Person whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent and the Company.

“Availability Period” means the period from and including the Effective Date to but excluding the earlier of the Commitment Termination Date and the date of termination or reduction to zero of all the Commitments.

“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 any frequency of making payments of interest calculated pursuant to this Agreement as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of “Interest Period” pursuant to Section 2.14(b)(~~v~~iv).

“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 that 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).

“Benchmark” means, initially, the ~~Eurocurrency-Rate~~Term SOFR; provided that if a Benchmark Transition Event, ~~a Term SOFR Transition Event, an Early Opt-in Election or an Other Benchmark Rate Election, as applicable,~~ and ~~its~~the related Benchmark Replacement Date have occurred with respect to the ~~Eurocurrency-Rate~~Term SOFR or the then-current Benchmark, then “Benchmark” means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.14(b)(i) ~~or 2.14(b)(ii)~~.

“Benchmark Replacement” means, for any Available Tenor, the first alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date; ~~provided that, in the case of an Other Benchmark Rate Election, the “Benchmark Replacement” shall mean the alternative set forth in clause (3) below:~~

~~(1) the sum of: (a) Term SOFR and (b) the related Benchmark Replacement Adjustment;~~

~~(2) the sum of: (a) Adjusted Daily Simple SOFR; and~~

~~(b) the related Benchmark Replacement Adjustment;~~

~~(3) the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Company 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 and/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;~~

~~provided that, in the case of clause (1), such Unadjusted Benchmark Replacement is displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; provided further that, in the case of clause (3), when such clause is used to determine the Benchmark Replacement in connection with the occurrence of an Other Benchmark Rate Election, the alternate benchmark rate selected by the Administrative Agent and the Company shall be the term benchmark interest rate that is used in lieu of a LIBOR-based rate in the relevant other dollar-denominated syndicated credit facilities; provided further that, notwithstanding anything to the contrary in this Agreement or in any other Loan Document, upon the occurrence of a Term SOFR Transition Event, and the delivery of a Term SOFR Notice, on the applicable Benchmark Replacement Date the “Benchmark Replacement” shall revert to and shall be deemed to be the sum of (a) Term SOFR and (b) the related Benchmark Replacement Adjustment, as set forth in clause (1) of this definition (subject to the first proviso above).~~

If the Benchmark Replacement ~~as determined pursuant to clause (1), (2) or (3) above~~ would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents.

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

~~(1) for purposes of clauses (1) and (2) of the definition of “Benchmark Replacement”, the first alternative set forth in the order below that can be determined by the Administrative Agent:~~

~~(a) the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that has been selected or recommended by the Relevant Governmental Body for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for the applicable Corresponding Tenor;~~

~~(b) the spread adjustment (which may be a positive or negative value or zero) as of the Reference Time such Benchmark Replacement is first set for such Interest Period that would apply to the fallback rate for a derivative transaction referencing the ISDA Definitions to be effective upon an index cessation event with respect to such Benchmark for the applicable Corresponding Tenor; and~~

~~(2) for purposes of clause (3) of the definition of “Benchmark Replacement”, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Company 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 in the United States;~~

~~provided that, in the case of clause (1) above, such adjustment is displayed on a screen or other information service that publishes such Benchmark Replacement Adjustment from time to time as selected by the Administrative Agent in its reasonable discretion.~~

“Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement and/or any Term SOFR Loan, any technical, administrative or operational changes (including changes to the definition of “Alternate Base Rate”, the definition of “Business Day”, the definition of “Interest Period”, the definition of “U.S. Government Securities Business Day”, timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent decides in its reasonable discretion, in consultation with the Company, may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent reasonably determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides in its reasonable discretion, in consultation with the Company, 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~~earlier 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;

~~(3) in the case of a Term SOFR Transition Event, the date that is 30 days after the date a Term SOFR Notice is provided to the Lenders and the Company pursuant to Section 2.14(b)(ii); or~~

~~(4) in the case of an Early Opt-in Election or an Other Benchmark Rate Election, the sixth Business Day after the date notice of such Early Opt-in Election or Other Benchmark Rate Election, as applicable, is provided to the Lenders, so long as the Administrative Agent has not received, by 5:00 p.m., New York City time, on the fifth Business Day after the date notice of such Early Opt-in Election or Other Benchmark Rate Election, as applicable, is provided to the Lenders, written notice of objection to such Early Opt-in Election or Other Benchmark Rate Election, as applicable, from Lenders comprising the Required Lenders.~~

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

“Benchmark Transition Event” means, 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 ~~the such~~ then-current Benchmark for all purposes hereunder and under any other Loan Document in accordance with Section 2.14(b) and (y) ending at the time that a Benchmark Replacement has replaced ~~the such~~ then-current Benchmark for all purposes hereunder and under any other Loan Document in accordance with Section 2.14(b).

“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 ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“Borrowers” means, collectively, the Company and the Subsidiary Borrowers.

“Borrowing” means (a) Revolving Loans of the same Type made, converted or continued on the same date and to the same Borrower and, in the case of ~~Eurocurrency~~ Term SOFR Loans, as to which a single Interest Period is in effect, and (b) a Swingline Loan.

“Borrowing Request” means a request by the Company on behalf of a Borrower for a borrowing of Loans in accordance with Section 2.03 or 2.04, which shall be substantially in the form of Exhibit B.

“Business Day” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a ~~Eurocurrency Loan~~ Daily Simple SOFR Loan or Term SOFR Loan and any interest rate settings, fundings, disbursements, settlements or payments of any Daily Simple SOFR Loans or Term SOFR Loans, or any other dealings in respect of such Loans referencing the Adjusted Daily Simple SOFR or the Adjusted Term SOFR, the term “Business Day” shall also exclude any day ~~on which banks are not open for dealings in dollar deposits in the London interbank market~~ that is not a U.S. Government Securities Business Day.

“Change in Control” means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Exchange Act, and the rules of the SEC thereunder as in effect on the Effective Date) other than the Permitted Holders of Equity Interests representing more than 50% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests in the Company or (b) a “Change of Control” (or other defined term having a similar purpose) as defined under any of the Covered Notes or any document governing any refinancing of any of the Covered Notes; provided, however, that for purposes of clause (a), the Permitted Holders shall be deemed to beneficially own any Equity Interests of the Company held by any other Person (the “parent entity”) so long as the Permitted Holders beneficially own (as so defined), directly or indirectly, in the aggregate a majority of the voting power of the Equity Interests of the parent entity.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any rule, regulation, treaty or other law, (b) any change in any rule, regulation, treaty or other law or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case, pursuant to Basel III, shall, in each case, be deemed to be a “Change in Law”, regardless of the date enacted, adopted, implemented, promulgated or issued.

“Charges” has the meaning set forth in Section 9.15.

“Chief Financial Officer” means, with respect to any Person, the chief financial officer of such Person.

“Class” means, when used in reference to any Loan or Borrowing, whether such Loan, or the Loans comprising such Borrowing, is a Revolving Loan or a Swingline Loan.

“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 from time to time.

“Commitment” means, with respect to each Lender, such Lender’s commitment to make Revolving Loans and to acquire participations in Letters of Credit and Swingline Loans hereunder, expressed as an amount representing the maximum permissible amount of such Lender’s Credit Exposure hereunder, as such commitment may be (a) reduced or increased from time to time pursuant to Section 2.05, 2.09 or 2.19(b), and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Commitment is set forth on Schedule 2.01, or in the Assignment and Assumption or the Incremental Facility Agreement pursuant to which such Lender shall have assumed or provided its Commitment, as applicable. The initial amount of the Total Commitment is \$2,250,000,000.

“Commitment Termination Date” means the fifth anniversary of the Effective Date, as such date may be extended pursuant to Section 2.23.

“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 that is distributed by or to the Administrative Agent, any Lender or any Issuing Lender by means of electronic communications pursuant to Section 9.01, including through the Approved Electronic Platform.

“Company” has the meaning set forth in the preamble to this Agreement.

“Competitor” means any Person that competes with the Company and its Subsidiaries in the industries in which they conduct their business and is identified by the Company in writing to the Administrative Agent (or is reasonably identifiable as an Affiliate of such Person). Notwithstanding anything to the contrary set forth herein, a list of Competitors identified by the Company as set forth above is permitted to be made available by the Administrative Agent to any Lender that specifically requests a copy thereof.

“Consolidated Cash Interest Expense” means, for any period, the excess of (a) the sum, without duplication, of (i) interest expense during such period (including interest expense in respect of Finance Lease Obligations that would be included in the computation of interest expense under GAAP and taking into account net payments under Swap Agreements entered into to hedge interest rates to the extent such net payments are allocable to such period in accordance with GAAP) of the Company and its consolidated Subsidiaries, determined on a consolidated basis in accordance with GAAP, (ii) the interest expense that would be imputed for such period in respect of Synthetic Leases of the Company and its consolidated Subsidiaries if such Synthetic Leases were accounted for as Finance Lease Obligations, determined on a consolidated basis in accordance with GAAP, (iii) any interest or other financing costs becoming payable during such period in respect of Indebtedness of the Company or its consolidated Subsidiaries to the extent such interest or other financing costs shall have been capitalized rather than included in Consolidated Interest Expense for such period in accordance with GAAP, (iv) any cash payments made during such period in respect of amounts referred to in clause (b)(ii) below that were amortized or accrued in a previous period and (v) to the extent not otherwise included in Consolidated Interest Expense, commissions, discounts, yield and other fees and charges incurred in connection with Securitization Transactions which are payable to any Person other than the Company or any Subsidiary in the nature of interest, and any other amounts comparable to or in the nature of interest under any Securitization Transaction, including losses on the sale of assets relating to any receivables securitization transaction accounted for as a “true sale”, minus (b) the sum of (i) to the extent included in Consolidated Interest Expense for such period, noncash amounts attributable to amortization or write-off of capitalized interest or other financing costs paid in a previous period, (ii) to the extent included in Consolidated Interest Expense for such period, noncash amounts attributable to amortization of debt discounts or accrued interest payable in kind for such period, and (iii) to the extent included in such Consolidated Interest Expense for such period, noncash amounts attributable to Swap Agreements pursuant to GAAP, including as a result of the application of ASC 815. For purposes of calculating Consolidated Cash Interest Expense for any period, if during such period the Company or any Subsidiary shall have consummated a Material Acquisition or a Material Disposition, Consolidated Cash Interest Expense for such period shall be calculated after giving pro forma effect thereto in accordance with Section 1.04(b).

“Consolidated EBITDA” means, for any period, Consolidated Net Income for such period plus (a) without duplication and to the extent deducted in determining such Consolidated Net Income, the sum of (i) Consolidated Interest Expense for such period, (ii) consolidated income tax expense for such period, (iii) all amounts attributable to depreciation and amortization for such period, (iv) extraordinary noncash losses for such period, (v) noncash charges to the extent solely attributable to unrealized losses under ASC 815 (provided, that any cash payment made with respect to any such noncash charge shall be subtracted in computing Consolidated EBITDA during the period in which such cash payment is made (it being understood that the provision of cash collateral shall not constitute a “payment” for these purposes)), and (vi) noncash charges (including goodwill writedowns) for such period (provided, that any cash payment made with respect to any such noncash charge shall be subtracted in computing Consolidated EBITDA during the period in which such cash payment is made) and minus (b) without duplication and to the extent included in determining such Consolidated Net Income, the sum of (i) any extraordinary noncash gains for such period, (ii) noncash gains to the extent solely attributable to unrealized gains under ASC 815 (provided, that any cash received with respect to any such noncash gain shall be added in computing Consolidated EBITDA during the period in which such cash is received) and (iii) nonrecurring noncash gains for such period (provided, that any cash received with respect to any such nonrecurring noncash gain shall be added in computing Consolidated EBITDA during the period in which such cash is received), all determined on a consolidated basis in accordance with GAAP. For purposes of calculating Consolidated EBITDA for any period, if during such period the Company or any Subsidiary shall have consummated a Material Acquisition or a Material Disposition, Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto in accordance with Section 1.04(b).

“Consolidated Interest Expense” means, for any period, the interest expense of the Company and its consolidated Subsidiaries for such period, determined on a consolidated basis in accordance with GAAP. For purposes of calculating Consolidated Interest Expense for any period, if during such period the Company or any Subsidiary shall have consummated a Material Acquisition or a Material Disposition, Consolidated Interest Expense for such period shall be calculated after giving pro forma effect thereto in accordance with Section 1.04(b).

“Consolidated Net Income” means, for any period, the consolidated net income (or loss) of the Company and its consolidated Subsidiaries for such period (taken as a single accounting period) determined in conformity with GAAP, excluding (to the extent otherwise included therein) any gains or losses, together with any related provision for taxes, realized upon any sale of assets other than in the ordinary course of business; provided, however, that there shall be excluded from Consolidated Net Income, other than for purposes of any calculation made on a Pro Forma Basis, the net income (or loss) of any Person accrued prior to the earlier of the date such Person becomes a Subsidiary of the Company or any of its consolidated Subsidiaries or is merged into or consolidated with the Company or any of its consolidated Subsidiaries or such Person’s assets are acquired by the Company or any of its consolidated Subsidiaries.

“Consolidated Net Tangible Assets” means, at any date, total assets of the Company and its consolidated Subsidiaries determined on a consolidated basis in accordance with GAAP minus (a) current liabilities (excluding short-term Indebtedness and the current portion of long-term Indebtedness) of the Company and its consolidated Subsidiaries and (b) goodwill and other intangible assets of the Company and its consolidated Subsidiaries, in each case, determined on a consolidated basis in accordance with GAAP.

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

“Corporate Rating” means, at any time, (a) with respect to S&P, the Company’s corporate credit rating and (b) with respect to Moody’s, the Company’s corporate family rating.

“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 Notes” means (a) the 4.50% Senior Notes due 2022, 3.900% Senior Notes due 2023, 3.95% Senior Notes due 2024, 4.00% Notes due 2026, 3.55% Senior Notes due 2027, 7.00% Notes due 2028, 4.35% Notes due 2029, 4.875% Senior Notes due 2034, 5.15% Senior Notes due 2044, 4.55% Senior Notes due 2047 and 5.100% Senior Notes due 2048 of the Company and (b) the 6.13% Notes due 2032 of Hillshire Brands, and, in each case, any document governing any of the foregoing.

“COVID-19 Relief Funds” means funds or credit or other support received from, or with the credit or other support of, any Governmental Authority for the purposes (in the good faith determination of the Company) of providing liquidity or other financial relief in connection with the COVID-19 global pandemic and any potential effects and consequences related thereto.

“Credit Exposure” means, with respect to any Lender at any time, the sum, without duplication, of the outstanding principal amount of such Lender’s Revolving Loans, LC Exposure and Swingline Exposure at such time.

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

“Daily Simple SOFR” means, for any day (a “SOFR Rate Day”), a rate per annum equal to SOFR for the day that is five U.S. Government Securities Business Days prior to (a) if such SOFR Rate Day is a U.S. Government Securities Business Day, such SOFR Rate Day, or (b) 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 any Borrower.

“Daily Simple SOFR Borrowing” means any Borrowing comprised of Daily Simple SOFR Loans.

“Daily Simple SOFR Loan” means any Loan that bears interest at a rate determined by reference to the Adjusted Daily Simple SOFR.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, examinership, court protection, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or any other jurisdiction from time to time in effect and affecting the rights of creditors generally.

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

“Defaulting Lender” means any Lender that (a) has failed, within three Business Days of the date required to be funded or paid, (i) to fund its portion of any Borrowing, (ii) to fund any portion of its participation in any Letter of Credit or Swingline Loan or (iii) to pay over to the Administrative Agent, any Issuing Lender, any Swingline Lender or any other Lender any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent and the Company in writing that such failure is the result of such Lender’s determination in good faith that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable Default, shall be specifically identified in such writing) has not been satisfied, (b) has notified the Company, the Administrative Agent, any Issuing Lender, any Swingline Lender or any other Lender in writing, or has made a public statement to the effect, that it does not intend 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 determination in good faith that one or more condition precedents to funding (each of which conditions precedent, together with any applicable Default, shall be specifically identified in such writing or public statement) cannot be satisfied), or generally under other agreements in which it commits to extend credit, (c) has failed, within three Business Days after request by the Administrative Agent, any Issuing Lender or any Swingline Lender, 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) to fund prospective Loans and participations in then outstanding Letters of Credit and Swingline Loans under this Agreement; provided that such Lender will cease to be a Defaulting Lender under this clause (c) upon the Administrative Agent’s receipt of such certification in form and substance satisfactory to it, or (d) (i) has become the subject of a voluntary or involuntary bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with 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, or has a direct or indirect parent company that has become the subject of a voluntary or involuntary public bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with 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 for purposes of this clause (d)(i), a Lender shall not qualify as a Defaulting Lender solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Lender or its direct or indirect parent company 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 Lender or its direct or indirect parent company (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Lender or such direct or indirect parent company, or (ii) has become the subject of a Bail-In Action or has a direct or indirect parent company that has become the subject of a Bail-In Action.

“Disclosed Matters” means the actions, suits and proceedings and the environmental matters disclosed in Schedule 3.06 or in any of the Company’s filings with the SEC (excluding any such disclosure under the caption “Risk Factors”, “Cautionary Statements” and any other disclosure in any SEC filing that is cautionary, predictive or forward-looking in nature).

“dollars” or “\$” refers to lawful money of the U.S.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of the U.S., any State thereof or the District of Columbia.

~~“Early Opt-in Election” means, if the then-current Benchmark is the Eurocurrency Rate, the occurrence of:~~

~~(1) a notification by the Administrative Agent to (or the request by the Company to the Administrative Agent to notify) each of the other parties hereto that at least five currently outstanding dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed) a SOFR-based rate (including SOFR, a term SOFR or any other rate based upon SOFR) as a benchmark rate (and such syndicated credit facilities are identified in such notice and are publicly available for review); and~~

~~(2) the joint election by the Administrative Agent and the Company to trigger a fallback from the Eurocurrency Rate and the provision by the Administrative Agent of written notice of such election to the Company and the Lenders.~~

“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).

“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.

“Eligible Assignee” means (a) a Lender, (b) an Affiliate of a Lender, (c) an Approved Fund and (d) any other Person, other than, in each case, (i) a Defaulting Lender, (ii) the Company or any Subsidiary or other Affiliate of the Company, (iii) a natural person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or (iv) any Competitor.

“Environmental Laws” means all treaties, laws (including common law), rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by or with any Governmental Authority, relating in any way to the environment, the preservation or reclamation of natural resources, the generation, management, use, presence, release or threatened release of, or exposure to, any pollutants, contaminants or toxic or hazardous substances, materials or wastes, or to health and safety matters (including occupational safety and health standards).

“Environmental Liability” means liabilities, obligations, claims, actions, suits, judgments, or orders under or relating to any Environmental Law for any damages, injunctive relief, losses, fines, penalties, fees, expenses (including reasonable fees and expenses of attorneys and consultants) or costs, whether contingent or otherwise, including those arising from or relating to (a) any actual or alleged violation of any Environmental Law or permit, license or approval issued thereunder, (b) the generation, use, handling, transportation, storage, treatment, disposal or arrangement for disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials 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, any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest (other than, prior to the date of conversion, Indebtedness that is convertible into any such Equity Interests).

“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 any Borrower, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414(m) 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 complete or partial withdrawal of the Company or any ERISA Affiliate from any Plan (during a plan year in which it was a “substantial employer” as defined in Section 4001(a)(2) of ERISA) or Multiemployer Plan; (c) the filing of a notice of intent to terminate a Plan or the treatment of a Multiemployer Plan amendment as a termination under Section 4041 or 4041A of ERISA; (d) the institution of proceedings to terminate a Plan or a Multiemployer Plan by the PBGC; (e) the failure to make required contributions under Section 412 of the Code or Section 302 of ERISA; (f) the failure of any Plan to satisfy the minimum funding standard (as defined in Section 412 of the Code or Section 302 of ERISA) applicable to such Plan; (g) a determination that any Plan is in “at risk” status (as defined in Section 430(i)(4) of the Code or Section 303(i)(4) of ERISA); (h) the receipt by the Company or any ERISA Affiliate of any notice imposing Withdrawal Liability or a determination that a Multiemployer Plan is insolvent, within the meaning of Title IV of ERISA, or in “endangered” or “critical” status (within the meaning of Section 432 of the Code or Section 305 of ERISA); (i) the occurrence of a non-exempt “prohibited transaction” (as defined in Section 4975 of the Code or Section 406 of ERISA) with respect to which any Borrower or any ERISA Affiliate is a “disqualified person” (within the meaning of Section 4975 of the Code) or a “party in interest” (within the meaning of Section 406 of ERISA) or with respect to which any Borrower or any such ERISA Affiliate could otherwise be liable in an amount that could reasonably be expected to result in a Material Adverse Effect; (j) any other event or condition which constitutes or might reasonably be expected to constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan or the imposition of any liability under Title IV of ERISA, other than PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Company or any ERISA Affiliate; and (k) any Foreign Benefit Event.

“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.

~~“Eurocurrency” means, when used in reference to any Loan or Borrowing, that such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Eurocurrency Rate.~~

~~“Eurocurrency Rate” means, with respect to any Eurocurrency Borrowing for any Interest Period, the LIBO Screen Rate at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that (a) if no LIBO Screen Rate shall be available at such time for such Interest Period but LIBO Screen Rates shall be available for maturities both longer and shorter than such Interest Period, then the “Eurocurrency Rate” for such Interest Period shall be the Interpolated Screen Rate as of such time and (b) if the Eurocurrency Rate, determined as set forth above, shall be less than zero, such rate shall be deemed to be zero.~~

“Event of Default” has the meaning set forth in Article VII.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender, any Issuing Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder or any other Loan Document, (a) any 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 located in 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 Foreign Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Foreign Lender with respect to any payment made by or on account of any obligation of a Loan Party pursuant to a law in effect at the time such Foreign Lender (other than an assignee pursuant to a request by the Company under Section 2.19(b)), becomes a party to this Agreement (or designates a new lending office), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts with respect to such withholding Taxes under Section 2.17(a) or 2.17(c), (c) Taxes attributable to a Lender’s failure to comply with Section 2.17(f) or (d) any Taxes imposed under FATCA.

“Existing Commitment Termination Date” has the meaning set forth in Section 2.23(a).

“Existing Letter of Credit” means each letter of credit issued under the Existing Revolving Credit Agreement that is outstanding on the Effective Date and set forth on Schedule 2.06A.

“Existing Revolving Borrowings” has the meaning set forth in Section 2.05(e).

“Existing Revolving Credit Agreement” means the Amended and Restated Credit Agreement, dated as of March 14, 2018, as amended by the First Amendment dated as of January 24, 2020, among the Company, the subsidiary borrowers party thereto, the lenders party thereto and JPMorgan, as the administrative agent.

“Extending Lender” has the meaning set forth in Section 2.23(a).

“Extension Closing Date” has the meaning set forth in Section 2.23(b).

“Extension Request” has the meaning set forth in Section 2.23(a).

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

“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 NYFRB’s Website from time to time, and published on the next succeeding Business Day by the NYFRB as the effective federal funds rate; provided that if such rate shall be less than zero, such rate shall be deemed to be zero.

“Federal Reserve Board” means the Board of Governors of the Federal Reserve System of the U.S. (or any successor thereto).

“Fee Receiver” means any Person that receives any fees under Section 2.12.

“Finance Lease Obligations” of any Person means 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, to the extent such obligations are required to be classified and accounted for as finance leases on the balance sheet of such Person under GAAP, and the amount of such obligations at any time shall be the amount thereof that would be required to be set forth on the balance sheet as a finance lease liability of such Person prepared as of such time in accordance with GAAP. For purposes of Section 6.02, a Finance Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

“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 Eurocurrency Rate~~ any applicable Benchmark.

“Foreign Benefit Event” means, with respect to any Foreign Pension Plan, (a) the existence of unfunded liabilities in excess of the amount permitted under any applicable law, or in excess of the amount that would be permitted absent a waiver from a Governmental Authority, (b) the failure to make the required contributions or payments, under applicable law, on or before the due date for such contributions or payments, (c) the receipt of a notice by a Governmental Authority relating to the intention to terminate any such Foreign Pension Plan or to appoint a trustee or similar official to administer any such Foreign Pension Plan, or alleging the insolvency of any such Foreign Pension Plan, (d) the incurrence of any liability by the Company or any Subsidiary under applicable law on account of the complete or partial termination of such Foreign Pension Plan or (e) the occurrence of any transaction that is prohibited under any applicable law and that could reasonably be expected to result in the incurrence of liability by the Company or any Subsidiary.

“Foreign Lender” means any Lender or Issuing Lender that is not a “United States person” as defined by Section 7701(a)(30) of the Code (a “U.S. Person”) or is a partnership or other entity treated as a partnership for United States federal income tax purposes that is a U.S. Person, but only to the extent the beneficial owners (including indirect partners if its direct partners are partnerships or other entities treated as partnerships for United States federal income tax purposes) are not U.S. Persons.

“Foreign Pension Plan” means an employee benefit plan that, under the applicable law of any jurisdiction other than the United States of America, the Company or any Subsidiary is required to fund through a trust or other funding vehicle, other than a trust or funding vehicle maintained exclusively by a Governmental Authority.

“Foreign Subsidiary” means any Subsidiary that is not a Domestic Subsidiary.

“GAAP” means, subject to Section 1.04(a), generally accepted accounting principles in the U.S., including those set forth in: (a) the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants, (b) the Accounting Standards Codification of the Financial Accounting Standards Board, (c) such other statements by such other entity as are approved by a significant segment of the accounting profession and (d) the rules and regulations of the SEC governing the inclusion of financial statements (including pro forma financial statements) in periodic reports required to be filed pursuant to Section 13 of the Exchange Act, including opinions and pronouncements in staff accounting bulletins and similar written statements from the accounting staff of the SEC.

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

“Guarantee” of or by any Person (the “guarantor”) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business. The amount, as of any date of determination, of any Guarantee shall be the principal amount outstanding on such date of the Indebtedness or other obligation guaranteed thereby (or, in the case of (i) any Guarantee the terms of which limit the monetary exposure of the guarantor or (ii) any Guarantee of an obligation that does not have a principal amount, the maximum monetary exposure as of such date of the guarantor under such Guarantee (as determined, in the case of clause (i), pursuant to such terms or, in the case of clause (ii), reasonably and in good faith by the Company)).

“Guarantee Agreement” means the Guarantee Agreement entered into among the Borrowers, the Subsidiary Guarantors and the Administrative Agent, which shall be substantially in the form of Exhibit C.

“Guarantee Requirement” means the requirement that, if any Subsidiary of the Company shall be or become actually or contingently liable under any Guarantee for any Material Indebtedness of the Company, the Administrative Agent shall have received a Guarantee Agreement or a supplement thereto, as applicable, duly executed and delivered on behalf of such Subsidiary, together with documents and opinions of the type referred to in Sections 4.01(b) and 4.01(c) with respect to such Subsidiary.

“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including any petroleum products or byproducts and all other hydrocarbons, radon gas, molds, asbestos or asbestos-containing materials, urea formaldehyde foam insulation, polychlorinated biphenyls, chlorofluorocarbons and all other ozone-depleting substances, infectious or medical wastes and all other substances or wastes of any nature that are prohibited, limited or regulated pursuant to, or that could give rise to liability under, any Environmental Law.

“Hillshire Brands” means The Hillshire Brands Company, a Maryland corporation.

“Incremental Commitment” means, with respect to any Lender, the commitment, if any, of such Lender, established pursuant to an Incremental Facility Agreement and Section 2.05, to make Revolving Loans and to acquire participations in Letters of Credit and Swingline Loans hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender’s Credit Exposure under such Incremental Facility Agreement.

“Incremental Facility Agreement” means an Incremental Facility Agreement, in form and substance reasonably satisfactory to the Administrative Agent, among the Company, the Administrative Agent and one or more Incremental Lenders, establishing Incremental Commitments and effecting such other amendments hereto and to the other Loan Documents as are contemplated by Section 2.05.

“Incremental Lender” means a Lender with an Incremental Commitment.

“incur” means create, incur, assume, Guarantee or otherwise become responsible for, and “incurred” and “incurrence” shall have correlative meanings.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (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 (excluding trade accounts payable incurred in the ordinary course of business and excluding obligations with respect to letters of credit securing such trade accounts payable entered into in the ordinary course of business of such Person to the extent such letters of credit are not drawn upon or, if and to the extent drawn upon, such drawings are reimbursed no later than the tenth Business Day following payment on the letter of credit), (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 on normal commercial terms, including pursuant to supply chain financing arrangements offered to vendors, and not overdue by more than 60 days, (ii) deferred compensation and (iii) any purchase price adjustment, earnout or deferred payment of a similar nature incurred in connection with an acquisition (but only to the extent that, at the time of closing of such acquisition, the amount thereof is not determinable and, to the extent the amount thereof thereafter becomes fixed and determined, such amount is payable within 60 days thereafter; provided that, if such amount shall not have been paid within 60 days thereafter, such amount shall no longer be excluded under this clause (iii)), (e) all Finance Lease Obligations and Synthetic Lease Obligations of such Person, (f) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty (other than obligations with respect to letters of credit securing obligations (other than obligations of other Persons described in clauses (a) through (e) above) entered into in the ordinary course of business of such Person to the extent such letters of credit are not drawn upon or, if and to the extent drawn upon, such drawing is reimbursed no later than the tenth Business Day following payment on the letter of credit), (g) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances, (h) 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, the amount of such Indebtedness being deemed to be the lesser of the fair market value (as determined reasonably and in good faith by the Company) of such property or assets and the amount of the Indebtedness so secured, (i) all Guarantees by such Person of Indebtedness of others, and (j) all obligations of such Person in respect of Securitization Transactions (valued as set forth in the definition of Securitization Transaction). Indebtedness shall not include obligations (x) under any operating lease of property of the Company or any Subsidiary, except that Synthetic Lease Obligations shall constitute Indebtedness and (y) of such Person arising under the Supply Chain Financing Arrangements solely as a result of a recharacterization of a sale by such Person of accounts receivable as incurrence of debt. The Indebtedness of any Person shall include the Indebtedness of any other Person (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 other Person, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor. The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all obligations as described above; provided, however, that, in the case of Indebtedness sold by the obligor at a discount, the amount of such Indebtedness at any time shall be the accreted value thereof at such time. Except as otherwise expressly provided herein, the term “Indebtedness” shall not include cash interest thereon.

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

“Indemnitee” has the meaning set forth in Section 9.03(b).

“Index Debt” means senior, unsecured, non-credit enhanced (other than by guarantees of Subsidiaries that also Guarantee the Obligations at such time) long-term debt for borrowed money of the Company.

“Index Rating” means, with respect to any Rating Agency at any time, the rating assigned by such Rating Agency to the Index Debt.

“Information” has the meaning set forth in Section 9.12.

“Interest Election Request” means a request by the Company on behalf of a Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.08, which shall be substantially in the form of Exhibit D.

“Interest Payment Date” means (a) with respect to any ABR Loan (other than a Swingline Loan), the last day of each of March, June, September, and December, (b) with respect to any ~~Eurocurrency~~Term SOFR Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a ~~Eurocurrency~~Term SOFR 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, (c) with respect to any Daily Simple SOFR Loan (if such Type of Loan is applicable pursuant to Section 2.14), each date that is on the numerically corresponding day in each calendar month that is one month after the borrowing of, or conversion to, such Daily Simple SOFR Loan (or, if there is no such corresponding day in such month, then the last day of such month), (d) with respect to any Swingline Loan, the day that such Loan is required to be repaid and (~~de~~) with respect to any Loan, the Commitment Termination Date.

“Interest Period” means, with respect to any ~~Eurocurrency~~Term SOFR Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter, as the applicable Borrower (or the Company on such Borrower’s behalf) may elect; provided that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day ~~and~~, (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period and (c) no tenor that has been removed from this definition pursuant to Section 2.14(b)(iv) shall be available for specification as an “Interest Period” in any 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.

~~“Interpolated Screen Rate” means, with respect to any period, a rate per annum that (rounded to the same number of decimal places as the LIBO Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between (a) the LIBO Screen Rate for the longest maturity for which a LIBO Screen Rate is available that is shorter than such period and (b) the LIBO Screen Rate for the shortest maturity for which a LIBO Screen Rate is available that is longer than such period, in each case, as of the time the Interpolated Screen Rate is required to be determined in accordance with the other provisions of this Agreement; provided that the Interpolated Screen Rate shall in no event be less than zero.~~

~~“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.~~

“ISP” means the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“Issuing Lender” means JPMorgan, Morgan Stanley, Bank of America, N.A., CoBank, ACB, and each other Lender that becomes an Issuing Lender hereunder pursuant to Section 2.06(j), each in its capacity as an issuer of one or more Letters of Credit hereunder, and its successors in such capacity as provided in Section 2.06(j), in each case, so long as such Person shall remain an Issuing Lender hereunder. Any Issuing Lender may, in its discretion, arrange for one or more Letters of Credit to be issued by branches or Affiliates of such Issuing Lender, in which case the term “Issuing Lenders” shall include any such branch or Affiliate with respect to Letters of Credit issued by such branch or Affiliate (it being agreed that such Issuing Lender shall, or shall cause such branch or Affiliate to, comply with the requirements of Section 2.06 with respect to such Letters of Credit).

“JPMorgan” means JPMorgan Chase Bank, N.A.

“LC Collateral Account” has the meaning set forth in Section 2.06(k).

“LC Commitment” means, with respect to any Issuing Lender, the maximum permitted amount of the LC Exposure that may be attributable to Letters of Credit issued by such Issuing Lender. The amount of each Issuing Lender’s LC Commitment is set forth in Schedule 2.06B or, in the case of any Issuing Lender that becomes an Issuing Lender hereunder pursuant to Section 2.06(j), in the written agreement referred to in such Section, or, in each case, is such other maximum permitted amount with respect to any Issuing Lender as may have been agreed in writing (and notified in writing to the Administrative Agent) by such Issuing Lender and the Company.

“LC Disbursement” means a payment made by any Issuing Lender 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 applicable Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time, adjusted to give effect to any reallocation under Section 2.21 of the LC Exposures of Defaulting Lenders in effect at such time.

“Lender-Related Person” means the Administrative Agent (and any sub-agent thereof), each Arranger, each Lender, each Issuing Lender and each Related Party of any of the foregoing Persons.

“Lenders” means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to Section 9.04 or an Incremental Facility Agreement, other than any such Person that shall have ceased to be a party hereto pursuant to Section 9.04. Unless the context otherwise requires, the term “Lenders” includes each Swingline Lender.

“Letter of Credit” means any letter of credit issued pursuant to this Agreement. Each Existing Letter of Credit shall constitute a Letter of Credit for all purposes hereof.

“Liabilities” means any losses, claims, damages or liabilities of any kind.

~~“LIBO Screen Rate” means, for any date and time, with respect to any Eurocurrency Borrowing for any Interest Period, or with respect to any determination of the Alternate Base Rate pursuant to clause (c) of the definition thereof, the London interbank offered rate as administered by the ICE Benchmark Administration (or any other Person that takes over the administration of such rate) for deposits in dollars (for delivery on the first day of such Interest Period) for a period equal in length to the applicable period as displayed on the Reuters screen page that displays such rate (currently page LIBOR01 or LIBOR02) or, in the event such rate does not appear on a page of the Reuters screen, on the appropriate page of such other information service that published such rate from time to time as selected by the Administrative Agent from time to time in its reasonable discretion; provided that in no event shall the LIBO Screen Rate be less than zero.~~

“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, 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, finance lease or other title retention agreement 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.

“Loan Documents” means this Agreement, any Incremental Facility Agreement, any amendment referred to in Section 2.23, the Guarantee Agreement, any Subsidiary Borrower Joinder Agreement, any Subsidiary Borrower Termination Agreement, any written agreement referred to in Section 2.06(j) and, other than for purposes of Section 9.02, any promissory notes issued pursuant to this Agreement.

“Loan Party” means each Borrower and each Subsidiary Guarantor.

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

“Margin Stock” means “margin stock” within the meaning of Regulations T, U and X of the Federal Reserve Board.

“Material Acquisition” means any acquisition or a series of related acquisitions (other than solely among the Company and its Subsidiaries) of (a) Equity Interests in any Person if, after giving effect thereto, such Person will become a Subsidiary or (b) assets comprising all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of) any Person; provided that the aggregate consideration therefor (including Indebtedness assumed in connection therewith and all obligations in respect of deferred purchase price (including obligations under any purchase price adjustment but excluding earnout or similar payments)) exceeds \$250,000,000.

“Material Adverse Effect” means a material adverse effect on (a) the business, operations, properties, assets, condition (financial or otherwise) or liabilities (including contingent liabilities) of the Company and its Subsidiaries, taken as a whole, (b) the ability of any Loan Party to perform its material obligations under any Loan Document to which it is a party, or (c) the rights of or benefits available to the Administrative Agent, the Lenders or any Issuing Lender under this Agreement or any other Loan Document.

“Material Disposition” means any sale, transfer or other disposition, or a series of related sales, transfers or other dispositions (other than solely among the Company and its Subsidiaries) of (a) all or substantially all the issued and outstanding Equity Interests in any Person that are owned by the Company and the Subsidiaries or (b) assets comprising all or substantially all the assets of (or all or substantially all the assets constituting a business unit, division, product line or line of business of) any Person; provided that the aggregate consideration therefor (including Indebtedness assumed by the transferee in connection therewith and all obligations in respect of deferred purchase price (including obligations under any purchase price adjustment but excluding earnout or similar payments)) exceeds \$250,000,000.

“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 Company and its Subsidiaries in an aggregate outstanding principal amount exceeding \$250,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Company or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting agreements) that the Company or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

“Material Subsidiary” means each Subsidiary of the Company that is not a Loan Party (a) the consolidated total assets of which equal 3.75% or more of the consolidated total assets of the Company or (b) the consolidated revenues of which equal 3.75% or more of the consolidated revenues of the Company, in each case, as of the end of or for the most recent period of four consecutive fiscal quarters of the Company for which financial statements have been delivered pursuant to Section 5.01(a) or 5.01(b) (or, prior to the first such delivery, the financial statements that are referred to in Section 3.04(a)); provided that if at the end of or for any such most recent period of four consecutive fiscal quarters the combined consolidated total assets or combined consolidated revenues of all Subsidiaries that under clauses (a) and (b) above would not constitute Material Subsidiaries shall have exceeded 10% of the consolidated total assets of the Company or 10% of the consolidated revenues of the Company (calculated without duplication of assets or revenues), then one or more of such excluded Subsidiaries shall for all purposes of this Agreement be deemed to be Material Subsidiaries in descending order based on the amounts of their consolidated total assets or consolidated revenues, as the case may be, until such excess shall have been eliminated.

“Maximum Rate” has the meaning set forth in Section 9.15.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

“Morgan Stanley” means Morgan Stanley Bank, N.A.

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

“NLRC” has the meaning set forth in the definition of “Philippines NLRC Award”.

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

“Non-Extending Lender” has the meaning set forth in Section 2.23(a).

“Notice of Objection” has the meaning set forth in Section 2.20.

“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 NYFRB Rate shall be 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; provided further that if the NYFRB Rate, determined as set forth above, shall be less than zero, the NYFRB Rate shall be deemed to be zero.

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

“Obligations” means (a) the due and punctual payment by the Borrowers of (i) the principal of and interest (including interest accruing at the rate stated herein (including default interest) during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (ii) each payment required to be made by any Borrower in respect of any Letter of Credit, when and as due, including payments in respect of reimbursement of LC Disbursements, interest thereon (including interest accruing at the rate stated herein (including default interest) during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) and obligations to provide cash collateral and (iii) all other monetary obligations of the Borrowers to any of the Administrative Agent, the Issuing Lenders or the Lenders under any Loan Document, including obligations to pay fees, expense reimbursement obligations and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), (b) the due and punctual performance of all other obligations of the Borrowers under or pursuant to any Loan Document and (c) the due and punctual payment and performance of all the obligations of each other Loan Party under or pursuant to each Loan Document (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding).

~~“Other Benchmark Rate Election” means, if the then-current Benchmark is the Eurocurrency Rate, the occurrence of:~~

~~(a) a request by the Company to the Administrative Agent to notify each of the other parties hereto that, at the determination of the Company, dollar-denominated syndicated credit facilities at such time contain (as a result of amendment or as originally executed), in lieu of a Eurocurrency-based rate, a term benchmark interest rate as a benchmark rate, and~~

~~(b) the Administrative Agent, in its sole discretion, and the Company jointly elect to trigger a fallback from the Eurocurrency Rate and the provision, as applicable, by the Administrative Agent of written notice of such election to the Company and the Lenders.~~

“Other Connection Taxes” means, with respect to the Administrative Agent, any Lender, any Issuing Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder or under any other Loan Document, 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, or become a party to, performed its obligations or received payments under, received or perfected a security interest under, sold or assigned an interest in any Loan or Loan Document, engaged in any other transaction pursuant to, or enforced, any Loan Documents).

“Other Taxes” means any and all present or future recording, stamp, court or documentary Taxes and any other excise, transfer, sales, property, intangible, filing or similar Taxes arising from any payment made under, from the execution, delivery, performance, enforcement or registration of, or from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, but excluding Excluded Taxes and Other Connection Taxes imposed with respect to an assignment (other than an assignment pursuant to a request by the Company under Section 2.19(b)).

“Overnight Bank Funding Rate” means, for any day, the rate comprised of both overnight federal funds and overnight ~~Eurodollar borrowings~~ seurodollar transactions denominated in dollars by U.S. -managed banking offices of depository institutions, as such composite rate shall be determined as set forth on the NYFRB’s Website from time to time and published on the next succeeding Business Day ~~by the NYFRB~~ as an Overnight Bank Funding Rate; provided that if such rate shall be less than zero, the Overnight Bank Funding Rate shall be deemed to be zero.

“PACA” means the Perishable Agricultural Commodities Act, 1930, as amended, 7 U.S.C. Section 499a et seq., as the same now exists or may from time to time hereafter be amended, modified, recodified or supplemented, together with all rules, regulations and interpretations thereunder or related thereto.

“Participant” has the meaning set forth in Section 9.04(c)(i).

“Participant Register” has the meaning set forth in Section 9.04(c)(iv).

“Patriot Act” means the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), as amended from time to time.

“Payment” has the meaning set forth in Section 8.06(c)(i).

“Payment Notice” has the meaning set forth in Section 8.06(c)(ii).

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“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 imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 60 days or are being contested in compliance with Section 5.04;

(c) pledges and deposits made (i) in the ordinary course of business in compliance with workers’ compensation, unemployment insurance and other social security laws (other than any Lien imposed pursuant to Section 430(k) of the Code or Section 303(k) of ERISA or a violation of Section 436 of the Code) and (ii) in respect of letters of credit, bank guarantees or similar instruments issued for the account of the Company or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (i) above;

(d) pledges and deposits made (i) to secure the performance of bids, trade contracts (other than Indebtedness for borrowed money), leases (other than Finance Lease Obligations), 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) in respect of letters of credit, bank guarantees or similar instruments issued for the account of the Company or any Subsidiary in the ordinary course of business supporting obligations of the type set forth in clause (i) above;

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

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on 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 Company or any of its Subsidiaries;

(g) banker’s liens, rights of setoff or similar rights and remedies as to deposit accounts or other funds maintained with depository institutions; provided that, except with respect to any deposit account or funds subject to the Lien of a Loan Document, such deposit accounts or funds are not established or deposited for the purpose of providing collateral for any Indebtedness and are not subject to restrictions on access by the Company or any of its Subsidiaries in excess of those required by applicable banking regulations;

(h) Liens in favor of, or claims or rights of any producer, grower or seller of livestock, poultry or agricultural commodities under PACA, PSA or any similar state or federal laws or regulations;

(i) any Lien, claim or right of any Governmental Authority arising under any law or regulation in any inventory or farm products allocable to any procurement contract with such Governmental Authority;

(j) rights and claims of joint owners of livestock (other than poultry) under arrangements similar to TFM's existing Alliance program;

(k) Liens arising by virtue of Uniform Commercial Code financing statement filings (or similar filings under applicable law) regarding operating leases entered into by the Company and its Subsidiaries in the ordinary course of business;

(l) Liens representing any interest or title of a licensor, lessor or sublicensor or sublessor, or a licensee, lessee or sublicensee or sublessee, in the property subject to any lease (other than Finance Lease Obligations), license or sublicense or concession agreement permitted by this Agreement;

(m) Liens that are contractual rights of set-off; and

(n) Liens on cash and cash equivalents made to defease or to satisfy and discharge any debt securities;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness, other than Liens referred to in clauses (c) and (d) above securing letters of credit, bank guarantees or similar instruments and Liens referred to in clause (n).

"Permitted Fee Receiver" means any Fee Receiver that, with respect to any fees paid under Section 2.12, delivers to the Company and the Administrative Agent, on or prior to the date on which such Fee Receiver becomes a party hereto (and from time to time thereafter upon the request of the Company and the Administrative Agent, unless such Fee Receiver becomes legally unable to do so solely as a result of a Change in Law after becoming a party hereto), accurate and duly completed copies (in such number as requested) of one or more of Internal Revenue Service Forms W-9, W-8ECI, W-8EXP, W-8BEN, W-8BEN-E or W-8IMY (together with, if applicable, one of the aforementioned forms duly completed from each direct or indirect beneficial owner of such Fee Receiver) or any successor thereto that entitle such Fee Receiver to a complete exemption from U.S. withholding tax on such payments (provided that, in the case of the Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable, a Fee Receiver providing such form shall qualify as a Permitted Fee Receiver only if such form establishes such exemption on the basis of the "business profits" or "other income" articles of a tax treaty to which the United States is a party and provides a U.S. taxpayer identification number), in each case, together with such supplementary documentation as may be prescribed by applicable law to permit the Company or the Administrative Agent to determine whether such Fee Receiver is entitled to such complete exemption.

"Permitted Holders" means (a) "members of the same family" of Mr. Don Tyson as defined in Section 447(e) of the Code and (b) any entity (including, but not limited to, any partnership, corporation, trust or limited liability company) in which one or more individuals described in clause (a) above possess over 50% of the voting power or beneficial interests.

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

"Philippines NLRC Award" means the award of damages against a Subsidiary of the Company by the National Labor Relations Council of the Department of Labor and Employment of the Republic of the Philippines ("NLRC") more fully described in the Report on Form 8-K filed by the Company with the SEC on December 20, 2016, and any awards in related actions, as such awards may be modified by the NLRC or any other body, and any judicial decree affirming, modifying or enforcing such awards.

“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 sponsored, maintained or contributed to, by any Borrower or any ERISA Affiliate.

“Prime Rate” means the rate of interest per annum 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.

“Pro Forma Basis” means, with respect to any test hereunder in connection with any event, that such test shall be calculated after giving effect on a pro forma basis for the period of such calculation to (a) such event as if it happened on the first day of such period or (b) the incurrence of any Indebtedness by the Company or any Subsidiary in connection with such event and any incurrence, repayment, issuance or redemption of other Indebtedness of the Company or any Subsidiary occurring at any time subsequent to the last day of such period and on or prior to the date of determination, as if such incurrence, repayment, issuance or redemption, as the case may be, occurred on the first day of such period.

“Proceeding” has the meaning set forth in Section 9.03(b).

“PSA” means the Packers and Stockyard Act of 1921, 7 U.S.C. Section 181 et seq., as the same now exists or may from time to time hereafter be amended, modified, recodified or supplemented, together with all rules, regulations and interpretations thereunder or related thereto.

“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.

“Rating Agencies” means Moody’s and S&P.

“Reference Time” with respect to any setting of the then-current Benchmark means ~~(1a)~~ if such Benchmark is ~~Eurocurrency Rate~~ the Term SOFR, ~~11:00 a.m., London~~ 5:00 a.m., Chicago time, on the day that is two ~~London banking days~~ U.S. Government Securities Business Days preceding the date of such setting, and ~~(2b)~~ if such Benchmark is not ~~Eurocurrency Rate~~ the Term SOFR, the time determined by the Administrative Agent in its reasonable discretion.

“Refinancing Indebtedness” means, in respect of any Indebtedness (the “Original Indebtedness”), any Indebtedness that extends, renews or refinances such Original Indebtedness (or any Refinancing Indebtedness in respect thereof) or, in addition, in the case of any Foreign Subsidiary, Indebtedness (“Replacement Indebtedness”) of such Foreign Subsidiary that replaces Original Indebtedness of such Foreign Subsidiary or of any other Foreign Subsidiary organized under the laws of the same nation as such Foreign Subsidiary within 90 days after the repayment or prepayment of such Original Indebtedness; provided that (a) the principal amount of such Refinancing Indebtedness shall not exceed the principal amount of such Original Indebtedness (except to the extent used to finance accrued interest and premium (including tender or makewhole premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses), it being understood in the case of Replacement Indebtedness that is denominated in a currency different from that of the applicable Original Indebtedness that the principal amount of such Original Indebtedness shall be deemed to be equal to the amount in the currency of such Replacement Indebtedness that is equal to the principal amount of such Original Indebtedness based on the currency exchange rates applicable on the date such Replacement Indebtedness is incurred; and (b) such Refinancing Indebtedness shall not constitute an obligation of any Subsidiary that shall not have been (or, in the case of after-acquired Subsidiaries, shall not have been required to become) an obligor in respect of such Original Indebtedness (except that Refinancing Indebtedness of any Foreign Subsidiary may be Guaranteed by any other Foreign Subsidiary organized under the laws of the same nation as such Foreign Subsidiary).

“Register” has the meaning set forth in Section 9.04(b)(iv).

“Related Parties” means, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, representatives, agents and advisors of such Person and such Person’s Affiliates.

“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.

“Required Lenders” means, at any time, Lenders having Credit Exposures and unused Commitments representing more than 50% of the sum of Credit Exposures and unused Commitments at such time; provided that for purposes of this definition, (a) the Credit Exposure of the Lender that is the Swingline Lender shall be deemed to exclude any amount of its Swingline Exposure in excess of its Applicable Percentage of all outstanding Swingline Loans, adjusted to give effect to any reallocation under Section 2.21 of the Swingline Exposures of Defaulting Lenders in effect at such time, and (b) the unused Commitment of such Lender shall be determined without regard to any such excess amount.

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

“Responsible Officer” means any of the president, chief executive officer, Chief Financial Officer, treasurer, assistant treasurer, controller, chief accounting officer or the general counsel of the Company but, in any event, with respect to financial matters, the foregoing person that is responsible for preparing the financial statements and reports delivered hereunder; provided that, when such term is used in reference to any document executed by, or a certification of, a Responsible Officer, the secretary or assistant secretary of the Company shall have delivered (which may have been on the Effective Date) an incumbency certificate to the Administrative Agent as to the authority of such individual.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Company 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, cancelation or termination of any Equity Interests in the Company or any Subsidiary, whether now or hereafter outstanding, or any option, warrant, or other right to acquire any such Equity Interests in the Company or any Subsidiary, or any other payment that has a substantially similar effect to any of the foregoing.

“Resulting Revolving Borrowings” has the meaning set forth in Section 2.05(e).

~~“Reuters” means Thomson Reuters Corporation, Refinitiv or, in each case, a successor thereto.~~

“Revolving Borrowing” means a Borrowing comprised of Revolving Loans.

“Revolving Loan” means a Loan made pursuant to Section 2.01.

“S&P” means S&P Global Ratings, a division of S&P Global Inc., or any successor to its rating agency business.

“Sale/Leaseback Transaction” means an arrangement relating to property owned by the Company or any Subsidiary whereby the Company or such Subsidiary sells or transfers such property to any Person and the Company or any Subsidiary leases such property, or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred, from such Person or its Affiliates; provided, however, that any such arrangement incurred in connection with the acquisition of property that is leased by the Company or any Subsidiary pursuant to an operating lease (other than a Synthetic Lease) shall not be considered a Sale/Leaseback Transaction.

“Sanctioned Country” means, at any time, a country, region or territory which is itself the subject or target of any Sanctions.

“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 EU member state or Her Majesty’s Treasury of the United Kingdom, (b) any Person organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clause (a) or (b).

“Sanctions” means any economic or financial sanctions or trade embargoes promulgated, 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 Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any EU member state or Her Majesty’s Treasury of the United Kingdom.

“SEC” means the Securities and Exchange Commission or any Governmental Authority succeeding to any of its principal functions.

“Securities Act” means the Securities Act of 1933, as amended.

“Securitization Transaction” means any arrangement under which the Company or any Subsidiary transfers accounts receivable and/or payment intangibles, interests therein and/or related assets and rights (a) to a trust, partnership, corporation, limited liability company or other entity (which may be an SPE Subsidiary), which transfer is funded in whole or in part, directly or indirectly, by the incurrence or issuance by the transferee or successor transferee (which may be an SPE Subsidiary) of Indebtedness, other securities or interests that are to receive payments from, or that represent interests in, the cash flow derived from such accounts receivable and/or payment intangibles, interests therein or related assets and rights, or (b) directly to one or more investors or other purchasers; provided that a Supply Chain Financing Arrangement shall not constitute a Securitization Transaction. The “amount” or “principal amount” of any Securitization Transaction shall be deemed at any time to be the aggregate principal, capital or stated amount (or the substantive equivalent of any of the foregoing) of the Indebtedness, other securities or interests referred to in the first sentence of this definition or, if there shall be no such principal, capital or stated amount (or the substantive equivalent of any of the foregoing), the uncollected amount of the accounts receivable or interests therein transferred pursuant to such Securitization Transaction, net of any such accounts receivables or interests therein that have been written off as uncollectible. Such “amount” or “principal amount” shall not include any amount of Indebtedness owing by any SPE Subsidiary to the Company or any Subsidiary to the extent that such intercompany Indebtedness has been incurred to finance, in part, the transfers of accounts receivable and/or payment intangibles, interests therein and/or related assets and rights to such SPE Subsidiary.

“SOFR” means, ~~with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published~~ as administered by the SOFR Administrator ~~on the SOFR Administrator Website on the immediately succeeding Business Day.~~

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

“SOFR Administrator’s Website” means the NYFRB’s Website or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

“SPE Subsidiary” means any Subsidiary formed solely for the purpose of, and that engages only in, one or more Securitization Transactions and transactions related or incidental thereto.

~~“Statutory Reserve Rate” means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Federal Reserve Board to which the Administrative Agent is subject, for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Federal Reserve Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurocurrency Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.~~

“Subsidiary” means, with respect to any Person (the “parent”) at any date, (a) any corporation, limited liability company, partnership, association or other entity 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 and (b) any other 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. Unless otherwise specified, “Subsidiary” means any direct or indirect subsidiary of the Company. Notwithstanding the foregoing, no Variable Interest Entity (other than an SPE Subsidiary) shall be a “Subsidiary” under the foregoing clause (b).

“Subsidiary Borrower” means each wholly-owned Domestic Subsidiary of the Company that shall become a Subsidiary Borrower pursuant to Section 2.20, in each case, so long as such Subsidiary shall not have ceased to be a Subsidiary Borrower pursuant to Section 2.20.

H. “Subsidiary Borrower Joinder Agreement” means a Subsidiary Borrower Joinder Agreement substantially in the form of Exhibit

Exhibit I. “Subsidiary Borrower Termination Agreement” means a Subsidiary Borrower Termination Agreement substantially in the form of

“Subsidiary Guarantor” means, at any time, each Subsidiary that is a party to the Guarantee Agreement at such time.

“Supply Chain Financing Arrangement” means an arrangement whereby the Company or any of its Subsidiaries sells, on a non-recourse basis except to the extent customary in a “true sale” arrangement, its accounts receivable, in connection with the collection of such accounts receivable in the ordinary course of business and to effect an acceleration of payment thereof (and not as part of a financing by the Company or any Subsidiary), pursuant to a “supply chain financing” program established at the request of the customer that is the account debtor with respect to such accounts receivable.

“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 Company or its Subsidiaries shall be a Swap Agreement.

“Swingline Exposure” means, at any time, the aggregate principal amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Lender at any time shall be the sum of (a) its Applicable Percentage of the aggregate principal amount of all Swingline Loans outstanding at such time (excluding, in the case of any Lender that is the Swingline Lender, Swingline Loans made by it and outstanding at such time to the extent that the other Lenders shall not have funded their participations in such Swingline Loans), adjusted to give effect to any reallocation under Section 2.21 of the Swingline Exposures of Defaulting Lenders in effect at such time, and (b) in the case of any Lender that is the Swingline Lender, the aggregate principal amount of all Swingline Loans made by such Lender and outstanding at such time to the extent that the other Lenders shall not have funded their participations in such Swingline Loans.

“Swingline Lender” means each of JPMorgan and Morgan Stanley, in its capacity as lender of Swingline Loans hereunder.

“Swingline Loan” means a Loan made pursuant to Section 2.04.

“Synthetic Lease” means, as to any Person, any lease (including leases that may be terminated by the lessee at any time) of real or personal property, or a combination thereof, (a) that is accounted for as an operating lease under GAAP and (b) in respect of which the lessee is deemed to own the property so leased for U.S. Federal income tax purposes, other than any such lease under which such Person is the lessor.

“Synthetic Lease Obligations” means, as to any Person, an amount equal to the capitalized amount of the remaining lease payments under any Synthetic Lease (determined, in the case of a Synthetic Lease providing for an option to purchase the leased property, as if such purchase were required at the end of the term thereof) that would appear on a balance sheet of such Person prepared in accordance with GAAP if such obligations were accounted for as Finance Lease Obligations. For purposes of Section 6.02, a Synthetic Lease Obligation shall be deemed to be secured by a Lien on the property being leased and such property shall be deemed to be owned by the lessee.

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

“Term SOFR” means, ~~for the applicable Corresponding Tenor as of the applicable Reference Time, the forward-looking term rate based on SOFR that has been selected or recommended by the Relevant Governmental Body~~ with respect to any Term SOFR 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 ~~Notice~~Borrowing” means ~~a notification by the Administrative Agent to the Lenders and the Company of the occurrence of a~~ any Borrowing comprised of Term SOFR ~~Transition Event~~ Loans.

~~“Term SOFR Transition Event” means the determination by the Administrative Agent that (a) Term SOFR has been recommended for use by the Relevant Governmental Body, (b) the administration of Term SOFR is administratively feasible for the Administrative Agent and (c) a Benchmark Transition Event or an Early Opt-in Election, as applicable, has previously occurred resulting in a Benchmark Replacement in accordance with Section 2.14(b) that is not Term SOFR.~~ Loan” means any Loan that bears interest at a rate determined by reference to the Adjusted Term SOFR (other than solely as a result of clause (c) of the definition of Alternate Base Rate).

“Term SOFR Reference Rate” means, for any day and time (such day, the “Term SOFR Determination Day”), with respect to any Term SOFR Borrowing 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 p.m., 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 Term SOFR 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 U.S. Government Securities Business Days prior to such Term SOFR Determination Day.

“TFM” means Tyson Fresh Meats, Inc., a Delaware corporation.

“Total Commitment” means, at any time, the aggregate amount of the Commitments in effect at such time.

“Transactions” means the execution, delivery and performance by the Loan Parties of this Agreement and the other Loan Documents to which they are party, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“Type” means, when used in reference to any Loan or Borrowing, whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted ~~Eurocurrency~~ Term SOFR (other than solely as a result of clause (c) of the definition of Alternate Base Rate ~~or~~), the Alternate Base Rate or, if applicable pursuant to Section 2.14, the Adjusted Daily Simple SOFR.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York or any other state, the laws of which are required to be applied in connection with the issue of perfection of security interests.

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

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

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

“United States” or “U.S.” means the United States of America.

“U.S. Borrower” means any Borrower that is a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“U.S. Government Securities Business Day” means any day except for (a) a Saturday, (b) a Sunday or (c) 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. Tax Compliance Certificate” has the meaning set forth in Section 2.17(f).

“Variable Interest Entity” means any Person that is not a Subsidiary under clause (a) of the definition of such term but the accounts of which are consolidated with those of the Company under GAAP as a result of its status as a variable interest entity.

“Voting Participant” has the meaning set forth in Section 9.04(c)(vi).

“Voting Participant Notification” has the meaning set forth in Section 9.04(c)(vi).

“wholly-owned Subsidiary” means, with respect to any Person at any date, a Subsidiary of such Person of which 100% of the Equity Interests (other than directors’ qualifying shares) are, as of such date, owned and controlled by such Person or one or more wholly-owned Subsidiaries of such Person or by such Person and one or more wholly-owned Subsidiaries of such Person. Unless otherwise specified, “wholly-owned Subsidiary” means a wholly-owned Subsidiary of the Company.

“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 such 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”), by Type (e.g., a “~~Eurocurrency~~Term SOFR Loan”) or by Class and Type (e.g., a “~~Eurocurrency~~Term SOFR Revolving Loan”). Borrowings also may be classified and referred to by Class (e.g., a “Revolving Borrowing” or “Borrowing of Revolving Loans”), by Type (e.g., a “~~Eurocurrency~~Term SOFR Borrowing”) or by Class and Type (e.g., a “~~Eurocurrency~~Term SOFR Revolving Borrowing” or a “~~Eurocurrency~~Term SOFR Borrowing of Revolving Loans”).

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”. 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. The word “law” shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply), and all judgments, orders, writs and decrees, of all Governmental Authorities. Except as otherwise expressly provided herein and unless the context requires otherwise, (a) any definition of or reference to any agreement, instrument or other document (including this Agreement and the other Loan Documents) herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, amended and restated, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns (subject to any restrictions on assignment set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (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 and (e) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified, and all references to any statute shall be construed as referring to all rules, regulations, rulings and official interpretations promulgated or issued thereunder.

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 Company notifies the Administrative Agent that the Company requests an amendment to any provision (including any definition) hereof to eliminate the effect of any change occurring after the Effective Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Company 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. Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, in each case other than for purposes of Section 3.04 or 5.01, (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) (and related interpretations) to value any Indebtedness or other liabilities of the Company or any Subsidiary at “fair value”, as defined therein, and (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

(b) All pro forma computations required to be made hereunder giving effect to any Material Acquisition or Material Disposition shall be calculated on a Pro Forma Basis after giving pro forma effect thereto (and, in the case of any pro forma computations made hereunder to determine whether a transaction is permitted to be consummated hereunder, to any other such transaction consummated since the first day of the period covered by any component of such pro forma computation and on or prior to the date of such computation), and, to the extent applicable, to the historical earnings and cash flows associated with the assets acquired or disposed of and any related incurrence or reduction of Indebtedness, all in accordance with Article 11 of Regulation S-X under the Securities Act. If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date of determination had been the applicable rate for the entire period (taking into account any Swap Agreement applicable to such Indebtedness if such Swap Agreement has a remaining term in excess of 12 months).

SECTION 1.05. Currency Translations. For purposes of any determination under Section 6.01 or 6.02 or under clauses (f), (g) or (k) of Article VII, all amounts incurred, outstanding or proposed to be incurred or outstanding in currencies other than dollars shall be translated into dollars at the currency exchange rates in effect on the date of such determination; provided that no Default or Event of Default shall arise as a result of any limitation set forth in dollars in Section 6.01, 6.02 or 6.05 being exceeded solely as a result of changes in currency exchange rates from those rates applicable at the time or times Indebtedness, Liens or Sale/Leaseback Transactions were initially consummated in reliance on the exceptions under such Sections.

SECTION 1.06. Interest Rate; Eurocurrency Rate Benchmark Notification. The interest rate on a Loan may be derived from an interest rate benchmark that may be discontinued or is, or may in the future become, the subject of regulatory reform. ~~Regulators have signaled the need to use alternative benchmark reference rates for some of these interest rate benchmarks and, as a result, such interest rate benchmarks may cease to comply with applicable laws and regulations, may be permanently discontinued, and/or the basis on which they are calculated may change. The London interbank offered rate is intended to represent the rate at which contributing banks may obtain short-term borrowings from each other in the London interbank market. On March 5, 2021, the U.K. Financial Conduct Authority ("FCA") publicly announced that: (a) immediately after December 31, 2021, publication of the 1-week and 2-month dollar London interbank offered rate settings will permanently cease; immediately after June 30, 2023, publication of the overnight and 12-month dollar London interbank offered rate settings will permanently cease; and immediately after June 30, 2023, the 1-month, 3-month and 6-month dollar London interbank offered rate settings will cease to be provided or, subject to the FCA's consideration of the case, be provided on a changed methodology (or "synthetic") basis and no longer be representative of the underlying market and economic reality they are intended to measure and that representativeness will not be restored. There is no assurance that dates announced by the FCA will not change or that the administrator of the London interbank offered rate and/or regulators will not take further action that could impact the availability, composition, or characteristics of the London interbank offered rate or the currencies and/or tenors for which the London interbank offered rate is published. Each party to this Agreement should consult its own advisors to stay informed of any such developments. Public and private sector industry initiatives are currently underway to identify new or alternative reference rates to be used in place of the London interbank offered rate. Upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event, an Early Opt-in Election or an Other Benchmark Rate Election, Section 2.14(b) provides a mechanism for determining an alternative rate of interest. The Administrative Agent will promptly notify the Company, pursuant to Section 2.14(b)(iv), of any change to the reference rate upon which the interest rate on Eurocurrency Loans is based. However, 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 the London interbank offered any interest rate or other rates used in the definition of "Eurocurrency Rate" this Agreement or with respect to any alternative or successor rate thereto, or replacement rate thereof (including, without limitation, (i) any such alternative, successor or replacement rate implemented pursuant to Section 2.14(b), whether upon the occurrence of a Benchmark Transition Event, a Term SOFR Transition Event, an Early Opt-in Election or an Other Benchmark Rate Election, and (ii) the implementation of any Benchmark Replacement Conforming Changes pursuant to Section 2.14(b)(ii)), 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 Eurocurrency Rate existing interest rate being replaced or have the same volume or liquidity as did the Eurocurrency Rate 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 Borrowers. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain ~~the Eurocurrency Rate~~ 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 any Borrower, any Lender, any Issuing Lender or any other Person 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 1.07. Divisions. For all purposes under this Agreement, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

SECTION 1.08. Existing Revolving Credit Agreement. The Lenders party hereto, which constitute the "Required Lenders" under and as defined in the Existing Revolving Credit Agreement, hereby (i) acknowledge that the requirement pursuant to Section 2.09(b) of the Existing Revolving Credit Agreement that notice of the termination of the Commitments (as defined in the Existing Revolving Credit Agreement) has been satisfied, (ii) acknowledge that, as of the Effective Date, all Obligations (as defined in the Existing Revolving Credit Agreement) (other than contingent amounts not yet due) have been paid in full and (iii) agree the Existing Revolving Credit Agreement and the other Loan Documents shall, as of the Effective Date, automatically terminate and have no further force or effect (other than the provisions thereof that expressly survive the termination thereof). The Company hereby agrees that the Commitments (as defined in the Existing Revolving Credit Agreement) under the Existing Revolving Credit Agreement are hereby terminated.

ARTICLE II

The Credits

SECTION 2.01. The Commitments. Subject to the terms and conditions set forth herein, each Lender agrees to make Revolving Loans to the Company and the Subsidiary Borrowers from time to time during the Availability Period; provided that after giving effect to each such Revolving Loan (a) such Lender's Credit Exposure would not exceed such Lender's Commitment and (b) the aggregate Credit Exposures would not exceed the Total Commitment. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Loans. All Revolving Loans shall be denominated in dollars.

SECTION 2.02. Loans and Borrowings.

(a) Each Revolving Loan shall be made as part of a Borrowing consisting of Revolving Loans of the same Type made by the Lenders ratably in accordance with their respective Commitments. Any Swingline Loan shall be made in accordance with the procedures set forth in Sections 2.04. 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 Revolving Borrowing shall be comprised entirely of ABR Loans or ~~Eurocurrency~~Term SOFR Loans or, if applicable pursuant to Section 2.14, Daily Simple SOFR Loans, in each case, as the Company, on behalf of the applicable Borrower, may request in accordance herewith. Each Swingline Loan shall be an ABR Loan. Each Lender at its option may make any ~~Eurocurrency~~ 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 applicable Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any ~~Eurocurrency~~Term SOFR Revolving Borrowing, 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 a ~~Eurocurrency~~Term SOFR Revolving Borrowing that results from a continuation of an outstanding ~~Eurocurrency~~Term SOFR Revolving Borrowing may be in an aggregate amount that is equal to such outstanding Borrowing. At the time that each ABR Revolving Borrowing or Daily Simple SOFR Revolving 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 Commitment or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(f). Each Swingline Loan shall be in an amount that is not less than \$500,000; provided that a Swingline Loan may be in an aggregate amount that is equal to the entire unused balance of the Total Commitment. Borrowings of more than one Class and Type may be outstanding at the same time; provided that there shall not at any time be more than a total of 10 ~~Eurocurrency~~Term SOFR Borrowings and Daily Simple SOFR Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, no Borrower shall 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 Commitment Termination Date.

SECTION 2.03. Requests for Revolving Borrowings. To request a Revolving Borrowing, the Company, on behalf of itself or the applicable Subsidiary Borrower, shall notify the Administrative Agent of such request (a) in the case of a ~~Eurocurrency~~Term SOFR Borrowing, not later than 1:00 p.m., New York City time, three 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 12:00 noon, New York City time, on the date of the proposed Borrowing or (c) if applicable pursuant to Section 2.14, in the case of a Daily Simple SOFR Borrowing, no later than 1:00 p.m., New York City time, three U.S. Government Securities Business Days before the date of the proposed Borrowing. Each such Borrowing Request shall be irrevocable and shall be made by delivery to the Administrative Agent of a written Borrowing Request signed by the Company (on behalf of itself or the relevant Borrower). Each such Borrowing Request shall specify the following information:

- (i) the name of the applicable Borrower;
- (ii) the aggregate amount of the requested Revolving Borrowing;
- (iii) the date of such Revolving Borrowing, which shall be a Business Day;
- (iv) whether such Revolving Borrowing is to be an ABR Borrowing ~~or a Eurocurrency~~, a Term SOFR Borrowing or, if applicable pursuant to Section 2.14, a Daily Simple SOFR Borrowing;
- (v) in the case of a ~~Eurocurrency~~Term SOFR Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (vi) the location and number of the applicable Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.07 or, in the case of any Borrowing requested to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(f), the identity of the Issuing Lender that made such LC Disbursement.

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested ~~Eurocurrency~~ Term SOFR Borrowing, then the applicable 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. Swingline Loans.

(a) Subject to the terms and conditions set forth herein, each Swingline Lender agrees to make Swingline Loans to the Borrowers from time to time during the Availability Period; provided that after giving effect to the making of any Swingline Loan by any Swingline Lender, (i) the aggregate principal amount of outstanding Swingline Loans of such Swingline Lender shall not exceed \$50,000,000, (ii) the Credit Exposure of any Lender shall not exceed the Commitment of such Lender, (iii) the total Credit Exposures shall not exceed the Total Commitment and (iv) in the event the Commitment Termination Date shall have been extended as provided in Section 2.23, the aggregate Swingline Exposure attributable to Swingline Loans maturing after any Existing Commitment Termination Date, when taken together with the aggregate LC Exposure attributable to Letters of Credit expiring after such Existing Commitment Termination Date, shall not exceed the aggregate amount of the Commitments that shall have been extended to a date after the latest maturity date of any of the Swingline Loans and the latest expiration date of such Letters of Credit; provided that no Swingline Lender shall be required to make a Swingline Loan to refinance an outstanding Swingline Loan. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Swingline Loans. All Swingline Loans shall be denominated in dollars.

(b) To request a Swingline Loan from any Swingline Lender, the Company, on behalf of itself or the applicable Subsidiary Borrower, shall notify the Administrative Agent of such request not later than 2:00 p.m., New York City time, on the day of such proposed Swingline Loan. Each such request shall be made by delivery to the Administrative Agent of a written Borrowing Request signed by the Company (on behalf of itself or the relevant Borrower). Each such notice shall be irrevocable and shall specify the name of the relevant Borrower, the name of the relevant Swingline Lender, the requested date of the Swingline Loan (which shall be a Business Day), the amount of the requested Swingline Loan and the number of such Borrower's account maintained with such Swingline Lender to which funds are to be disbursed or, in the case of any Swingline Loan requested to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(f), the identity of the Issuing Lender that made such LC Disbursement. The Administrative Agent will promptly advise the relevant Swingline Lender of any such notice received from the Company. Each applicable Swingline Lender shall make each Swingline Loan available to the relevant Borrower by means of a credit to a deposit account of such Borrower maintained with such Swingline Lender and designated by the Company in the applicable Borrowing Request (or, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(f), by remittance to the relevant Issuing Lender).

(c) Each Swingline Lender may by written notice given to the Administrative Agent not later than 12:00 noon, New York City time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the outstanding Swingline Loans made by such Swingline Lender. Such notice shall specify the aggregate amount of Swingline Loans in which Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Swingline Loans. Each Lender hereby absolutely and unconditionally agrees, promptly upon receipt of notice as provided above (and in any event, if such notice is received by 12:00 noon, New York City time, on a Business Day, no later than 2:00 p.m., New York City time, on such Business Day, and if received after 12:00 noon, New York City time, on a Business Day, no later than 10:00 a.m., New York City time, on the immediately succeeding Business Day), to pay to the Administrative Agent, for the account of the applicable Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Swingline Loans. Each Lender acknowledges and agrees that its obligation to acquire participations in Swingline Loans pursuant to this clause (c) is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this clause (c) by wire transfer of immediately available funds, 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 under this clause (c)), and the Administrative Agent shall promptly pay to the applicable Swingline Lender the amounts so received by it from the Lenders. The Administrative Agent shall notify the Company of any participations in any Swingline Loan acquired pursuant to this clause (c), and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the applicable Swingline Lender. Any amounts received by any Swingline Lender from the relevant Borrower (or other party on behalf of the relevant Borrower) in respect of a Swingline Loan after receipt by such Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this clause (c) and to the applicable Swingline Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to the applicable Swingline Lender or to the Administrative Agent, as the case may be, if and to the extent such payment is required to be refunded to the relevant Borrower for any reason. The purchase of participations in a Swingline Loan pursuant to this clause (c) shall not relieve the Borrowers of any default in the payment thereof.

(d) All communications with the Lenders on behalf of the Swingline Lenders and the payment of all amounts owing by the Lenders to the Swingline Lenders, shall be made solely through the Administrative Agent, and Morgan Stanley (in its capacity as a Swingline Lender) shall have no obligation to communicate with any other Lender (other than the Administrative Agent), or to monitor any payments with respect to any Swingline Loans made by Morgan Stanley.

SECTION 2.05. Incremental Commitments.

(a) The Company may on one or more occasions, by written notice to the Administrative Agent, request the establishment, during the Availability Period, of Incremental Commitments; provided that the aggregate amount of all the Incremental Commitments established hereunder shall not exceed \$500,000,000 during the term of this Agreement. Each such notice shall specify (i) the date on which the Company proposes that the Incremental Commitments shall be effective, which shall be a date not less than 10 Business Days (or such shorter period as may be agreed to by the Administrative Agent) after the date on which such notice is delivered to the Administrative Agent, and (ii) the amount of the Incremental Commitments being requested (it being agreed that (x) any Lender approached to provide any Incremental Commitment may elect or decline, in its sole discretion, to provide such Incremental Commitment and (y) any Person that the Company proposes to become an Incremental Lender, if such Person is not then a Lender, must be approved by the Administrative Agent, each Issuing Lender and each Swingline Lender (such approval not to be unreasonably withheld or delayed)).

(b) The terms and conditions (including the applicable facility fee and interest rate spreads) of any Incremental Commitment and Loans and other extensions of credit to be made thereunder shall be identical to those of the Commitments and Loans and other extensions of credit made hereunder, and shall be treated as a single Class with such Commitments and Loans; provided that the Company at its election may pay upfront or closing fees with respect to Incremental Commitments without paying such fees with respect to the other Commitments.

(c) The Incremental Commitments shall be effected pursuant to one or more Incremental Facility Agreements executed and delivered by the Company, each Incremental Lender providing such Incremental Commitments and the Administrative Agent; provided that no Incremental Commitments shall become effective unless (i) on the date of effectiveness thereof, both immediately prior to and immediately after giving effect to such Incremental Commitments, no Default shall have occurred and be continuing, (ii) on the date of effectiveness thereof and after giving effect to the making of Loans and issuance of Letters of Credit thereunder to be made on such date, the representations and warranties of each Loan Party set forth in the Loan Documents that are qualified by materiality shall be true and correct and the representations and warranties that are not so qualified shall be true and correct in all material respects on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties that are qualified by materiality shall be true and correct and such representations and warranties that are not so qualified shall be true and correct in all material respects, in each case, as of such earlier date), (iii) the Company shall make any payments required to be made pursuant to Section 2.16 in connection with such Incremental Commitments and the related transactions under this Section, (iv) the Company shall have delivered to the Administrative Agent such legal opinions, board resolutions, secretary's certificates, officer's certificates and other documents as shall reasonably be requested by the Administrative Agent in connection with any such transaction and (v) each Subsidiary Guarantor (if any) shall have reaffirmed its Guarantee of the Obligations. Each Incremental Facility Agreement may, without the consent of any Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section.

(d) Upon the effectiveness of an Incremental Commitment of any Incremental Lender not already a Lender, (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 under the other Loan Documents, and (ii) (A) such Incremental Commitment shall constitute (or, in the event such Incremental Lender already has a Commitment, shall increase) the Commitment of such Incremental Lender and (B) the Total Commitment shall be increased by the amount of such Incremental Commitment, in each case, subject to further increase or reduction from time to time as set forth in the definition of the term "Commitment". For the avoidance of doubt, upon the effectiveness of any Incremental Commitment, the Credit Exposure of the Incremental Lender holding such Commitment, and the Applicable Percentage of all the Lenders, shall automatically be adjusted to give effect thereto.

(e) On the date of effectiveness of any Incremental Commitments, (i) the aggregate principal amount of the Revolving Loans outstanding (the "Existing Revolving Borrowings") immediately prior to the effectiveness of such Incremental Commitments shall be deemed to be repaid, (ii) each Incremental Lender that shall have had a Commitment prior to the effectiveness of such Incremental Commitments shall pay to the Administrative Agent in same day funds an amount equal to the difference between (A) the product of (1) such Lender's Applicable Percentage (calculated after giving effect to the effectiveness of such Incremental Commitments) multiplied by (2) the aggregate amount of the Resulting Revolving Borrowings (as hereinafter defined) and (B) the product of (1) such Lender's Applicable Percentage (calculated without giving effect to the effectiveness of such Incremental Commitments) multiplied by (2) the aggregate amount of the Existing Revolving Borrowings, (iii) each Incremental Lender that shall not have had a Commitment prior to the effectiveness of such Incremental Commitments shall pay to Administrative Agent in same day funds an amount equal to the product of (1) such Lender's Applicable Percentage (calculated after giving effect to the effectiveness of such Incremental Commitments) multiplied by (2) the aggregate amount of the Resulting Revolving Borrowings, (iv) after the Administrative Agent receives the funds specified in clauses (ii) and (iii) above, the Administrative Agent shall pay to each Lender the portion of such funds that is equal to the difference, if positive, between (A) the product of (1) such Lender's Applicable Percentage (calculated without giving effect to the effectiveness of such Incremental Commitments) multiplied by (2) the

aggregate amount of the Existing Revolving Borrowings, and (B) the product of (1) such Lender's Applicable Percentage (calculated after giving effect to the effectiveness of such Incremental Commitments) multiplied by (2) the aggregate amount of the Resulting Revolving Borrowings, (v) after the effectiveness of such Incremental Commitments, the Borrowers shall be deemed to have made new Revolving Borrowings (the "Resulting Revolving Borrowings") in an aggregate amount for each Borrower equal to the aggregate amount of its Existing Revolving Borrowings and of the Types and for the Interest Periods specified in a Borrowing Request delivered to the Administrative Agent in accordance with Section 2.03 (and the Company shall deliver such Borrowing Request), (vi) each Lender shall be deemed to hold its Applicable Percentage of each Resulting Revolving Borrowing (calculated after giving effect to the effectiveness of such Incremental Commitments) and (vii) each Borrower shall pay each Lender any and all accrued but unpaid interest on its Loans comprising the Existing Revolving Borrowings. The deemed payments of the Existing Revolving Borrowings made pursuant to clause (i) above shall be subject to compensation by the Borrowers pursuant to the provisions of Section 2.16 if the date of the effectiveness of such Incremental Commitments occurs other than on the last day of the Interest Period relating thereto.

(f) The Administrative Agent shall notify the Lenders promptly upon receipt by the Administrative Agent of any notice from the Company referred to in Section 2.05(a) and of the effectiveness of any Incremental Commitments, in each case, advising the Lenders of the details thereof and of the Applicable Percentages of the Lenders after giving effect thereto and of the payments required to be made pursuant to Section 2.05(e).

SECTION 2.06. Letters of Credit.

(a) Subject to the terms and conditions set forth herein, from time to time during the Availability Period any Borrower may request any Issuing Lender to issue, and such Issuing Lender shall issue (unless the Required Lenders shall have asserted that the conditions set forth in Section 4.02 with respect to such issuance are not satisfied), Letters of Credit denominated in dollars for the account of such Borrower (or, so long as a Borrower is a joint and several co-applicant with respect thereto, the account of any Subsidiary that is not a Borrower, provided that if such Subsidiary is a Foreign Subsidiary, the jurisdiction of organization thereof shall be reasonably satisfactory to the relevant Issuing Lender). Each Letter of Credit shall be in such form as shall be acceptable to the relevant Issuing Lender in its reasonable determination. Letters of Credit issued by any Issuing Lender will only be of a type approved for issuance hereunder by such Issuing Lender (it being understood and agreed that standby Letters of Credit shall be deemed of the type that is approved), and issuance, amendment and extension of Letters of Credit by any Issuing Lender shall be subject to its customary policies and procedures for issuance of letters of credit. An Issuing Lender shall not be under any obligation to issue any Letter of Credit if any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Lender from issuing such Letter of Credit, or any law, rule or regulation of any Governmental Authority applicable to such Issuing Lender or any request, rule, guideline or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Lender shall prohibit, or request that such Issuing Lender refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such Issuing Lender with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Lender is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon such Issuing Lender any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which such Issuing Lender in good faith deems material to it. From and after the Effective Date, each Existing Letter of Credit shall be deemed, for all purposes of this Agreement (including clauses (e) and (f) of this Section), to be a Letter of Credit issued for the account of the Company.

(b) To request the issuance of a Letter of Credit (or the amendment or extension of an outstanding Letter of Credit (other than an automatic extension permitted pursuant to clause (d) of this Section)), the applicable Borrower shall deliver by email (or transmit by other electronic communication, if arrangements for doing so have been approved by the recipient) to such Issuing Lender and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment or extension) 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 (d) of this Section), the amount of such Letter of Credit, that such Letter of Credit is to be denominated in dollars, the name of the account party (which shall be a Borrower or a Subsidiary and a Borrower as co-applicants), the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend or extend such Letter of Credit. It is understood that the reinstatement of all or a portion of a Letter of Credit in accordance with the terms thereof following a drawing thereunder shall not constitute an amendment or extension of such Letter of Credit. If requested by such Issuing Lender, such Borrower also shall submit a letter of credit application on such Issuing Lender's standard form in connection with any request for a Letter of Credit. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by a Borrower or any Subsidiary to, or entered into by a Borrower or any Subsidiary with, any Issuing Lender relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

(c) A Letter of Credit shall be issued, amended or extended by an Issuing Lender only if (and upon issuance, amendment or extension of each Letter of Credit the relevant Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment or extension (i) the aggregate LC Exposure would not exceed \$500,000,000, (ii) the aggregate LC Exposure attributable to Letters of Credit issued by any Issuing Lender would not exceed the LC Commitment of such Issuing Lender, (iii) the Credit Exposure of any Lender would not exceed the Commitment of such Lender, (iv) the total Credit Exposures would not exceed the Total Commitment and (v) in the event the Commitment Termination Date shall have been extended as provided in Section 2.23, the aggregate LC Exposure attributable to Letters of Credit expiring after any Existing Commitment Termination Date, when taken together with the aggregate Swingline Exposure attributable to Swingline Loans maturing after such Existing Commitment Termination Date, would not exceed the aggregate amount of the Commitments that shall have been extended to a date after the latest expiration date of such Letters of Credit and the latest maturity date of any of the Swingline Loans.

(d) No Letter of Credit shall have a stated expiry date that is later than the close of business on the earlier of (i) the date twelve months after the date of the issuance of such Letter of Credit (or, in the case of any extension thereof, twelve months after the then-current expiration date of such Letter of Credit, so long as such extension occurs within three months of such then-current expiration date) and (ii) the date that is five Business Days prior to the first anniversary of the Commitment Termination Date; provided that (A) any Letter of Credit with a one-year tenor may provide for the extension thereof for additional one-year periods (which shall in no event extend beyond the date referred to in clause (ii) above and shall be subject to clause (B) below in the case of any extension that would extend the maturity beyond the fifth Business Day prior to the Commitment Termination Date) under customary "evergreen" provisions and (B) in the case of the issuance, extension or amendment of any Letter of Credit having a stated expiry date beyond the fifth Business Day prior to the Commitment Termination Date, the Issuing Lender shall have consented to such stated expiry date in writing prior to such issuance, extension or amendment and the Company shall be required to cash collateralize such Letter of Credit not later than the fifth Business Day prior to the Commitment Termination Date as provided in clause (k) below (but without any requirement for prior notice from the Administrative Agent) and in the event the Company shall fail to post such cash collateral for any Letter of Credit on or prior to such fifth Business Day, the Administrative Agent shall provide notice to the Lenders of such failure to post cash collateral and of each Lender's Applicable Percentage of such amount and each Lender shall be irrevocably and unconditionally, notwithstanding anything to the contrary in Section 2.02, 2.03 or 4.02, obligated to make a Revolving Loan (which shall be an ABR Loan) to the Company on the Business Day immediately following the Business Day on which such notice is delivered in the amount of its Applicable Percentage of the amount of cash collateral required to be so posted, the proceeds of which will be applied by the Administrative Agent to cash collateralize such Letter of Credit as provided in clause (k).

(e) By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) by any Issuing Lender, and without any further action on the part of such Issuing Lender or the Lenders, such Issuing Lender hereby grants to each Lender, and each Lender hereby acquires from such Issuing Lender, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. Each Lender acknowledges and agrees that, on the Effective Date, without any further action on the part of any Issuing Lender or the Lenders, each Issuing Lender that is an issuer of an Existing Letter of Credit hereby grants to each Lender, and each Lender hereby acquires from such Issuing Lender, a participation in such Existing Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Existing Letter of Credit. Each Lender further acknowledges and agrees that its obligation to acquire participations pursuant to this clause (e) 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, any reduction or termination of the Commitments or any force majeure or other event that under any rule of law or uniform practices to which any Letter of Credit is subject (including Section 3.14 of the ISP or any successor publication of the International Chamber of Commerce) permits a drawing to be made under such Letter of Credit after the expiration thereof or of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees, promptly upon receipt of a notice as provided for in the final paragraph of Section 2.06(f) (and in any event, if such notice is received by 12:00 noon, New York City time, on a Business Day, no later than 2:00 p.m., New York City time on such Business Day and if received after 12:00 noon, New York City time, on a Business Day, no later than 10:00 a.m., New York City time, on the immediately succeeding Business Day), to pay to the Administrative Agent, for the account of the relevant Issuing Lender, such Lender's Applicable Percentage of the amount of each LC Disbursement made by such Issuing Lender and not reimbursed by the relevant Borrower on the date due as provided in clause (f) of this Section or of any reimbursement payment is required to be refunded to such Borrower for any reason. Such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each such payment shall be made 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 under this clause (e)), and the Administrative Agent shall promptly pay to the relevant Issuing Lender the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the relevant Borrower pursuant to clause (f) of this Section, the Administrative Agent shall distribute such payment to such Issuing Lender or, to the extent that the Lenders have made payments pursuant to this clause (e) to reimburse such Issuing Lender, then to such Lenders and such Issuing Lender as their interests may appear. Any payment made by a Lender pursuant to this clause (e) to reimburse an Issuing Lender for any LC Disbursement shall not constitute a Loan and shall not relieve the relevant Borrower of its obligation to reimburse such LC Disbursement.

(f) If an Issuing Lender shall make any LC Disbursement in respect of a Letter of Credit, the relevant Borrower shall reimburse such Issuing Lender in respect of such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement not later than 12:00 noon, New York City time (or, in the case of an LC Disbursement that is being funded with an ABR Revolving Borrowing or Swingline Loan, 2:00 p.m., New York City time) on (i) the Business Day that the relevant Borrower receives notice that such LC Disbursement has been made, if such notice is received prior to 10:00 a.m., New York City time, or (ii) the Business Day immediately following the day that the relevant Borrower receives such notice, if such notice is not received prior to such time; provided that the relevant Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or Section 2.04 that such payment be financed with all or any portion of an ABR Revolving Borrowing or a Swingline Loan, as applicable, in an amount permitted under Section 2.02(c) and, to the extent so financed, the relevant Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing or Swingline Loan (or the applicable portion thereof). Each such payment shall be made to the relevant Issuing Lender in dollars and in immediately available funds.

If any Borrower fails to make payment when due in respect of any LC Disbursement relating to a Letter of Credit issued for its account, the applicable Issuing Lender shall promptly notify the Administrative Agent, whereupon the Administrative Agent shall promptly notify each Lender of the applicable LC Disbursement, the payment then due from such Borrower and such Lender's Applicable Percentage thereof.

(g) Each Borrower's obligations to reimburse LC Disbursements as provided in Section 2.06(f) 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, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged or fraudulent or any statement therein being untrue or inaccurate in any respect, (iii) payment by any Issuing Lender under a Letter of Credit against presentation of a draft or other document that does not comply strictly with the terms of such Letter of Credit, (iv) any lien or security interest granted to, or in favor of, the Administrative Agent or any of the Lenders as security for any of such reimbursement obligations failing to be perfected, (v) the occurrence of any Default, (vi) the existence of any proceedings of the type described in clause (h) or (i) of Article VII with respect to any other Loan Party, (vii) any lack of validity or enforceability of any of such reimbursement obligations against any other Loan Party, (viii) any force majeure or other event that under any rule of law or uniform practices to which any Letter of Credit is subject (including Section 3.14 of the ISP or any successor publication of the International Chamber of Commerce) permits a drawing to be made under such Letter of Credit after the stated expiration date thereof or of the Commitments or (ix) 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 obligations of any Borrower hereunder.

None of the Administrative Agent, the Lenders or the Issuing Lenders, or any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit by the Issuing Lender that is the issuer thereof 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 Issuing Lender that is the issuer of such Letter of Credit; provided that the foregoing shall not be construed to excuse such Issuing Lender from liability to any Borrower or to any Lender which has funded its participation hereunder in such Letter of Credit 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 Loan Parties and the Lenders to the extent permitted by applicable law) suffered by such Borrower or such Lender, as the case may be, that are caused by such Issuing Lender's failure to exercise the standard of care agreed hereunder to be applicable when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that such standard of care shall be as follows, and that such Issuing Lender shall be deemed to have exercised such standard of care in the absence of gross negligence or willful misconduct on its part (with such absence to be presumed unless otherwise determined by a court of competent jurisdiction by final and nonappealable judgment):

(i) an Issuing Lender of a Letter of Credit may accept documents that appear on their face to be in substantial compliance with the terms of such Letter of Credit without responsibility for further investigation, regardless of any notice or information to the contrary, and may make payment upon presentation of documents that appear on their face to be in substantial compliance with the terms of such Letter of Credit; and

(ii) an Issuing Lender of a Letter of Credit shall have the right, in its sole discretion, to decline to accept such documents and to make such payment if such documents are not in strict compliance with the terms of such Letter of Credit.

(h) Upon presentation of documents with respect to a demand for payment under a Letter of Credit, the Issuing Lender that is the issuer of such Letter of Credit shall (i) promptly notify the Administrative Agent, the Company and (if different) the relevant Borrower by email or other electronic transmission of such demand for payment, (ii) within the time allowed by applicable law or the specific terms of the applicable Letter of Credit following its receipt of such documents, examine all documents purporting to represent a demand for payment under such Letter of Credit and (iii) promptly after such examination notify the Administrative Agent, the Company and (if different) the relevant Borrower by email or other electronic transmission whether the Issuing Lender has made or will make an LC Disbursement under such Letter of Credit; provided that any failure to give or delay in giving any such notice shall not relieve such Borrower of its obligation to reimburse such Issuing Lender and the Lenders with respect to any such LC Disbursement as provided in Section 2.06(f).

(i) If any Issuing Lender shall make any LC Disbursement, then, unless the relevant 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 such Borrower reimburses such LC Disbursement, at the rate per annum then applicable to ABR Loans; provided that if such Borrower fails to reimburse such LC Disbursement when due pursuant to Section 2.06(f), then Section 2.13(ed) shall apply. Interest accrued pursuant to this clause (i) shall be for the account of such Issuing Lender, except that interest accrued on and after the date of payment by any Lender pursuant to Section 2.06(e) to reimburse such Issuing Lender shall be for the account of such Lender to the extent of such payment, and shall be payable on demand or, if no demand has been made, on the date on which the applicable Borrower reimburses the applicable LC Disbursement in full.

(j) Any Lender may be added as an Issuing Lender, or any existing Issuing Lender may be terminated, under this Agreement at any time by written agreement between the Company, the Administrative Agent and the relevant Lender or existing Issuing Lender, which written agreement shall set forth, in the case of any addition of an Issuing Lender, the LC Commitment of such Issuing Lender. The Administrative Agent shall notify the Lenders of any such addition or termination. At the time any such termination shall become effective, the Borrowers shall pay all unpaid fees accrued for the account of the Issuing Lender being terminated. From and after the effective date of any such addition, the new Issuing Lender shall have all the rights and obligations of an Issuing Lender under this Agreement with respect to Letters of Credit to be issued thereafter. References herein to the term "Issuing Lender" shall be deemed to refer to each new Issuing Lender or to any previous Issuing Lender, or to such new Issuing Lender and all previous Issuing Lenders, as the context shall require. After the termination of an Issuing Lender hereunder, the terminated Issuing Lender shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Lender under this Agreement with respect to any outstanding Letters of Credit issued by it prior to such termination, but shall not be required to issue any new Letters of Credit or to amend or extend any such outstanding Letters of Credit.

(k) If either (i) an Event of Default shall have occurred and be continuing and the Company receives notice from the Administrative Agent or the Required Lenders demanding the deposit of cash collateral pursuant to this clause (k) or (ii) clause (d) above or any of the other provision of this Agreement requires cash collateralization of any LC Exposure, the Company shall deposit within one Business Day after notice from the Administrative Agent of the requirement thereof into an account established and maintained on the books and records of the Administrative Agent, which account may be a "securities account" (within the meaning of Section 8-501 of the UCC as in effect in the State of New York), in the name of the Administrative Agent and for the benefit of the Lenders (the "LC Collateral Account"), an amount in immediately available funds in dollars equal to 105% of the LC Exposure (or, in the case of any cash collateralization required pursuant to clause (d) above, 105% of the LC Exposure required to be cash collateralized) as of such date plus any accrued and unpaid interest thereon; provided that the obligation to deposit such amount 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 described in clause (h) or (i) of Article VII. Such deposits shall be held by the Administrative Agent as collateral for the LC Exposure under this Agreement and for the payment and performance of the Obligations, and for this purpose the Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over the LC Collateral Account, the LC Collateral Account shall be subject to an account control agreement reasonably satisfactory to the Administrative Agent and each Borrower hereby grants a security interest to the Administrative Agent for

the benefit of the Lenders in the LC Collateral Account and in any financial assets (as defined in the UCC) or other property held therein. 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 (in accordance with its usual and customary practices for investments of this type) and at the Borrowers' risk and reasonable expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in the LC Collateral Account. Moneys and financial assets in the LC Collateral Account shall be applied by the Administrative Agent to reimburse the applicable Issuing Lender for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to, in the case of any such application at a time when any Lender is a Defaulting Lender (but only if, after giving effect thereto, the remaining cash collateral shall be less than the aggregate LC Exposure of all the Defaulting Lenders), the consent of each Issuing Lender), be applied to satisfy other Obligations. The Administrative Agent shall cause all such cash collateral (to the extent not applied as aforesaid) to be returned to the Company within three Business Days after (A) in the case of clause (i) above, the applicable Event of Default shall have been cured or waived (so long as no other Event of Default has occurred and is continuing at such time) or (B) in the case of clause (ii) above, to the extent such cash collateral shall no longer be required pursuant to the applicable provision hereof.

(l) Unless otherwise requested by the Administrative Agent, each Issuing Lender shall (i) report in writing to the Administrative Agent periodic activity (for such period or recurrent periods as shall be requested by the Administrative Agent) in respect of Letters of Credit issued by such Issuing Lender, including all issuances, extensions and amendments, all expirations and cancellations and all disbursements and reimbursements, and (ii) provide in writing to the Administrative Agent such other information as the Administrative Agent shall reasonably request, including but not limited to prompt verification of such information as may be requested by the Administrative Agent.

(m) (i) For all purposes of this Agreement, the amount of a Letter of Credit that, by its terms or the terms of any document related thereto, provides for one or more automatic increases in the stated amount thereof shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases (other than any such increase consisting of the reinstatement of an amount previously drawn thereunder and reimbursed), whether or not such maximum stated amount is in effect at the time of determination.

(iii) 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 UCP, Rule 3.13 or Rule 3.14 of the ISP 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 paid, and the obligations of the Borrowers and each Lender hereunder shall remain in full force and effect until the Issuing Lenders and the Lenders shall have no further obligations to make any payments or disbursements under any circumstances with respect to any Letter of Credit.

(n) Notwithstanding that a Letter of Credit issued or outstanding hereunder supports any obligations of, or is for the account of, any Subsidiary that is not a Borrower, or states that any Subsidiary that is not a Borrower 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 Lender (whether arising by contract, at law, in equity or otherwise) against such Subsidiary in respect of such Letter of Credit, the Company (i) shall reimburse, indemnify and compensate the relevant Issuing Lender hereunder for such Letter of Credit (including to reimburse any and all LC Disbursements thereunder, the payment of interest thereon and the payment of fees due under Section 2.12) as if such Letter of Credit had been issued solely for the account of the Company 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. The Company hereby acknowledges that the issuance of Letters of Credit for its Subsidiaries inures to the benefit of the Company, and that the Company's business derives substantial benefits from the businesses of its 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 by wire transfer of immediately available funds by 12:00 noon, New York City time, or, in the case of an ABR Loan, 2:00 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; provided that Swingline Loans shall be made as provided in Section 2.04. The Administrative Agent will make such Loans available to the applicable Borrower promptly, and in no event later than 3:00 p.m., New York City time, crediting the amounts so received, in like funds, to an account of such Borrower maintained with the Administrative Agent in New York City and designated by the Company in the applicable Borrowing Request; provided that (i) any such amounts in respect of ABR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.06(f) shall be remitted to the Issuing Lender specified by the Company in the applicable Borrowing Request and (ii) any such amounts in respect of ABR Revolving Loans made as contemplated under Section 2.06(d) shall be applied by the Administrative Agent as set forth in such Section.

(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 and in its sole discretion, make available to the applicable 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 Borrowers agree (jointly and severally with each other Borrower, but severally and not jointly with the applicable Lender) 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 applicable 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 determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of a Borrower, the interest rate applicable to such Loan. If such Lender pays such amount to the Administrative Agent, then such amount (less interest) shall constitute such Lender's Loan included in such Borrowing. With respect to any share of a Borrowing not made available by a Lender as contemplated above, if such Lender subsequently pays its share of such Borrowing to the Administrative Agent, then the Administrative Agent shall promptly repay to the relevant Borrower any corresponding amount paid by such Borrower to the Administrative Agent as provided in this clause (b) (including interest thereon to the extent received by the Administrative Agent from such Borrower); provided that such repayment to such Borrower shall not operate as a waiver or any abandonment of any rights or remedies of such Borrower with respect to such Lender.

SECTION 2.08. Interest Elections.

(a) Each Revolving Borrowing initially shall be of the Type specified in the applicable Borrowing Request or designated by Section 2.03 and, in the case of a ~~Eurocurrency~~ Term SOFR Borrowing, shall have an initial Interest Period as specified in such Borrowing Request or designated by Section 2.03. Thereafter, the applicable Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a ~~Eurocurrency~~ Term SOFR Borrowing, may elect Interest Periods therefor, all as provided in this Section. The applicable 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. This Section shall not apply to Swingline Borrowings, which may not be converted or continued.

(b) To make an election pursuant to this Section, the Company, on behalf of itself or the applicable Subsidiary 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 Company was requesting a Revolving 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 made by delivery to the Administrative Agent of a written Interest Election Request signed by the Company (on behalf of itself or the applicable Borrower).

(c) Each Interest Election Request shall specify the following information in compliance with Section 2.03:

(i) the name of the applicable Borrower and 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 Eurocurrency~~, a Term SOFR Borrowing or, if applicable pursuant to Section 2.14, a Daily Simple SOFR Borrowing; and

(iv) if the resulting Borrowing is a ~~Eurocurrency~~Term SOFR 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" and permitted under Section 2.02(d).

If any such Interest Election Request requests a ~~Eurocurrency~~Term SOFR Borrowing but does not specify an Interest Period, then the applicable 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 Company fails to deliver a timely Interest Election Request with respect to a ~~Eurocurrency~~Term SOFR 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 (except in the case of an Event of Default under clause (h) or (i) of Article VII) the Administrative Agent, at the request of the Required Lenders, so notifies the Company, then, so long as an Event of Default is continuing (i) no outstanding Revolving Borrowing may be converted to or continued as a ~~Eurocurrency~~Term SOFR Revolving Borrowing and (ii) unless repaid, each ~~Eurocurrency~~Term SOFR 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, all Commitments shall terminate on the Commitment Termination Date.

(b) The Company, on behalf of the Borrowers, may at any time terminate, without premium or penalty (other than, with respect to ~~Eurocurrency~~ Term SOFR Borrowings, payments that may become due under Section 2.16), the Commitments upon (i) the payment in full of all outstanding Loans, together with accrued and unpaid interest thereon, (ii) the payment in full of the accrued and unpaid fees, (iii) the payment in full of all reimbursable expenses and other Obligations outstanding at such time (other than contingent amounts not yet due) and (iv) the reduction of the LC Exposure to zero (or, alternatively, the furnishing of cash collateral with respect to the LC Exposure then outstanding in accordance with Section 2.06(k), but without any requirement of prior notice from the Administrative Agent). The Company, on behalf of the Borrowers, may from time to time reduce, without premium or penalty (other than, with respect to ~~Eurocurrency~~ Term SOFR Borrowings, payments that may become due under Section 2.16), the Commitments; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$10,000,000 and not less than \$25,000,000 and (ii) the Company shall not reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.11, the aggregate Credit Exposures would exceed the Total Commitment. Any termination or reduction of the Commitments pursuant to this Section 2.09(b) shall be permanent. Each reduction of the Commitments shall be allocated pro rata among the Lenders in accordance with their respective Commitments. The Company shall notify the Administrative Agent of any election to terminate or reduce the Commitments under this clause (b) at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Company pursuant to this clause (b) shall be irrevocable; provided that a notice of termination or reduction of the Commitments delivered by the Company may state that such notice is conditioned upon the effectiveness of other credit facilities or the receipt of the proceeds from the issuance of other Indebtedness or any other event, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

SECTION 2.10. Repayment of Loans; Evidence of Debt.

(a) The Borrowers hereby, jointly and severally, unconditionally promise to pay (i) to the Administrative Agent, for the account of each Lender, the then unpaid principal amount of each Revolving Loan of such Lender on the Commitment Termination Date and (ii) to each Swingline Lender the then unpaid principal amount of each Swingline Loan of such Swingline Lender on the earlier of the Commitment Termination Date and the date that is the seventh day (or if such day is not a Business Day, the next succeeding Business Day) after such Swingline Loan is made; provided that on each date that a Revolving Borrowing is made by the Company or any Subsidiary Borrower, the Company or such Subsidiary Borrower shall repay, or cause to be repaid, all Swingline Loans that were outstanding on the date such Borrowing was requested.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrowers 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 Borrowers to each Lender hereunder, (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof, (iv) the amount of any sum received by the Administrative Agent hereunder for the account of any Issuing Lender and (v) the application or disbursement by the Administrative Agent of any amounts pursuant to this Agreement or any other Loan Document.

(d) The entries made in the accounts maintained pursuant to clauses (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein (and in the case of any inconsistency between the Register and the accounts maintained by any Lender or the Administrative Agent, the Register shall govern); 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 Borrowers to repay the Loans and pay interest thereon in accordance with the terms of this Agreement.

(e) Any Lender may request that Revolving Loans made by it be evidenced by a promissory note. In such event, the applicable Borrower shall prepare, execute and deliver to such Lender a promissory note, substantially in the form of Exhibit F, payable to such Lender and its registered assigns. 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 payable to the payee named therein and its registered assigns.

SECTION 2.11. Prepayment of Loans.

(a) The Borrowers shall have the right at any time and from time to time to prepay without premium or penalty (other than, with respect to ~~Eurocurrency~~ Term SOFR Borrowings, payments that may become due under Section 2.16) any Borrowing in whole or in part, subject to the requirements of this Section.

(b) In the event and on each occasion that the aggregate Credit Exposures of the Lenders exceed the Total Commitment, the Borrowers shall prepay Revolving Borrowings and/or Swingline Borrowings in an aggregate amount equal to such excess; provided that if the aggregate principal amount of Revolving Borrowings and Swingline Borrowings then outstanding is less than the amount of such excess (because LC Exposure constitutes a portion thereof), the Borrowers shall deposit an amount in cash equal to such excess in the LC Collateral Account. If the Borrowers are required to provide (and have provided the required amount of) cash collateral pursuant to this Section 2.11(b) and such excess is subsequently reduced, cash collateral in an amount equal to the lesser of (x) any such reduction and (y) the amount of such cash collateral (to the extent not applied as set forth in Section 2.06(k)) shall be returned to the Borrowers within two Business Days after such reduction.

(c) Prior to any optional prepayment of Borrowings hereunder, the applicable Borrower shall select the Borrowing or Borrowings to be prepaid and the Company shall specify such selection in the notice of such prepayment pursuant to clause (d) of this Section.

(d) The Company, on behalf of the applicable Borrower, shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the applicable Swingline Lender) of any prepayment hereunder (i) in the case of prepayment of a ~~Eurocurrency~~ Term SOFR Borrowing, not later than 2:00 p.m., New York City time, three Business Days before the date of prepayment, (ii) in the case of prepayment of an ABR Revolving Borrowing, not later than 2:00 p.m., New York City time, one Business Day before the date of prepayment, (iii) in the case of prepayment of a Daily Simple SOFR Loan, not later than 2:00 p.m., New York City time, three Business Days before the date of prepayment or ~~(iiiiv)~~ in the case of prepayment of a Swingline Loan, not later than 12:00 p.m., New York City time, on the date of 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 and, in the case of a mandatory prepayment, set forth a reasonably detailed calculation of the amount of such prepayment; provided that a notice of optional prepayment may state that such notice is conditioned upon the effectiveness of other credit facilities or the receipt of the proceeds from the issuance of other Indebtedness or any other event, in which case such notice of prepayment may be revoked by the Company (by notice to the Administrative Agent on or prior to the specified date) if such condition is not satisfied. Promptly following receipt of any such notice (other than a notice relating solely to Swingline Loans) the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Revolving Borrowing shall be applied ratably to the Revolving Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.13~~(d)~~.

SECTION 2.12. Fees.

(a) The Borrowers agree to pay to the Administrative Agent for the account of each Lender a facility fee, which shall accrue at the Applicable Rate on the daily amount of the Commitment of such Lender (whether used or unused) during the period from and including the Effective Date to but excluding the date such Commitment terminates; provided that if such Lender continues to have any Credit Exposure after such Commitment terminates, then such facility fee shall continue to accrue on the daily amount of such Lender's Credit Exposure from and including the date such Commitment terminates to but excluding the date on which such Lender ceases to have any Credit Exposure. Accrued facility fees shall be payable in arrears on the last day of each of March, June, September and December of each year and on the date the Commitments terminate, commencing on the first such date to occur after the Effective Date; provided that any facility fees accruing after the date the Commitments terminate shall be payable on demand. All facility 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 Company agrees to pay to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the Applicable Rate applicable to ~~Eurocurrency~~ **Term SOFR** Loans on the average daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date the Commitment of such Lender terminates and the date on which such Lender ceases to have any LC Exposure.

(c) The Borrower that is an applicant or co-applicant with respect to any Letter of Credit agrees to pay to the Issuing Lender that is the issuer of such Letter of Credit (i) a fronting fee, which shall accrue at a rate per annum separately agreed by the Company and such Issuing Lender, on the average daily amount of the LC Exposure attributable to such Letter of Credit (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the date of issuance of such Letter of Credit to but excluding the date on which there ceases to be any LC Exposure attributable to such Letter of Credit and (ii) such Issuing Lender's standard fees with respect to the issuance, amendment or extension of such Letter of Credit or processing of drawings thereunder.

(d) Participation fees and fronting fees accrued through and including the last day of each calendar quarter shall be payable on the third Business Day of the calendar month 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 any Issuing Lender pursuant to clause (c) above shall be payable at the times separately agreed upon between the Company or the relevant Borrower and such Issuing Lender or otherwise within 10 days after demand. 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).

(e) The Borrowers agree to pay to the Administrative Agent, each Arranger and each Lender, as the case may be, for its own account, fees payable in the amounts and at the times separately agreed upon in writing between the Company and the Administrative Agent, such Arranger or such Lender, as the case may be.

(f) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to the applicable Issuing Lender, in the case of fees payable to it) for distribution, in the case of facility fees and participation fees, to Lenders in accordance with this Section 2.12. Fees paid shall not be refundable under any circumstances.

SECTION 2.13. Interest.

(a) The Loans comprising each ABR Borrowing (including each Swingline Loan) shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each ~~Eurocurrency~~Term SOFR Borrowing shall bear interest at the Adjusted ~~Eurocurrency~~Term SOFR Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) The Loans comprising each Daily Simple SOFR Borrowing, if applicable pursuant to Section 2.14, shall bear interest at the Adjusted Daily Simple SOFR plus the Applicable Rate.

(d) ~~(e)~~ Notwithstanding the foregoing, if any principal of or interest on any Loan or any LC Disbursement or any fee or other amount payable by a Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration, by mandatory prepayment 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 or any LC Disbursement, 2.00% per annum plus the rate otherwise applicable to such Loan or LC Disbursement as provided in the preceding clauses of this Section or in Section 2.06(i) or (ii) in the case of any other amount, 2.00% per annum plus the rate applicable to ABR Revolving Loans as provided in clause (a) of this Section.

(e) ~~(f)~~ Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and upon termination of the Commitments; provided that (i) interest accrued pursuant to clause ~~(e)~~ 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 ~~Eurocurrency~~Term SOFR 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) ~~(g)~~ All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate 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), and, in each case, shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate ~~or~~, Adjusted ~~Eurocurrency~~RateTerm SOFR, Term SOFR, 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 Section 2.14(b), if ~~prior to the commencement of any Interest Period for any Eurocurrency Borrowing:~~

(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 SOFR Borrowing, that adequate and reasonable means do not exist for ascertaining the Adjusted ~~Eurocurrency~~RateTerm SOFR for such Interest Period (including because the ~~LBO-Screen~~Term SOFR Reference Rate is not available or published on a current basis) or (B) at any time, that adequate and reasonable means do not exist for ascertaining the Adjusted Daily Simple SOFR; or

(ii) the Administrative Agent is advised by the Required Lenders (A) prior to the commencement of any Interest Period for a Term SOFR Borrowing, that the Adjusted ~~Eurocurrency~~RateTerm SOFR for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their respective Loans included in such Borrowing for such Interest Period or (B) at any time, that the Adjusted Daily Simple SOFR will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in any Daily Simple SOFR Borrowing;

then the Administrative Agent shall give notice thereof (which may be by telephone, if promptly confirmed in writing) to the Company and the Lenders as promptly as practicable thereafter and, until (x) the Administrative Agent notifies the Company and such Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) the Company, on behalf of itself or the applicable Subsidiary 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. ~~(A) any Interest Election Request that requests the conversion of any Revolving Borrowing to, or continuation of any Borrowing as, a Eurocurrency Term SOFR Borrowing shall be ineffective and such Revolving Borrowing (unless prepaid) shall be converted to, or continued as, an ABR Borrowing and (B) if any Borrowing Request that requests a Eurocurrency Term SOFR Borrowing, such Borrowing shall be made as an ABR 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 2.14(a)(ii) above or (y) an ABR Borrowing if the Adjusted Daily Simple SOFR is also the subject of Section 2.14(a)(i) or 2.14(a)(ii) above. Furthermore, if any Term SOFR Loan is outstanding on the date of the Company's receipt of the notice from the Administrative Agent referred to in this Section 2.14(a) with respect to the Adjusted Term SOFR, then until (x) the Administrative Agent notifies the Company and the Lenders that the circumstances giving rise to such notice no longer exist with respect to the relevant Benchmark and (y) the Company, on behalf of itself or the applicable Subsidiary 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 SOFR Loan shall, on the last day of the Interest Period applicable to such Loan, convert to, and shall constitute, (x) a Daily Simple SOFR Loan so long as the Adjusted Daily Simple SOFR is not also the subject of Section 2.14(a)(i) or 2.14(a)(ii) above or (y) an ABR Loan if the Adjusted Daily Simple SOFR is also the subject of Section 2.14(a)(i) or 2.14(a)(ii) above.~~

(b) (i) Notwithstanding anything to the contrary herein or in any other Loan Document, if a Benchmark Transition Event, ~~an Early Opt-in Election or an Other Benchmark Rate Election, as applicable,~~ and its related Benchmark Replacement Date have occurred prior to the Reference Time in respect of any setting of the then-current Benchmark, then (x) if a Benchmark Replacement is determined in accordance with clause ~~(1) or (2)~~ of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any other Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (y) if a Benchmark Replacement is determined in accordance with clause ~~(3)~~ (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 other Loan Document in respect of any Benchmark setting at or after 5:00 p.m., New York City time, on the fifth Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders.

~~(ii) Notwithstanding anything to the contrary herein or in any other Loan Document and subject to the proviso below in this paragraph, if a Term SOFR 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 the applicable Benchmark Replacement will replace the then-current Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; provided that this clause (ii) shall not be effective unless the Administrative Agent has delivered to the Lenders and the Company a Term SOFR Notice. For the avoidance of doubt, the Administrative Agent shall not be required to deliver a Term SOFR Notice after a Term SOFR Transition Event and may do so in its sole discretion.~~

~~(iii) In connection with the implementation of a Benchmark Replacement~~

(ii) Notwithstanding anything to the contrary herein or in any other Loan Document, the Administrative Agent, in consultation with the Company, will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(~~iv~~iii) The Administrative Agent will promptly notify the Company and the Lenders of (A) any occurrence of a Benchmark Transition Event, ~~an Early Opt-in Election or an Other Benchmark Rate Election, as applicable,~~ (B) the implementation of any Benchmark Replacement, (C) the effectiveness of any Benchmark Replacement Conforming Changes, (D) the removal or reinstatement of any tenor of a Benchmark pursuant to clause (~~iv~~iv) below and (E) the commencement or conclusion of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 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.

(~~iv~~iv) Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate (including Term SOFR ~~or Eurocurrency Rate~~) and either (1) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (2) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is or will be no longer representative, then the Administrative Agent may modify the definition of “Interest Period” for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (B) if a tenor that was removed pursuant to clause (A) above either (1) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (2) is not, or is no longer, subject to an announcement that it is or will no longer be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of “Interest Period” for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(~~iv~~v) Upon the Company’s receipt of notice of the commencement of a Benchmark Unavailability Period, the Company may (on its own behalf and on behalf of each Subsidiary Borrower) revoke any request for a borrowing of, conversion to or continuation of ~~Eurocurrency~~ Term SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Company will be deemed to have converted any ~~such~~ request for a Term SOFR Borrowing into a request for a borrowing of or conversion to ~~ABR Loans~~. ~~During any~~ (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. Furthermore, if any Term SOFR Loan is outstanding on the date of the Company’s receipt of notice of the commencement of a Benchmark Unavailability Period or at any with respect to the Adjusted Term SOFR, then until such time that as a tenor for the then-current Benchmark is not an Available Tenor, the component of Alternate Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will be deemed to be zero Replacement is implemented pursuant to this Section 2.14, any Term SOFR Loan shall, on the last day of the Interest Period applicable to such Loan, convert to, and shall constitute, (x) a Daily Simple SOFR Loan 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.

SECTION 2.15. Increased Costs.

- (a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender ~~(except any such reserve requirement reflected in the Adjusted Eurocurrency Rate)~~ or any Issuing Lender;

(ii) subject any Lender or Issuing Lender to any Taxes on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto (other than (A) Indemnified Taxes or (B) Excluded Taxes); or

(iii) impose on any Lender or any Issuing Lender or the ~~London~~ applicable offshore interbank market any other condition, cost, or expense (other than Taxes) affecting this Agreement or ~~Eurocurrency~~ the Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender or such Issuing Lender of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit) or to reduce the amount of any sum received or receivable by such Lender or such Issuing Lender hereunder (whether of principal, interest or any other amount), then, so long as such Lender or such Issuing Lender is requiring reimbursement for such increased costs from similarly situated borrowers under comparable syndicated credit facilities, upon the request of such Lender or such Issuing Lender, as the case may be, the Borrowers will pay to such Lender or such Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Lender, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or Issuing Lender determines that any Change in Law affecting such Lender or Issuing Lender or any lending office of such Lender or such Lender's or Issuing Lender's holding company, if any, regarding capital or liquidity requirements has had or would have the effect of reducing the rate of return on such Lender's or Issuing Lender's capital or on the capital of such Lender's or Issuing Lender's holding company, if any, as a consequence of this Agreement, the Commitment of such Lender or the Loans made by, or participations in Letters of Credit or Swingline Loans held by, such Lender, or the Letters of Credit issued by such Issuing Lender, to a level below that which such Lender or Issuing Lender or such Lender's or Issuing Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or Issuing Lender's policies and the policies of such Lender's or Issuing Lender's holding company with respect to capital adequacy and liquidity), then, so long as such Lender or such Issuing Lender is requiring reimbursement for such increased costs from similarly situated borrowers under comparable syndicated credit facilities, upon request of such Lender or such Issuing Lender, as the case may be, the Borrowers will pay to such Lender or Issuing Lender, as the case may be, such additional amount or amounts as will compensate such Lender or Issuing Lender or such Lender's or Issuing Lender's holding company, as the case may be, for any such reduction suffered.

(c) A certificate of a Lender or an Issuing Lender setting forth in reasonable detail an explanation of the amount or amounts necessary to compensate such Lender or such Issuing Lender or their respective holding companies, as the case may be, as specified in clauses (a) or (b) of this Section shall be delivered to the Company and shall be conclusive absent manifest error; provided that such Lender or Issuing Lender shall not be under any obligation to include in such certificate any information in respect of which disclosure is prohibited by applicable law or any binding confidentiality agreement. The Borrowers shall pay such Lender or such Issuing Lender, as the case may be, the amount shown as due on any such certificate within 30 days after receipt thereof.

(d) Failure or delay on the part of any Lender or any Issuing Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Lender's right to demand such compensation; provided that the Borrowers shall not be required to compensate a Lender or an Issuing Lender pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that such Lender or such Issuing Lender, as the case may be, notifies the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Lender'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 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

SECTION 2.16. Break Funding Payments. In the event of (a) the payment of any principal of any ~~Eurocurrency~~Term SOFR 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 ~~Eurocurrency~~Term SOFR Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any ~~Eurocurrency~~Term SOFR Loan (or to convert any ABR Loan into a ~~Eurocurrency~~Term SOFR Loan) on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.11(d) and is revoked in accordance therewith) or (d) the assignment of any ~~Eurocurrency~~Term SOFR Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Company to replace a Lender pursuant to Section 2.19(b), then, in any such event, the Borrowers shall compensate each Lender for the loss, cost and reasonable expense actually incurred (excluding loss of anticipated profits) by such Lender and attributable to such event. ~~In the case of a Eurocurrency Loan, such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Eurocurrency Rate (without consideration of the Applicable Rate) that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate that such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the London eurodollar market (without consideration of the Applicable Rate).~~ A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Company and shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within 10 days after the Company's receipt thereof.

SECTION 2.17. Taxes.

(a) Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made free and clear of and without deduction or withholding for any Taxes; provided that 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, the applicable withholding agent shall be entitled to make such deductions and timely pay the full amount deducted 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 making all required deductions for or withholding of Indemnified Taxes (including deductions or withholding applicable to additional sums payable under this Section) the Administrative Agent or a Lender, as the case may be, receives an amount equal to the sum it would have received had no such deductions or withholding been made.

(b) Without limiting the provisions of Section 2.17(a), the Loan Parties shall timely pay, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) To the extent not paid, reimbursed or compensated pursuant to Section 2.17(a) or 2.17(b), the Loan Parties shall jointly and severally indemnify the Administrative Agent and each Lender, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes payable by the Administrative Agent or such Lender, as the case may be, on or with respect to any payment by or on account of any obligation of the Loan Parties under any Loan Document (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority (except for any interest, penalties, or expenses determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of the Administrative Agent or such Lender, as the case may be). A certificate as to the amount of such payment or liability delivered to the Company (with a copy to the Administrative Agent) by a Lender, or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(d) Each Lender shall severally indemnify the Administrative Agent for any Taxes (but, in the case of any Indemnified Taxes, 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) attributable to such Lender (including any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c)(iv) relating to the maintenance of a Participant Register) that are paid or payable 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. The indemnity under this Section 2.17(d) shall be paid within 10 days after the Administrative Agent delivers to the applicable Lender a certificate stating the amount of Taxes so paid or payable by the Administrative Agent. Such certificate shall be conclusive of the amount so paid or payable absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to such Lender from any other source against any and all amounts due to the Administrative Agent under this Section 2.17(d).

(e) As soon as practicable after any payment of Taxes by the Loan Parties to a Governmental Authority pursuant to Section 2.17(a), the Company 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.

(f) Any Foreign Lender that is entitled to an exemption from or reduction of any applicable withholding Tax with respect to payments under this Agreement shall deliver to the Company (with a copy to the Administrative Agent), at the time or times reasonably requested by the Company or the Administrative Agent, such properly completed and executed documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate. In addition, any Lender, if requested by the Company or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Company or the Administrative Agent as will enable the Company or the Administrative Agent to determine that such Lender is not 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 forms (other than such documentation set forth in clauses (i) through (v) below and documentation related to FATCA) shall not be required if in the applicable Lender's judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense (or, in the case of a Change in Law, any incremental material unreimbursed cost or expense) or would materially prejudice the legal or commercial position of such Lender.

Without limiting the generality of the foregoing, any Lender shall (in the case of clauses (ii) through (vi) below, to the extent it is legally entitled to do so), deliver to the Company 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 Lender becomes a Lender under this Agreement (and from time to time thereafter upon the request of the Company or the Administrative Agent), whichever of the following is applicable:

(iv) duly completed copies of Internal Revenue Service Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax,

(v) duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable, claiming eligibility for benefits of an income tax treaty to which the U.S. is a party,

(vi) duly completed copies of Internal Revenue Service Form W-8ECI,

(vii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the Form of Exhibit G-1 to the effect that such Foreign Lender is not (A) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (B) a “10-percent shareholder” of the applicable Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code and (D) the interest payments in question are not effectively connected with a United States trade or business conducted by such Lender (a “U.S. Tax Compliance Certificate”) and (y) duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable,

(viii) to the extent a Foreign Lender is not the beneficial owner, an Internal Revenue Service Form W-8IMY, accompanied by a Form W-8ECI, W-8BEN, W-8BEN-E, U.S. Tax Compliance Certificate substantially in the Form of Exhibit G-3 or Exhibit G-4, 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 beneficial owners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the Form of Exhibit G-2 on behalf of such beneficial owners, or

(ix) 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 Company or the Administrative Agent to determine the withholding or deduction required to be made.

Each Lender agrees that if any form or certification previously delivered by such Lender pursuant to this Section 2.17(f) expires or becomes obsolete or inaccurate in any material respect, or upon the reasonable request of the Company or the Administrative Agent, such Lender shall update such form or certification or promptly notify the Company and the Administrative Agent in writing of such Lender’s legal inability to do so.

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 Company and the Administrative Agent, at the time or times prescribed by law and at such time or times reasonably requested by the Company 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 Company or the Administrative Agent as may be necessary for the Company and the Administrative Agent to comply with their obligations under FATCA, to determine that such Lender has complied with such Lender’s obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this Section 2.17(f), the term “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

(g) Each Fee Receiver hereby represents that it is a Permitted Fee Receiver and agrees to update Internal Revenue Service Form W-9 (or its successor form) or the applicable Internal Revenue Service Form W-8 (or its successor form) upon any change in such Fee Receiver’s circumstances or if such form expires or becomes inaccurate or obsolete, and to promptly notify the Company and the Administrative Agent if such Fee Receiver becomes legally ineligible to provide such form.

(h) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Indemnified Taxes as to which it has been indemnified pursuant to this Section (including additional amounts paid by any Borrower pursuant to this Section), it shall pay to the applicable Borrower an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Indemnified Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of the Administrative Agent or such Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that such Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over pursuant to this clause (h) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender, as the case may be, in the event the Administrative Agent or such Lender, as the case may be, is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this clause (h), in no event will the Administrative Agent or any Lender be required to pay any amount to any Borrower, the payment of which would place the Administrative Agent or such Lender in a less favorable net after-Tax position than the Administrative Agent or such Lender would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This clause shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to any Borrower or any other Person.

(i) Each party's obligations under this Section 2.17 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, termination of the Loan Documents and the repayment, satisfaction or discharge of all obligations thereunder.

(j) For purposes of this Section 2.17, the term "Lender" includes any Issuing Lender and the term "applicable law" includes FATCA.

SECTION 2.18. Payments Generally; Sharing of Set-offs.

(a) The Borrowers shall make each payment required to be made by them hereunder (whether of principal, interest, or fees or reimbursements of LC Disbursements, or of amounts payable under Section 2.15, 2.16, 2.17 or 9.03, or otherwise) at or prior to the time expressly required hereunder or under any other Loan Document for such payment (or, if no such time is expressly required, prior to 2:00 p.m., New York City time), on the date when due, in immediately available funds, without set-off 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 to such account as the Administrative Agent shall from time to time specify in one or more notices delivered to the Company, except payments to be made directly to an Issuing Lender or a Swingline Lender 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 and payments pursuant to other Loan Documents shall be made to the Persons specified therein. 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 under any Loan Document 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 or any payment of fees, such interest or fees, as applicable, shall be payable for the period of such extension. All payments under any Loan Document shall be made in dollars.

(b) Except to the extent otherwise provided in this Agreement (for the avoidance of doubt, as in effect from time to time), including Sections 2.21 and 2.23: (i) each Revolving Borrowing shall be made from the Lenders, each payment of facility fees under Section 2.12(a) shall be made for the accounts of the Lenders, and each termination or reduction of the Commitments under Section 2.09 shall be applied to the respective Commitments of the Lenders, pro rata according to the amounts of their respective Commitments; (ii) each Revolving Borrowing shall be allocated pro rata among the Lenders according to the amounts of their respective Commitments (in the case of the making of Revolving Loans) or their respective Loans that are to be included in such Borrowing (in the case of conversions and continuations of Loans); (iii) each payment or prepayment of principal of any Revolving Borrowing by a Borrower shall be made for the account of the Lenders pro rata in accordance with the respective unpaid principal amounts of the Loans included in such Borrowing; and (iv) each payment of interest on Revolving Loans by a Borrower shall be made for the accounts of the Lenders pro rata in accordance with the amounts of interest on such Loans then due and payable to them.

(c) 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.

(d) If any Lender shall, by exercising any right of set-off 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 or Swingline Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans or participations in LC Disbursements and Swingline Loans and accrued interest thereon then due 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 and Swingline Loans of the 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 and Swingline Loans; 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 (ed) shall not be construed to apply to any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement (for the avoidance of doubt, as in effect from time to time), including Sections 2.21 and 2.23, or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participation in any LC Disbursements or Swingline Loans to any assignee or participant, other than to the Company or any Subsidiary or other Affiliate thereof (as to which the provisions of this clause (e) shall apply). Each 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 such Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(e) Unless the Administrative Agent shall have received notice from the Company or the relevant Subsidiary Borrower, prior to the date on which any payment is due to the Administrative Agent for the account of a Lender or an Issuing Lender hereunder, that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to such Lender or such Issuing Lender, as the case may be, the amount due. In such event, if the applicable Borrower has not in fact made such payment, then each of the Lenders and the Issuing Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such Issuing Lender 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.

(f) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(c), 2.06(e), 2.06(f), 2.07(b), 2.17(d), 2.18(e) or 9.03(c), then the Administrative Agent may, in its discretion and notwithstanding any contrary provision hereof, (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender for the benefit of the Administrative Agent, the Swingline Lenders or the Issuing Lenders (or, following the payment of all amounts then due to the Administrative Agent, the Swingline Lenders and the Issuing Lenders, to the extent the Lenders shall have funded payments to the Administrative Agent, any Swingline Lender or any Issuing Lender in respect of other such amounts, for the benefit of the other Lenders) to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid, and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under such Sections, in the case of each of clauses (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 delivers a Notice of Objection pursuant to Section 2.20 or a notice of illegality pursuant to Section 2.22, or if the Borrowers are required to pay any additional amount 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 judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Sections 2.15 or 2.17 or mitigate the impact of Section 2.22 in the future or permit withdrawal of such Notice of Objection, as the case may be, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrowers hereby agree to pay all reasonable out-of-pocket costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.15, (ii) any Lender delivers a notice of illegality pursuant to Section 2.22, (iii) the Borrowers are required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17, (iv) any Lender delivers a Notice of Objection, (v) any Lender is a Defaulting Lender or a Non-Extending Lender or (vi) any Lender has failed to consent to a proposed amendment, waiver or other modification that under Section 9.02 requires the consent of all the Lenders (or all the affected Lenders) and with respect to which the Required Lenders shall have granted their consent, then the Company 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), all its interests, rights (other than its existing rights to payment pursuant to Section 2.15 or 2.17) and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (A) the Company shall have received the prior written consent of the Administrative Agent, each Swingline Lender and each Issuing Lender, which consent shall not unreasonably be withheld or delayed, (B) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in unreimbursed LC Disbursements and Swingline Loans, 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 Borrowers (in the case of all other amounts), (C) 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, (D) in the case of any such assignment and delegation as a result of any Lender being a Non-Extending Lender, the assignee shall have consented to the applicable Extension Request and, from and after the date of the effectiveness of such assignment and delegation, shall for all purposes hereof be treated as an Extending Lender, (E) in the case of any such assignment and delegation resulting from the failure to provide a consent, the assignee shall have given such consent and, as a result of such assignment and delegation and any contemporaneous assignments and delegations and consents, the applicable amendment, waiver or other modification can be effected and (F) such assignment does not conflict with applicable law. 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 Company to require such assignment and delegation cease to apply. Each party hereto agrees that an assignment and delegation required pursuant to this Section 2.19(b) may be effected pursuant to an

Assignment and Assumption executed by the Company, the Administrative Agent and the assignee (subject to the consents required as set forth above) and that the Lender required to make such assignment and delegation need not be a party thereto.

SECTION 2.20. Additional Subsidiary Borrowers. The Company may at any time and from time to time designate any Domestic Subsidiary that is a wholly-owned Subsidiary of the Company (or, with the prior written consent of each Lender (which consent shall not be unreasonably withheld), that is a Subsidiary of which the Company owns, directly or indirectly, more than 80% of the voting Equity Interests) as a Subsidiary Borrower by delivery to the Administrative Agent of a Subsidiary Borrower Joinder Agreement executed by such Subsidiary and the Company; provided that no Subsidiary may borrow hereunder until and unless such Subsidiary Borrower Joinder Agreement shall have become effective as set forth below. As soon as practicable upon receipt thereof, the Administrative Agent will post a copy of such Subsidiary Borrower Joinder Agreement to the Lenders. Each Subsidiary Borrower Joinder Agreement shall become effective on the date 10 Business Days after it has been posted by the Administrative Agent to the Lenders (subject to the receipt by each Lender and each Issuing Lender of all information and documentation with respect to such Subsidiary required by bank regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Certification to the extent required under the Beneficial Ownership Regulation, in each case, that shall have been reasonably requested by it (through the Administrative Agent) not later than the fifth Business Day after the posting date of such Subsidiary Borrower Joinder Agreement), unless prior thereto the Administrative Agent shall have received written notice (a “Notice of Objection”) from any Lender (a) that it is unlawful under Federal or applicable state or foreign law for such Lender to make Loans or otherwise extend credit to or do business with such Subsidiary as provided herein or (b) that extending credit under this Agreement to such Subsidiary, or to Persons in the jurisdiction in which such Subsidiary is located generally, would be likely to expose such Lender to materially adverse tax, regulatory or legal consequences, taking into account the provisions of Sections 2.15 and 2.17, in which case such Subsidiary Borrower Joinder Agreement shall not become effective until such time as such Lender withdraws such Notice of Objection or ceases to be a Lender hereunder pursuant to Section 2.19(b). Upon the effectiveness of a Subsidiary Borrower Joinder Agreement as provided in the preceding sentence, the applicable Subsidiary shall for all purposes of this Agreement be a Subsidiary Borrower and a party to this Agreement until the Company shall have executed and delivered to the Administrative Agent a Subsidiary Borrower Termination Agreement with respect to such Subsidiary, whereupon such Subsidiary shall cease to be a Subsidiary Borrower and a party to this Agreement. Notwithstanding the preceding sentence, no Subsidiary Borrower Termination Agreement will become effective as to any Subsidiary Borrower until all Loans made to and all amounts payable by such Subsidiary Borrower in respect of LC Disbursements, interest and/or fees (and, to the extent notified by the Administrative Agent or any Lender, any other amounts payable under any Loan Document by such Subsidiary Borrower) shall have been paid in full; provided that such Subsidiary Borrower Termination Agreement shall be effective to terminate the right of such Subsidiary Borrower to obtain further Loans or Letters of Credit under this Agreement.

SECTION 2.21. 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) the facility fees set forth in Section 2.12(a) shall cease to accrue on the portion of the Commitment of such Defaulting Lender that is in excess of its Credit Exposure;

(b) the Commitment and Credit Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders or any other requisite 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 any amendment, waiver or other modification requiring the consent of all Lenders or each affected Lender shall, except as otherwise provided in Section 9.02, require the consent of such Defaulting Lender;

(c) 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 Article VII 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 Lender or Swingline Lender hereunder; third, to cash collateralize the Issuing Lenders' LC Exposure with respect to such Defaulting Lender in accordance with Section 2.06(k); fourth, as the Company may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Company, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) cash collateralize the Issuing Lenders' future LC Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement in accordance with Section 2.06(k); sixth, to the payment of any amounts owing to the Lenders, the Issuing Lenders or Swingline Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Lenders or Swingline Lenders against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default exists, to the payment of any amounts owing to any Borrower as a result of any judgment of a court of competent jurisdiction obtained by such Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or 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 are held by the Lenders pro rata in accordance with their Applicable Percentages and funded and unfunded participations are held in accordance with their Applicable Percentages, in each case, without giving effect to Section 2.21(d). 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 pursuant to this Section shall be deemed paid to and redirected by such Defaulting Lender, and such Defaulting Lender irrevocably consents hereto;

(d) if any Swingline Exposure or LC Exposure exists at the time a Lender becomes a Defaulting Lender then:

(i) the Swingline Exposure of such Defaulting Lender (other than any portion thereof with respect to which such Defaulting Lender shall have funded its participation as contemplated by Section 2.04(c) and, in the case of any Defaulting Lender that is a Swingline Lender, other than the portion of such Swingline Exposure referred to in clause (b) of the definition of such term) and the LC Exposure of such Defaulting Lender (other than any portion thereof attributable to unreimbursed LC Disbursements with respect to which such Defaulting Lender shall have funded its participation as contemplated by Sections 2.06(e) and 2.06(f)) shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent that (A) the sum of all Non-Defaulting Lenders' Credit Exposures plus such Defaulting Lender's Swingline Exposure and LC Exposure (in each case, excluding the portion thereof referred to above) does not exceed the total of all Non-Defaulting Lenders' Commitments and (B) such reallocation does not result in the Credit Exposure of any Non-Defaulting Lender exceeding such Non-Defaulting Lender's Commitment;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrowers shall within one Business Day following notice by the Administrative Agent (x) first, prepay the portion of such Defaulting Lender's Swingline Exposure (other than any portion thereof referred to in the parenthetical in such clause (i)) that has not been reallocated and (y) second, cash collateralize the portion of such Defaulting Lender's LC Exposure (other than any portion thereof referred to in the parenthetical in such clause (i)) that has not been reallocated in accordance with the procedures set forth in Section 2.06(k) for so long as such LC Exposure is outstanding;

(iii) if any Borrower cash collateralizes any portion of such Defaulting Lender's LC Exposure pursuant to this clause (d), the Borrowers shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.12(b) with respect to such portion of such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is cash collateralized;

(iv) if any portion of the Swingline Exposure or the LC Exposure of such Defaulting Lender is reallocated pursuant to this clause (d), then the facility fees and letter of credit fees payable to the Lenders pursuant to Sections 2.12(a) and 2.12(b) shall be adjusted to give effect to such reallocation; and

(v) if any Defaulting Lender's LC Exposure is neither cash collateralized nor reallocated pursuant to this clause (d), then, without prejudice to any rights or remedies of the Issuing Lenders or any Lender hereunder, all facility 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 applicable Issuing Lenders (and allocated among them ratably based on the amount of such Defaulting Lender's LC Exposure attributable to Letters of Credit issued by each Issuing Lender) until such LC Exposure is cash collateralized and/or reallocated; and

(e) so long as any Lender is a Defaulting Lender, no Swingline Lender shall be required to fund any Swingline Loan and no Issuing Lender shall be required to issue, amend, extend or increase any Letter of Credit, unless the related exposure will be 100% covered by the Commitments of the Non-Defaulting Lenders and/or cash collateral will be provided by the Borrowers in accordance with clause (d) of this Section 2.21, and participating interests in any such newly issued or increased Letter of Credit or newly made Swingline Loan shall be allocated among Non-Defaulting Lenders in a manner consistent with clause (d)(i) of this Section (and Defaulting Lenders shall not participate therein).

In the event that the Administrative Agent, the Company, each Issuing Lender and each Swingline Lender agree that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Swingline Exposures and LC Exposures 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 Revolving Loans of the other Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold the Revolving Loans in accordance with its Applicable Percentage, and such Lender shall thereupon cease to be a Defaulting Lender (but shall not be entitled to receive any fees that shall have ceased to accrue pursuant to this Section during the period when it was a Defaulting Lender, and all amendments, waivers and other modifications effected without its consent in accordance with the provisions of Section 9.02 and this Section during such period shall be binding on it).

SECTION 2.22. Illegality. Notwithstanding any other provision herein, if the adoption of any law or any Change in Law or in the interpretation or application thereof shall make it unlawful for any Lender to make or maintain ~~Eurocurrency~~Term SOFR Loans or, if applicable pursuant to Section 2.14, Daily Simple SOFR Loans as contemplated by this Agreement, then, upon notice thereof by such Lender to the Company and the Administrative Agent, (a) the commitment of such Lender hereunder to make ~~Eurocurrency~~Term SOFR Loans or Daily Simple SOFR Loans, continue ~~Eurocurrency~~Term SOFR Loans or Daily Simple SOFR Loans as such, respectively, and convert ABR Loans to ~~Eurocurrency~~Term SOFR Loans or Daily Simple SOFR Loans shall forthwith be suspended to the extent necessary for such Lender to avoid any such unlawful action until such Lender notifies the Administrative Agent that it is lawful for such Lender to make or maintain ~~Eurocurrency~~Term SOFR Loans as contemplated by this Agreement; provided that notwithstanding the suspension contemplated by this clause (a), the commitment of such Lender hereunder to make ABR Loans shall continue to be in effect, and (b) such Lender's Loans then outstanding as ~~Eurocurrency~~Term SOFR Loans or Daily Simple SOFR Loans, if any, shall be converted to available and lawful Interest Periods, if any, or to ABR Loans, at the option of the applicable Borrower, on the respective last days of the then current Interest Periods with respect to such Loans or within such earlier period as required by law. If any such conversion of a ~~Eurocurrency~~Term SOFR Loan occurs on a day which is not the last day of the then current Interest Period with respect thereto, the applicable Borrower shall pay to such Lender such amounts, if any, as may be required pursuant to Section 2.16.

SECTION 2.23. Extension of Commitment Termination Date.

(a) The Company may, by notice to the Administrative Agent not earlier than 12 months after the Effective Date and not later than 30 days prior to the Commitment Termination Date then in effect (the "Existing Commitment Termination Date"), request (an "Extension Request") that the Lenders extend the Commitment Termination Date for an additional period of one year from the Existing Commitment Termination Date; provided that (i) the Company may not make more than two Extension Requests, (ii) the Company may not make more than one Extension Request in any period of 12 consecutive months and (iii) the Commitment Termination Date, as so extended, may not be more than five years from the effectiveness of such extension. The Administrative Agent shall promptly notify each Lender of each Extension Request, and each Lender shall, in turn, not later than 20 days after delivery of such notice by the Administrative Agent to the Lenders, notify the Administrative Agent in writing as to whether such Lender consents to such extension (which consent may be given or withheld in such Lender's sole discretion) (each Lender agreeing to such requested extension being called an "Extending Lender" and each Lender declining to agree to such requested extension being called a "Non-Extending Lender"). Any Lender with a then effective Commitment may consent to an Extension Request irrespective of whether such Lender previously had been a Non-Extending Lender with respect to a previous Extension Request. If any Lender shall fail to notify the Administrative Agent in writing of its consent to any Extension Request not later than 20 days after the delivery of such notice by the Administrative Agent to the Lenders, such Lender shall be deemed to have not consented to such extension (and shall be deemed, with respect to such Extension Request, to be a Non-Extending Lender). The Administrative Agent shall promptly notify the Company of the consents received with respect to each Extension Request.

(b) If Lenders constituting the Required Lenders (calculated excluding any Defaulting Lender and prior to giving effect to any replacement of Non-Extending Lenders pursuant to Section 2.19(b)) consent in writing to any Extension Request, the Commitment Termination Date shall be extended, on the Extension Closing Date, to the date that is one year after the Existing Commitment Termination Date solely as to the Extending Lenders (and shall not be extended as to any Non-Extending Lender); provided that no extension of the Commitment Termination Date pursuant to this Section shall become effective unless (the first date on which such consent of the Required Lenders is obtained and the conditions specified in this proviso are satisfied being referred to as the "Extension Closing Date") (i) on the date of effectiveness thereof, both immediately prior to and immediately after giving effect thereto, no Default shall have occurred and be continuing, (ii) on the date of effectiveness thereof, the representations and warranties of each Loan Party set forth in the Loan Documents that are qualified by materiality shall be true and correct and the representations and warranties that are not so qualified shall be true and correct in all material respects on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties that are qualified by materiality shall be true and correct and such representations and warranties that are not so

qualified shall be true and correct in all material respects, in each case, as of such earlier date), (iii) the Company shall have delivered to the Administrative Agent such legal opinions, board resolutions, secretary's certificates, officer's certificates and other documents as shall reasonably be requested by the Administrative Agent in connection with such extension and (iv) each Subsidiary Guarantor (if any) shall have reaffirmed its Guarantee of the Obligations. Promptly following the occurrence of any Extension Closing Date, the Administrative Agent shall notify the Lenders thereof. To the extent that the Commitment of such Non-Extending Lender is not assigned and delegated in accordance with Section 2.19(b) on or prior to the applicable Existing Commitment Termination Date, (A) the Commitment of each Non-Extending Lender shall automatically terminate in whole on such Existing Commitment Termination Date without any further notice or other action by any Borrower, such Lender or any other Person and (B) the principal amount of any outstanding Loans made by such Non-Extending Lender, together with any accrued interest thereon and any accrued fees and other amounts payable to or for the account of such Non-Extending Lender hereunder, shall be due and payable on such Existing Commitment Termination Date, and on such Existing Commitment Termination Date the Borrowers shall also make such other prepayments of the Loans pursuant to Section 2.10 as shall be required in order that, after giving effect to the termination of the Commitments of, and all payments to, Non-Extending Lenders pursuant to this sentence, (x) the total Credit Exposures shall not exceed the Total Commitment and (y) the Credit Exposure of any Lender shall not exceed its Commitment.

(c) Notwithstanding anything to the contrary in this Section 2.23, the Commitment Termination Date and the Availability Period, as such terms are used in reference to any Issuing Lender or any Letter of Credit issued by such Issuing Lender or in reference to any Swingline Lender or any Swingline Loans made by such Swingline Lender, may not be extended with respect to any Issuing Lender or any Swingline Lender without the prior written consent of such Issuing Lender or such Swingline Lender, as applicable (it being understood and agreed that, in the event any Issuing Lender or any Swingline Lender, as applicable, shall not have consented to any such extension, (i) such Issuing Lender shall continue to have all the rights and obligations of an Issuing Lender hereunder, and such Swingline Lender shall continue to have all the rights and obligations of a Swingline Lender hereunder, in each case through the applicable Existing Commitment Termination Date (or the Availability Period determined on the basis thereof), and thereafter shall have no obligation to issue, amend or extend any Letter of Credit or to make any Swingline Loan, as applicable (but shall continue to be entitled to the benefits of Sections 2.04, 2.06, 2.15, 2.16, 2.17 and 9.03 as to Letters of Credit issued or Swingline Loans made prior to such time), and (ii) the Company shall cause the LC Exposure attributable to Letters of Credit issued by such Issuing Lender to be zero or shall provide cash collateral equal to 105% thereof in accordance with Section 2.06(k) no later than the day on which such LC Exposure would have been required to have been reduced to zero or such cash collateral provided in accordance with the terms hereof without giving effect to the effectiveness of the extension of the applicable Existing Commitment Termination Date pursuant to this Section 2.23 and shall repay the principal amount of all outstanding Swingline Loans, together with any accrued interest thereon, on the Existing Commitment Termination Date).

(d) In connection with any extension of the Commitment Termination Date under this Section 2.23, the Administrative Agent may, without the consent of any Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to give effect to the provisions of this Section 2.23.

ARTICLE III

Representations and Warranties

Each Borrower represents and warrants to the Lenders, as of the Effective Date and the date any Loan is made or any Letter of Credit is issued, amended or extended, that:

SECTION 3.01. Organization; Powers. Each Loan Party (a) is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (b) has all requisite power and authority (i) to carry on its business as now conducted and as proposed to be conducted, (ii) to execute, deliver and perform its obligations under each Loan Document to which it is a party and (iii) to effect the Transactions, and (c) is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required, except where the failure to so qualify, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.02. Authorization; Enforceability. The Transactions to be entered into by each Loan Party and the execution, delivery and performance by each Loan Party of the Loan Documents to which it is a party have been duly authorized by all necessary corporate or other entity action. This Agreement has been duly executed and delivered by each 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 such 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 such as have been obtained or made and are in full force and effect, (b) will not violate any material law, rule or regulation applicable to the Company or any Subsidiary to the extent failure to comply therewith could reasonably be expected to have a Material Adverse Effect, (c) will not violate the charter, by-laws or other organizational documents of the Company or any Subsidiary, (d) will not violate or result in a material default under any material indenture, agreement or other instrument binding upon the Company or any Subsidiary or their respective assets, or give rise to a right thereunder to require any material payment to be made by the Company or any Subsidiary or give rise to a right of, or result in, termination, cancellation or acceleration of any material obligation thereunder and (e) will not result in the creation or imposition of any Lien (other than a Lien permitted under Section 6.02) on any asset of the Company or any Subsidiary.

SECTION 3.04. Financial Condition; No Material Adverse Change.

(a) The Company has heretofore furnished to the Lenders its consolidated balance sheet and consolidated statements of income, comprehensive income, shareholders' equity and cash flows (i) as of and for the fiscal year ended October 3, 2020, as revised, reported on by PricewaterhouseCoopers LLP, independent registered public accounting firm, and (ii) as of and for the fiscal quarter and the portion of the fiscal year ended January 2, 2021, April 3, 2021 and July 3, 2021 (and comparable period for the prior fiscal year). Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Company and its Subsidiaries as of such dates and for such periods in accordance with GAAP consistently applied, subject to year-end audit adjustments and the absence of certain footnotes in the case of the statements referred to in clause (ii) above.

(b) Since July 3, 2021, there has not occurred any event, change or condition that has had, or could reasonably be expected to have, a Material Adverse Effect.

SECTION 3.05. Properties.

(a) The Company and its Subsidiaries have good title to, or valid leasehold interests in, all the real and personal property that is material to their business, free of all Liens other than Liens permitted by Section 6.02 and except for defects in title that could not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

(b) The Company and its Subsidiaries own, or are licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property material to their business, and the use thereof by the Company and its Subsidiaries does not infringe in any material respect upon the rights of any other Person, except for any such defects in ownership or license rights or other infringements that, individually or in the aggregate, could not 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 Company or any Subsidiary, threatened against or affecting the Company or any Subsidiary (i) that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (except for Disclosed Matters) or (ii) that involve any of the Loan Documents or the Transactions.

(b) Except for the Disclosed Matters and except with respect to any matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Company nor any Subsidiary (i) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, registration or license or other approval required under any Environmental Law, (ii) has become subject to any Environmental Liability, (iii) has received notice of any pending or threatened claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

SECTION 3.07. Compliance with Laws. The Company and each of its Subsidiaries is in compliance with all laws, rules and regulations applicable to it or its property, except any noncompliance therewith which could not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.08. Investment Company Status. Neither the Company nor any other Loan Party is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended, or is subject to registration under such Act.

SECTION 3.09. Taxes. The Company and each of its Subsidiaries (a) has timely filed or caused to be filed all Tax returns and reports required to have been filed, except to the extent that failure to do so could not reasonably be expected to result in a Material Adverse Effect, and (b) except to the extent that failure to do so could not reasonably be expected to result in a Material Adverse Effect, has paid or caused to be paid all Taxes required to have been paid by it, except for such Taxes which are not yet delinquent or any Taxes that are being contested in good faith by appropriate proceedings.

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, could reasonably be expected to result in a Material Adverse Effect. Each Plan and Foreign Pension Plan has been maintained, operated, and funded in compliance with its own terms and in compliance with the provisions of ERISA, the Code, and any other applicable federal, state laws or foreign laws, and the minimum funding standards of ERISA, the Code or any similar foreign law with respect to each Plan or Foreign Pension Plan have been satisfied, except in each case where the failure to do so could not reasonably be expected to result in a Material Adverse Effect. Neither the Company nor any of its Subsidiaries is an entity deemed to hold “plan assets” (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA).

SECTION 3.11. Disclosure. None of the reports, financial statements, certificates or other information furnished by or on behalf of the Borrowers to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or pursuant to any Loan Document (as modified or supplemented by other information then or theretofore furnished by or on behalf of the Borrowers to the Administrative Agent in connection herewith, taken together with the Company’s public filings with the SEC), prior to the date hereof, collectively, contained any material misstatement of fact or omitted to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Borrowers represent only that such information was prepared in good faith based upon assumptions believed by them to be reasonable at the time delivered (unless otherwise updated subsequent thereto, in which case such information was prepared in good faith based upon assumptions believed by them to be reasonable at the time updated).

SECTION 3.12. Use of Proceeds; Margin Regulations. Neither the Company nor any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose, whether immediate, incidental or ultimate, of buying or carrying Margin Stock. Following the application of the proceeds of each Loan or each drawing under any Letter of Credit, not more than 25% of the value of the assets (either of the applicable Borrower only or of the Company and its Subsidiaries on a consolidated basis) subject to the provisions of Section 6.02, Section 6.03 or any other provision hereof restricting the disposition or pledge of Margin Stock, or subject to any restriction on the disposition or pledge of Margin Stock contained in any other agreement or instrument between any Borrower and any Lender or any Affiliate of any Lender relating to Indebtedness and within the scope of clause (f) or (g) of Article VII, will be Margin Stock.

SECTION 3.13. Labor Matters. As of the Effective Date, there are no strikes, lockouts or slowdowns or any other labor disputes against the Company or any Subsidiary pending or, to the knowledge of the Company or any Subsidiary, threatened that could reasonably be expected to have a Material Adverse Effect (other than the Disclosed Matters). The hours worked by and payments made to employees of the Company or any Subsidiary have not been in violation of the Fair Labor Standards Act or any other applicable Federal, state, local or foreign law dealing with such matters except as could not reasonably be expected to have a Material Adverse Effect (other than the Disclosed Matters). All payments due from the Company or any Subsidiary, or for which any claim may be made against the Company or any Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of the Company or such Subsidiary, to the extent the failure to do so could reasonably be expected to have a Material Adverse Effect (other than the Disclosed Matters).

SECTION 3.14. Anti-Corruption Laws and Sanctions. The Company has implemented and maintains in effect policies and procedures designed to promote compliance by the Company, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws and applicable Sanctions, and the Company, its Subsidiaries and their respective directors and officers and, to the knowledge of the Company and its Subsidiaries, their employees and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of (a) the Company, any Subsidiary or, to the knowledge of the Company or any Subsidiary, any of their respective directors, officers or employees, or (b) to the knowledge of the Company or any Subsidiary, any agent of the Company or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person.

ARTICLE IV

Conditions

SECTION 4.01. Effective Date. The obligations of the Lenders to make Loans and of the Issuing Lenders to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions shall be satisfied (or waived in accordance with Section 9.02):

(a) Credit Agreement. The Administrative Agent shall have received from each party hereto a counterpart of this Agreement signed on behalf of each party hereto (which, subject to Section 9.06(b), may include any Electronic Signatures transmitted by e-mailed .pdf or any other electronic means that reproduces an image of an actual executed signature page).

(b) Organizational Documents. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated the Effective Date and executed by its Secretary or Assistant Secretary, which shall (A) certify the resolutions of its Board of Directors, members or other body authorizing the execution, delivery and performance of the Loan Documents to which such Loan Party is a party and approving the Transactions, (B) identify by name and title and bear the signatures of the officers of such Loan Party authorized to sign the Loan Documents to which it is a party and (C) contain appropriate attachments, including the certificate or articles of incorporation or organization of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party and a true and correct copy of its bylaws or operating, management or partnership agreement, and (ii) a good standing certificate for each Loan Party from its jurisdiction of organization (to the extent applicable in the jurisdiction of organization of such Loan Party).

(c) Legal Opinions. The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of Sidley Austin LLP, counsel for the Loan Parties, covering customary matters relating to the Loan Parties, the Loan Documents and the Transactions. The Company hereby requests such counsel to deliver such opinions.

(d) Officer's Certificate. The Administrative Agent shall have received a certificate, signed by a Responsible Officer of the Company and dated the Effective Date, stating that (i) no Default or Event of Default has occurred and is continuing and (ii) the representations and warranties of each Loan Party set forth in the Loan Documents that are qualified by materiality are true and correct and such representations and warranties that are not so qualified are true and correct in all material respects, in each case, on and as of the Effective Date, except to the extent such representations and warranties expressly relate to an earlier date (in which case, stating that such representations and warranties that are qualified by materiality are true and correct and such representations and warranties that are not so qualified are true and correct in all material respects, in each case, as of such earlier date).

(e) Guarantee Requirement. The Administrative Agent shall have received from each Subsidiary (if any) that, pursuant to the Guarantee Requirement, is required to execute and deliver a Guarantee Agreement as of the Effective Date, a counterpart of a Guarantee Agreement, signed on behalf of such Subsidiary (which, subject to Section 9.06(b), may include any Electronic Signatures transmitted by e-mailed .pdf or any other electronic means that reproduces an image of an actual executed signature page).

(f) Fees and Expenses. The Lenders, the Administrative Agent and the Arrangers shall have received all fees required to be paid and due on or prior to the Effective Date, and all expenses for which invoices have been presented at least two Business Days prior to the Effective Date, on or prior to the Effective Date.

(g) "Know Your Customer" Requirements. The Lenders shall have received, at least three Business Days prior to the Effective Date, all documentation required under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Certification to the extent required under the Beneficial Ownership Regulation, to the extent reasonably requested by any Lender at least 10 Business Days prior to the Effective Date.

(h) Termination of the Existing Revolving Credit Agreement. All principal, interest, fees and other amounts due or outstanding under the Existing Revolving Credit Agreement shall have been paid in full, the commitments thereunder shall be terminated, all letters of credit outstanding thereunder shall be canceled or shall be designated hereunder as Existing Letters of Credit and all Guarantees, if any, created in connection therewith shall be terminated and released.

The Administrative Agent shall notify the Company and the Lenders of the Effective Date, and such notice shall be conclusive and binding.

SECTION 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing (other than any conversion or continuation of any Loan), and of any Issuing Lender to issue, amend or extend any Letter of Credit is subject to the receipt of the request therefor in accordance herewith and to the satisfaction of the following conditions:

(a) Representations and Warranties. The representations and warranties of the Loan Parties set forth in the Loan Documents (other than, after the Effective Date, the representations and warranties set forth in Sections 3.04(b) and 3.06(a)(i)) that are qualified by materiality shall be true and correct and such representations and warranties that are not so qualified shall be true and correct in all material respects on and as of the date of the making of such Loan or the date of such issuance, amendment or extension of such Letter of Credit, as applicable, except to the extent such representations and warranties expressly relate to an earlier date (in which case such representations and warranties that are qualified by materiality shall be true and correct and such representations and warranties that are not so qualified shall be true and correct in all material respects, in each case, as of such earlier date).

(b) No Default. At the time of and immediately after giving effect to the making of such Loan or the issuance, amendment or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

On the date of any Borrowing (other than any conversion or continuation of any Loan) or the issuance, amendment or extension of any Letter of Credit, the Borrowers shall be deemed to have represented and warranted that the conditions specified in paragraphs (a) and (b) above have been satisfied.

SECTION 4.03. Initial Credit Event for Each Additional Subsidiary Borrower. The obligations of the Lenders to make Loans and of the Issuing Lenders to issue Letters of Credit to any Subsidiary Borrower that becomes a Subsidiary Borrower after the Effective Date in accordance with Section 2.20 are subject to the satisfaction of the following conditions:

(a) Subsidiary Borrower Joinder Agreement and Loan Documents. The Administrative Agent (or its counsel) shall have received from such Subsidiary Borrower (i) a counterpart of such Subsidiary Borrower's Subsidiary Borrower Joinder Agreement signed on behalf of such Subsidiary Borrower (which, subject to Section 9.06(b), may include any Electronic Signatures transmitted by e-mailed .pdf or any other electronic means that reproduces an image of an actual executed signature page), and such Subsidiary Borrower Joinder Agreement shall have become effective in accordance with Section 2.20, (ii) such other certificates, documents, instruments and agreements as the Administrative Agent shall reasonably request in connection with the transactions contemplated by this Agreement and the other Loan Documents and (iii) a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated as of the date of the applicable Subsidiary Borrower Joinder Agreement) of counsel for such Subsidiary Borrower covering such matters relating to such Subsidiary Borrower, the Loan Documents or the Transactions as the Administrative Agent shall reasonably request (which opinions shall be consistent with those opinions delivered to the Administrative Agent pursuant to Section 4.01(c)).

(b) Organizational Documents. The Administrative Agent shall have received (i) a certificate of such Subsidiary Borrower, dated as of the date of the applicable Subsidiary Borrower Joinder Agreement and executed by its Secretary or Assistant Secretary, which shall (A) certify the resolutions of its Board of Directors, members or other body authorizing the execution, delivery and performance of the Loan Documents to which such Subsidiary Borrower is to become a party in accordance with the terms of this Agreement, (B) identify by name and title and bear the signatures of the officers of such Subsidiary Borrower authorized to sign the Loan Documents to which it is to become a party and (C) contain appropriate attachments, including the certificate or articles of incorporation or organization of such Subsidiary Borrower certified by the relevant authority of the jurisdiction of organization of such Subsidiary Borrower and a true and correct copy of its by-laws or operating, management or partnership agreement, and (ii) a good standing certificate for such Subsidiary Borrower from its jurisdiction of organization (to the extent applicable in the jurisdiction of organization of such Subsidiary Borrower).

ARTICLE V

Affirmative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document (other than contingent amounts not yet due) shall have been paid in full, all Letters of Credit shall have expired or been terminated or cash collateralized as provided in Section 2.06(d) and all LC Disbursements shall have been reimbursed, each Borrower covenants and agrees with the Lenders that:

SECTION 5.01. Financial Statements and Other Information. The Borrowers, or the Company on behalf of the Borrowers, will furnish to the Administrative Agent, for prompt delivery to the Lenders:

(a) as soon as available, but in any event within 75 days after the end of each fiscal year of the Company, the Company's audited consolidated balance sheet and audited consolidated statements of income, shareholders' equity and cash flows as of the end of and for such year, and related notes thereto, setting forth, in each case, in comparative form the figures for (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all reported on by PricewaterhouseCoopers LLP or other independent registered public accounting firm of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Company and its consolidated Subsidiaries as of the end of and for such fiscal year on a consolidated basis in accordance with GAAP consistently applied;

(b) as soon as available, but in any event within 45 days after the end of each of the first three fiscal quarters of each fiscal year of the Company, the Company's unaudited consolidated balance sheet and unaudited consolidated statements of income, shareholders' 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 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 the Chief Financial Officer of the Company as presenting fairly, in all material respects, the financial position and results of operations and cash flows of the Company and its consolidated Subsidiaries as of the end of and for such fiscal quarter or such portion of the fiscal year on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of certain footnotes;

(c) concurrently with any delivery or deemed delivery of financial statements under clauses (a) or (b) above (or, in the case of any such delivery under clause (a) above, within 75 days after the end of the applicable fiscal year of the Company), a certificate of the Chief Financial Officer of the Company substantially in the form of Exhibit E certifying (i) (solely in the case of financial statements delivered pursuant to clause (b) above) such financial statements as presenting fairly, in all material respects, the financial position and results of operations and cash flows of the Company and its consolidated Subsidiaries as of the end of and for the applicable fiscal quarter or the then elapsed portion of the applicable fiscal year on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of certain footnotes, (ii) as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (iii) setting forth reasonably detailed calculations demonstrating compliance with the covenant contained in Section 6.06 and (iv) stating whether any change in GAAP or in the application thereof that applies to the Company or any of its consolidated Subsidiaries has occurred since the later of the date of the Company's most recent audited financial statements referred to in Section 3.04 and the date of the most recent prior certificate delivered pursuant to this clause (c), indicating such a change and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate;

(d) promptly after the same become publicly available, copies of all periodic and other reports, proxy statements and other materials (other than registration statements on Form S-8 or any similar or successor form) filed by the Company or any Subsidiary with the SEC, or any Governmental Authority succeeding to any or all of the functions of the SEC, or with any national securities exchange, or distributed by the Company to the holders of its Equity Interests generally, as the case may be;

(e) promptly after Moody's or S&P shall have announced (i) a change in its Corporate Rating or Index Rating (or the establishment of any such rating), (ii) that it shall no longer maintain a Corporate Rating or an Index Rating, (iii) a change of its rating system or (iv) that it shall cease to be in the business of issuing corporate debt ratings, written notice of such development or rating change;

(f) promptly following any reasonable request therefor from the Administrative Agent, copies of any documents described in Sections 101(k) or 101(l) of ERISA that any Loan Party or any ERISA Affiliate may request with respect to any Multiemployer Plan; provided that if the Loan Parties or any of the ERISA Affiliates have not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan, then, upon reasonable request of the Administrative Agent, the Loan Parties and/or the ERISA Affiliates shall promptly make a request for such documents or notices from such administrator or sponsor and the Borrowers shall provide copies of such documents and notices promptly after receipt thereof; and

(g) promptly following any reasonable request therefor, (i) such other information regarding the operations, business affairs and financial condition of any Borrower or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent (on behalf of any Lender) may reasonably request or (ii) information and documentation reasonably requested by the Administrative Agent (on behalf of any Lender) for purposes of compliance with applicable "know your customer" requirements under the PATRIOT Act, the Beneficial Ownership Regulation or other applicable anti-money laundering laws.

Information required to be delivered pursuant to Sections 5.01(a), (b), (d) and (e) shall be deemed to have been delivered on the date on which the Company provides notice to the Administrative Agent that such information has been posted on the SEC website on the Internet at www.sec.gov, or at another website identified in such notice and accessible by the Lenders without charge; provided that such notice may be included in a certificate delivered pursuant to Section 5.01(c).

SECTION 5.02. Notices of Material Events. The Company will furnish to the Administrative Agent (for prompt distribution to the Lenders) written notice promptly upon, but in any event within five Business Days of, any of the Chief Executive Officer, the President, the General Counsel or the Chief Financial Officer of any Borrower obtaining actual knowledge of any of the following:

- (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, to the knowledge of any Responsible Officer of the Company or any Subsidiary, affecting the Company or any Affiliate thereof that could reasonably be expected to result in a Material Adverse Effect; and
- (c) the occurrence of any ERISA Event or any fact or circumstance that gives rise to a reasonable expectation that any ERISA Event will occur that, in either case, alone or together with any other ERISA Events that have occurred or are reasonably expected to occur, could reasonably be expected to result in a liability in excess of \$250,000,000.

Each notice delivered under this Section shall be accompanied by a written statement of a Responsible Officer of the Company (in the case of clause (a) above, stating that it is a “notice of default”) setting forth the details of the event, notice, circumstance or other development requiring such notice and any action taken or proposed to be taken with respect thereto.

SECTION 5.03. Existence; Conduct of Business. The Company will, and will cause its Subsidiaries to, do or cause to be done all things necessary to obtain, preserve, renew and keep in full force and effect its legal existence; provided, that the foregoing shall not prohibit (a) any merger, consolidation, liquidation or dissolution permitted under Section 6.03 or (b) any disposition of assets permitted under Section 6.03.

SECTION 5.04. Payment of Taxes. The Company will, and will cause its Subsidiaries to, pay or discharge all material Taxes, before such Taxes 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 Company or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP, (c) no attempt is being made to effect collection, or such contest effectively suspends collection, of the contested obligation and the enforcement of any Lien securing such obligation or (d) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.05. Maintenance of Properties. Except to the extent failure to do so would not be reasonably likely to result in a Material Adverse Effect, the Company will, and will cause its Subsidiaries to, keep and maintain, in the good faith judgment of the Company, all property material to the conduct of its business in reasonably good working order and condition, ordinary wear and tear and casualty and condemnation events excepted; provided that nothing in this Section 5.05 shall prevent the Company or any Subsidiary from discontinuing the operation or maintenance, or both the operation and maintenance, of any properties of the Company or any such Subsidiary if such discontinuance is, in the good faith judgment of the Company (or such Subsidiary), desirable in the conduct of its business.

SECTION 5.06. Books and Records; Inspection Rights. The Company will, and will cause each Subsidiary to, (a) keep proper books of record in material conformity with GAAP and (b) upon the occurrence of an Event of Default that is continuing, in the case of each Loan Party, permit any representatives designated by the Administrative Agent or any Lender (including employees of the Administrative Agent, any Lender or any consultants, accountants, lawyers and appraisers retained by the Administrative Agent or any Lender), upon reasonable prior notice, to visit and inspect its properties, to examine and make extracts from its books and records and to discuss its affairs, finances and condition with its officers and independent accountants (upon reasonable notice to the Company and with its officers permitted to be present at such times) and its officers, all at such reasonable times and as often as reasonably requested.

SECTION 5.07. Compliance with Laws. The Company will, and will cause each of its Subsidiaries to, comply with all laws, rules and regulations applicable to it or its property, except where non-compliance could not reasonably be expected to result in a Material Adverse Effect or where the necessity of compliance therewith is contested in good faith by appropriate proceedings.

SECTION 5.08. Use of Proceeds.

(a) The proceeds of the Loans will be used, and Letters of Credit will be issued, to finance general working capital needs and for other general corporate purposes, in each case, of the Company and its Subsidiaries, including in connection with any acquisition. 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.

(b) The Borrowers will not request any Loan or Letter of Credit, and the Borrowers will not use, and will procure that their Subsidiaries and their and their Subsidiaries' respective directors, officers, employees and agents will not use, the proceeds of any Loan or any Letter of Credit (i) 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, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, to the extent such activities, businesses or transaction are not permissible for a Person required to comply with Sanctions or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 5.09 Insurance. The Company will, and will cause each Subsidiary to, maintain with financially sound and reputable insurance companies or through self-insurance, (a) insurance or self-insurance in such amounts (with no greater risk retention) and against such risks as is considered adequate by the Company, in its good faith judgment, and (b) all other insurance as may be required by law.

SECTION 5.10. Guarantee Requirement; Further Assurances. The Company will, and will cause each Subsidiary to, execute any and all further documents, agreements and instruments, and take all such further actions that may be required under any applicable law, or that the Administrative Agent may reasonably request, to cause the Guarantee Requirement to be and remain satisfied at all times or otherwise to give effect to the provisions of the Loan Documents, all at the expense of the Loan Parties.

ARTICLE VI

Negative Covenants

Until the Commitments shall have expired or been terminated, the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document (other than contingent amounts not yet due) shall have been paid in full, all Letters of Credit shall have expired or been terminated or cash collateralized as provided in Section 2.06(d) and all LC Disbursements shall have been reimbursed, each Borrower covenants and agrees with the Lenders that:

SECTION 6.01. Indebtedness.

(a) The Company will not permit any Subsidiary which is not a Subsidiary Guarantor to, directly or indirectly, create, incur, assume or permit to exist any Indebtedness, except:

(i) Indebtedness created under the Loan Documents;

(ii) Indebtedness existing on the Effective Date and set forth on Schedule 6.01 and Refinancing Indebtedness in respect thereof;

(iii) Indebtedness of any Subsidiary to the Company or any other Subsidiary; provided that such Indebtedness shall not have been transferred or pledged to any other Person (other than the Company or any Subsidiary);

(iv) Guarantees by any Subsidiary of Indebtedness of the Company or any other Subsidiary; provided that a Subsidiary shall not Guarantee Indebtedness of any other Subsidiary that it would not have been permitted to incur under this Section 6.01(a) if it were a primary obligor thereon;

(v) Indebtedness incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Finance Lease Obligations, Synthetic Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets, and Refinancing Indebtedness in respect thereof; provided that such Indebtedness is incurred prior to or within 180 days after such acquisition or the completion of such construction or improvement;

(vi) Indebtedness of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder) after the date hereof, or Indebtedness of any Person that is assumed by any Subsidiary in connection with an acquisition of assets by such Subsidiary, and Refinancing Indebtedness in respect thereof; provided that (A) such original Indebtedness exists at the time such Person becomes a Subsidiary (or is so merged or consolidated) or such assets are acquired and is not created in contemplation of or in connection with such Person becoming a Subsidiary (or such merger or consolidation) or such assets being acquired and (B) neither the Company nor any Subsidiary (other than such Person or the Subsidiary with which such Person is merged or consolidated or that so assumes such Person's Indebtedness) shall Guarantee or otherwise become liable for the payment of such Indebtedness;

(vii) performance bonds, bid bonds, surety bonds, appeal bonds, completion Guarantees and similar obligations, in each case, provided in the ordinary course of business or in connection with the enforcement of rights or claims of the Company or its Subsidiaries or in connection with judgments that do not result in a Default or an Event of Default;

(viii) Indebtedness owed to any Person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance, pursuant to reimbursement or indemnification obligations to such Person, in each case, incurred in the ordinary course of business;

(ix) Indebtedness under Swap Agreements permitted under Section 6.04;

(x) Finance Lease Obligations in connection with any Sale/Leaseback Transactions; provided that the aggregate amount of Finance Lease Obligations outstanding under this clause (x) at any time, together with (A) the aggregate principal amount of unsecured Indebtedness of Subsidiaries outstanding under clause (xviii) below at such time and (B) the aggregate principal amount of Indebtedness or other obligations secured by Liens under Section 6.02(xiv) at such time, shall not exceed 15% of Consolidated Net Tangible Assets;

(xi) Indebtedness owed in respect of (i) overdrafts and related liabilities arising from treasury, depository and cash management services or in connection with any automated clearinghouse transfers of funds, (ii) commercial credit cards and purchasing cards programs and (iii) stored value cards programs;

(xii) Indebtedness consisting of indemnification, adjustment of purchase price, earnout or similar obligations (and Guarantees of such Indebtedness), in each case, incurred in connection with the acquisition or disposition of any business, assets or a Subsidiary of the Company, other than Guarantees of Indebtedness incurred or assumed by any Person acquiring all or any portion of such business, assets or Subsidiary for the purpose of financing or otherwise in connection with any such acquisition; provided, however, that, in the case of any such disposition, the maximum aggregate liability in respect of all such Indebtedness shall not exceed the gross proceeds, including the fair market value of non-cash proceeds (the fair market value of such non-cash proceeds being measured at the time such proceeds are received and without giving effect to any subsequent changes in value), actually received by the Company and its Subsidiaries in connection with such disposition;

(xiii) Guarantees by Foreign Subsidiaries of foreign third party grower obligations incurred in the ordinary course of business in an aggregate amount outstanding at any time not to exceed \$500,000,000; provided that each such Guarantee incurred by a Foreign Subsidiary shall be solely in respect of obligations of its own growers or the growers of a Subsidiary that is organized under the laws of the same nation as such Foreign Subsidiary;

(xiv) customer deposits and advance payments received in the ordinary course of business and consistent with past practices from customers for goods purchased in the ordinary course of business;

(xv) Securitization Transactions the aggregate amount of which (as determined in accordance with the second sentence of the definition of Securitization Transaction) shall not exceed \$500,000,000 at any time outstanding;

(xvi) Indebtedness owing by any SPE Subsidiary to the Company or any other Subsidiary to the extent that such intercompany Indebtedness has been incurred to finance, in part, the transfers of accounts receivable and/or payment intangibles, interests therein and/or related assets and rights to such SPE Subsidiary in connection with a Securitization Transaction permitted pursuant to clause (xv) above;

(xvii) Indebtedness of Foreign Subsidiaries not to exceed \$500,000,000 at any time outstanding;

(xviii) other unsecured Indebtedness; provided that the aggregate principal amount of unsecured Indebtedness of Subsidiaries outstanding under this clause (xviii) at any time, together with (A) the aggregate amount of Finance Lease Obligations outstanding under clause (x) above at such time and (B) the aggregate principal amount of Indebtedness or other obligations secured by Liens under Section 6.02(xiv) at such time, shall not exceed 15% of Consolidated Net Tangible Assets; and

(xix) Indebtedness of Subsidiaries secured by Liens permitted under Section 6.02(xiv);

(xx) Indebtedness of Subsidiaries the proceeds of which constitute COVID-19 Relief Funds;

(xxi) Indebtedness consisting of (A) the financing of insurance premiums or (B) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business; and

(xxii) Guarantees in the ordinary course of business of the obligations (other than for borrowed money) of suppliers or customers.

(b) Notwithstanding any provision of clause (a) of this Section, no Subsidiary shall be liable for any Material Indebtedness of the Company, under any Guarantee or otherwise, unless it shall also Guarantee the Obligations pursuant to the Guarantee Agreement.

SECTION 6.02 Liens. The Company will not, nor will it permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any asset now owned or hereafter acquired by it, except:

(i) Liens created under the Loan Documents;

(ii) Permitted Encumbrances;

(iii) any Lien on any asset of the Company or any Subsidiary existing on the Effective Date and set forth on Schedule 6.02 (including any Lien that attaches by law to the proceeds thereof); provided that (A) such Lien shall not apply to any other property or asset of the Company or any Subsidiary (other than additions, improvements or accessions thereto and the proceeds thereof) and (B) such Lien shall secure only those obligations that it secures on the Effective Date or, with respect to any such obligations that shall have been extended, renewed or refinanced in accordance with Section 6.01, Refinancing Indebtedness in respect thereof;

(iv) (A) any Lien existing on any asset, including any Lien that attaches by law to the proceeds thereof, prior to the acquisition thereof by the Company or any Subsidiary or (B) any Lien existing on any asset, including any Lien that attaches by law to the proceeds thereof, of any Person that becomes a Subsidiary (or is merged or consolidated with the Company or any Subsidiary) after the date hereof prior to the time such Person becomes a Subsidiary (or is so merged or consolidated) securing Indebtedness permitted under Section 6.01(a)(vi); provided, in each case, that (x) such Lien is not created in contemplation of or in connection with such acquisition, merger or consolidation or such Person becoming a Subsidiary, as the case may be, (y) such Lien shall not apply to any other asset of the Company or any Subsidiary (other than additions, improvements or accessions thereto and the proceeds thereof) and (z) such Lien shall secure only those obligations that it secures on the date of such acquisition, merger or consolidation or the date such Person becomes a Subsidiary, as the case may be, or, with respect to any such obligations that shall have been extended, renewed or refinanced in accordance with Section 6.01, Refinancing Indebtedness in respect thereof;

(v) Liens on fixed or capital assets acquired, constructed or improved by the Company or any Subsidiary, including any Lien that attaches by law to the proceeds thereof; provided that (A) such Liens secure only Indebtedness incurred to finance the acquisition, construction or improvement of such assets, and Refinancing Indebtedness in respect thereof, (B) such Liens and the original Indebtedness secured thereby are incurred prior to or within 180 days after such acquisition or the completion of such construction or improvement, (C) the Indebtedness secured thereby does not exceed the cost of acquiring, constructing or improving such fixed or capital assets and any financing costs associated therewith and (D) such Liens shall not apply to any other property or asset of the Company or any Subsidiary (other than additions, improvements or accessions thereto and the proceeds thereof);

(vi) in connection with the sale or transfer of all the Equity Interests in a Subsidiary in a transaction permitted under Section 6.03, customary rights and restrictions contained in agreements relating to such sale or transfer pending the completion thereof;

(vii) in the case of any Subsidiary that is not a wholly-owned Subsidiary, any put and call arrangements, drag-along and tag-along rights and obligations, and transfer restrictions related to its Equity Interests set forth in its organizational documents or any related joint venture or similar agreement;

(viii) any Lien on assets of any Foreign Subsidiary; provided that such Lien shall secure only Indebtedness or other obligations of such Foreign Subsidiary, or any other Foreign Subsidiary organized under the laws of the same nation as such Foreign Subsidiary, permitted hereunder;

(ix) reservations, limitations, provisos and conditions expressed in any original grant from any federal Canadian Governmental Authority (in the case of Subsidiaries organized under the laws of Canada);

(x) Liens arising under operating leases which are subject to the Personal Property Security Act (Alberta);

(xi) Liens arising out of any Sale/Leaseback Transactions by Subsidiaries permitted under Section 6.01(a)(x);

(xii) Liens on cash, cash equivalents or marketable securities of the Company or any Subsidiary securing obligations of the Company or any Subsidiary under Swap Agreements permitted under Section 6.04;

(xiii) sales or other transfers of accounts receivable, payment intangibles and related assets pursuant to, and Liens existing or deemed to exist in connection with, Securitization Transactions permitted under Section 6.01(a)(xv);

(xiv) other Liens on assets securing Indebtedness or other obligations in an aggregate principal amount not to exceed at any time, together with (A) the aggregate amount of Finance Lease Obligations outstanding under Section 6.01(a)(x) at such time and (B) the aggregate principal amount of unsecured Indebtedness of Subsidiaries outstanding under Section 6.01(a)(xviii) at such time, 15% of Consolidated Net Tangible Assets;

(xv) Liens arising out of Indebtedness permitted under Section 6.01(a)(xx); and

(xvi) Liens on accounts receivable and the proceeds thereof existing or deemed to exist in connection with any Supply Chain Financing Arrangement, solely to the extent arising as a result of a recharacterization of a sale of accounts receivable thereunder.

SECTION 6.03. Fundamental Changes; Business Activities.

(a) The Company will not, nor will it permit any Subsidiary to, merge into or consolidate with any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing, (i) any Subsidiary may merge into or consolidate with another Subsidiary, provided that (A) in the case of any such merger or consolidation involving a Borrower, such Borrower or another Borrower shall be the surviving or continuing Person and (B) in the case of any such merger or consolidation involving a Subsidiary Guarantor, the surviving or continuing Person shall be a Subsidiary Guarantor or a Borrower, (ii) any Person acquired in a transaction not otherwise prohibited by this Agreement may merge into or consolidate with (x) any Subsidiary in a transaction in which the surviving or continuing Person is a Subsidiary and (y) the Company in a transaction in which the surviving or continuing Person is the Company, (iii) any Subsidiary may merge into or consolidate with any Person in a transaction not prohibited by Section 6.03(b) had such merger or consolidation been structured as an asset sale in which the surviving or continuing Person is not a Subsidiary, (iv) any Subsidiary may merge into or consolidate with the Company in a transaction in which the surviving or continuing Person is the Company and (v) any Subsidiary (other than a Borrower) may liquidate or dissolve if the Company determines in good faith that such liquidation or dissolution is in the best interests of the Company and is not materially disadvantageous to the Lenders.

(b) The Company will not sell, lease, license or otherwise transfer, in one transaction or in a series of transactions, all or substantially all of the assets of the Company and its Subsidiaries taken as a whole, in each case, whether now owned or hereafter acquired (it being understood that nothing in this clause (b) shall limit any such transfers between or among the Company and its Subsidiaries).

(c) The Company will not, nor will it permit any Subsidiary to, engage, to any material extent, in any business other than (i) the production, marketing and distribution of food products, any related food or agricultural products, processes or business, the production, marketing and distribution of renewable fuels, neutraceuticals, biotech products and other renewable products (or by-products), any other business in which the Company or any Subsidiary was engaged in on the Effective Date, and any business related, ancillary or complementary to the foregoing, (ii) transfers to and agreements with SPE Subsidiaries relating to Securitization Transactions and (iii) in the case of SPE Subsidiaries, Securitization Transactions and transactions incidental or related thereto.

(d) The Company shall not permit any Subsidiary Borrower to cease to be a wholly-owned Subsidiary of the Company, provided that, in the case of any Subsidiary Borrower that, in accordance with Section 2.20 (including the consents of the Lenders required thereunder), became a Subsidiary Borrower even though such Subsidiary Borrower was not, at the time thereof, a wholly-owned Subsidiary of the Company, the Company shall not permit such Subsidiary Borrower to cease to be a Subsidiary of the Company.

SECTION 6.04. Swap Agreements. The Company will not, nor will it permit any Subsidiary to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Company or a Subsidiary has actual exposure and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability, Indebtedness or investment of the Company or any Subsidiary and Swap Agreements the proceeds of which constitute COVID-19 Relief Funds or entered into under a program created for the purposes of providing COVID-19 Relief Funds; provided that the Company may enter into put and call option agreements in order to effectively fix price ranges for the purchases of shares of the Company's capital stock to be made pursuant to share repurchase programs approved by its board of directors.

SECTION 6.05. Transactions with Affiliates. The Company will not, nor will it permit any Subsidiary to, sell, lease, license or otherwise transfer any assets to, or purchase, lease, license or otherwise acquire any assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) transactions on terms and conditions substantially as favorable to the Company or such Subsidiary as could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Company and its Subsidiaries not involving any other Affiliate, (c) any Restricted Payment, (d) compensation and indemnification of, and other employment arrangements with, directors, officers and employees of the Company or such Subsidiary entered in the ordinary course of business, (e) any transaction that is approved by the board of directors of the Company or an appropriate committee of such board or (f) any transaction that does not, individually or together with all related transactions, involve consideration in excess of \$1,000,000.

SECTION 6.06. Interest Expense Coverage Ratio. The Company will not permit the ratio of (a) Consolidated EBITDA to (b) Consolidated Cash Interest Expense for any period of four consecutive fiscal quarters to be less than 3.50 to 1.00.

ARTICLE VII

Events of Default

If any of the following events (any such event, an "Event of Default") shall occur:

(a) any Borrower shall fail to pay any principal of any Loan or any reimbursement obligations in respect of any LC Disbursement when and as the same shall become due and payable;

(b) any 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 Article) payable under any Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days or more;

(c) any representation, warranty or statement made or deemed made by or on behalf of any Loan Party in or in connection with this Agreement or 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 or 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, warranty or statement qualified by materiality, in any respect) when made or deemed made;

(d) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in Section 5.02(a), 5.03 (with respect to any Loan Party's existence), 5.08 or Article VI of this Agreement;

(e) any Loan Party shall fail to observe or perform any covenant, condition or agreement contained in any Loan Document (other than those specified in clause (a), (b) or (d) of this Article), and such failure shall continue unremedied for a period of 30 days after notice thereof from any Lender or the Administrative Agent to the Company;

(f) the Company or any 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 (or, if any grace periods shall be applicable, after the expiration of such grace periods);

(g) any default or other event or condition occurs (including the triggering of any change in control or similar event with respect to the Company) that results in any Material Indebtedness becoming due prior to its scheduled maturity or the effect of which default or other event or condition is to cause, or to permit the holder or holders of any Material Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause, such Indebtedness to become due prior to its scheduled maturity or to require, with the giving of notice if required, any Material Indebtedness to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), prior to its stated maturity; provided that this clause (g) shall not apply to (i) secured Indebtedness that becomes due as a result of the sale, transfer or other disposition (including as a result of a casualty or condemnation event) of the property or assets securing such Indebtedness (to the extent such sale, transfer or other disposition is not prohibited under this Agreement) or (ii) any Indebtedness that becomes due as a result of a voluntary prepayment, repurchase, redemption or defeasance thereof, or any refinancing thereof; or there shall occur any event that constitutes a default, amortization event, event of termination or similar event under or in connection with any Securitization Transaction the obligations in respect of which constitute Material Indebtedness, or the Company or any Subsidiary shall fail to observe or perform any term, covenant, condition or agreement contained in or arising under any such Securitization Transaction, if, as a result of such event or failure, the lenders or purchasers thereunder or any agent acting on their behalf shall cause or be permitted to cause (with or without the giving of notice, the lapse of time or both) such Securitization Transaction or the commitments of the lenders or purchasers thereunder to terminate or cease to be fully available;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) bankruptcy, liquidation, winding up, dissolution, reorganization, examination, suspension of general operations or other relief in respect of a Loan Party or any Material Subsidiary or its debts, or of a substantial part of their 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 a Loan Party or any Material Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed or unstayed for 90 days or more or an order or decree approving or ordering any of the foregoing shall be entered;

(i) any Loan Party or any Material Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation (other than any liquidation of a Subsidiary permitted under Section 6.03(a)(v)), 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 Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for any Loan Party or any Material 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) any Loan Party or any Material Subsidiary shall become unable, shall admit in writing its inability or shall 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 \$250,000,000 shall be rendered against any Loan Party, any Subsidiary or any combination thereof and the same shall remain unpaid or undischarged for a period of 30 consecutive days during which execution shall not be effectively stayed (unless, in the case of any judgment rendered by a court outside the United States, the applicable Loan Party or Subsidiary shall have appealed such judgment in accordance with applicable law and is prosecuting such appeal in good faith), or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of any Loan Party or any Subsidiary to enforce any such judgment; provided that this clause (k) shall not apply to the Philippines NLRC Award to the extent that the aggregate damages or other amounts awarded against the Company and its Subsidiaries with respect thereto do not exceed \$400,000,000 or the equivalent thereof in any other currency;

(l) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, is reasonably likely to have a Material Adverse Effect;

(m) a Change in Control shall occur; or

(n) after the execution and delivery thereof, the Guarantee Agreement shall fail to remain in full force or effect or any action shall be taken by any Loan Party to discontinue or to assert the invalidity or unenforceability of the Guarantee Agreement, or any Loan Party shall deny that it has any further liability under the Guarantee Agreement to which it is a party, or shall give notice to such effect;

then, and in every such event (other than an event with respect to any Borrower described in clauses (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may with the consent, and shall at the request, of the Required Lenders, by notice to the Loan Parties, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) 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 Loan Parties accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties; and in case of any event with respect to any Borrower described in clauses (h) or (i) of this Article, the Commitments shall immediately and automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Loan Parties accrued hereunder, shall immediately and automatically become due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties. Upon the occurrence and continuance of any Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC.

ARTICLE VIII

The Administrative Agent

SECTION 8.01. Authorization and Action. (a) Each of the Lenders and the Issuing Lenders hereby irrevocably appoints the entity named as Administrative Agent in the heading of this Agreement and its successors and assigns to serve as Administrative Agent under the Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers under this Agreement and the other Loan Documents as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Without limiting the foregoing, each of the Lenders and the Issuing Lenders 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, or as the Administrative Agent shall believe in good faith to 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 Lender; provided, however, that the Administrative Agent shall not be required to take any action that (i) the Administrative Agent in good faith believes exposes the Administrative Agent to liability unless the Administrative Agent receives an indemnification and is exculpated in a manner satisfactory to it from the Lenders 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 Debtor Relief Laws or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any requirement of Debtor Relief Laws; provided, further, that the Administrative Agent may seek clarification or direction from 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, pursuant to the terms in the Loan Documents) 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 Company or any of its Subsidiaries or other Affiliates that is communicated to or obtained by the Person serving as the 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 Lenders (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 or any Issuing Lender 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); and each Lender and each Issuing 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, any other Loan Document and/or the transactions contemplated hereby or thereby; and

(ii) nothing in this Agreement or any other Loan Document shall require the Administrative Agent to account to any Lender or any Issuing 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 and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of their respective duties and exercise their respective rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article VIII shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facility provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence, bad faith or willful misconduct in the selection of such sub-agents.

(e) In case of the pendency of any proceeding with respect to any Borrower under any Debtor Relief Laws now or hereafter in effect, the Administrative Agent (irrespective of whether the principal of any Loan or 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 any 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 under the Loan Documents 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 Lenders and the Administrative Agent (including any claim under Sections 2.12, 2.13, 2.15, 2.16, 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 Lender 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 Lenders, 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 any Issuing Lender any plan of reorganization, arrangement, adjustment or composition affecting the Company's obligations under the Loan Documents or the rights of any Lender or any Issuing Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender or any Issuing Lender in any such proceeding.

SECTION 8.02. Administrative Agent's Reliance, Limitation of Liability, Etc. (a) Neither the Administrative Agent nor any of its Related Parties shall be liable for any action taken or omitted to be taken by 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, bad faith or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and non-appealable judgment).

(b) The Administrative Agent shall be deemed not to have knowledge of (i) 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 such Section is given to the Administrative Agent by a Borrower, or (ii) 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 a Borrower, a Lender or an Issuing Lender. Further, the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (A) any recital, statement, warranty or representation made in or in connection with any Loan Document, (B) the contents of any certificate, report or other document delivered thereunder or in connection therewith, (C) 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, (D) the sufficiency, value, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Administrative Agent’s reliance on any Electronic Signature transmitted by e-mailed .pdf or any other electronic means that reproduces an image of an actual executed signature page) or (E) 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 loss, cost or expense suffered by any Borrower, any Lender or any Issuing Lender as a result of, any determination that any Lender is a Defaulting Lender, or the effective date of such status, it being further understood and agreed that the Administrative Agent shall not have any obligation to determine whether any Lender is a Defaulting Lender, or any determination of the aggregate Credit Exposure or the component amounts thereof.

(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 any 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) in determining compliance with any condition hereunder to the making of a Loan or issuance, amendment or extension of a Letter of Credit that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Lender, as the case may be, may presume that such condition is satisfactory to such Lender or such Issuing Lender unless the Administrative Agent shall have received notice to the contrary from such Lender or such Issuing Lender sufficiently in advance of the making of such Loan or the issuance, amendment or extension of such Letter of Credit and (v) 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, electronic mail or other 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 Person (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the signatory, sender or maker thereof), and may act upon any such oral or telephonic statement prior to receipt of written confirmation, if requested, thereof.

SECTION 8.03. Posting of Communications. (a) Each Borrower agrees that the Administrative Agent may, but shall not be obligated to, make any Communications available to the Lenders and the Issuing Lenders 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, the Issuing Lenders and the Borrowers 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 or any Issuing 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, the Issuing Lenders and the Borrowers 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 OR ANY OF THEIR RESPECTIVE RELATED PARTIES (COLLECTIVELY, THE “APPLICABLE PARTIES”) HAVE ANY LIABILITY TO ANY BORROWER, ANY LENDER, ANY ISSUING LENDER OR ANY OTHER PERSON FOR DAMAGES OF ANY KIND, INCLUDING DIRECT OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSSES OR EXPENSES (WHETHER IN TORT, CONTRACT OR OTHERWISE) ARISING OUT OF ANY BORROWER’S OR THE ADMINISTRATIVE AGENT’S TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM EXCEPT, BUT SUBJECT TO SECTION 9.03(d), IN THE CASE OF ANY APPLICABLE PARTY, TO THE EXTENT THAT A COURT OF COMPETENT JURISDICTION DETERMINES IN A FINAL AND NONAPPEALABLE JUDGMENT THAT SUCH APPLICABLE PARTY ACTED WITH GROSS NEGLIGENCE, BAD FAITH OR WILLFUL MISCONDUCT IN CONNECTION WITH THE TRANSMISSION OF COMMUNICATIONS THROUGH THE INTERNET OR THE APPROVED ELECTRONIC PLATFORM.

(d) Each Lender and Issuing Lender 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 or Issuing Lender for purposes of the Loan Documents. Each Lender and Issuing Lender 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 Lender’s (as applicable) e-mail address to which the foregoing notice may be sent by electronic transmission and (ii) that the foregoing notice may be sent to such e-mail address.

(e) Each of the Lenders, the Issuing Lenders and the Borrowers 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; provided that if the Administrative Agent stores Communications in any other manner other than in accordance with the Administrative Agent’s generally applicable document retention procedures and policies, such storage is reasonable under the circumstances and takes into account appropriate security and confidentiality considerations.

(f) Nothing herein shall prejudice the right of the Administrative Agent, any Lender or any Issuing Lender 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, LC Commitment and Letters of Credit, if any, 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 Lender. The terms “Lenders”, “Required Lenders”, “Issuing Lender” and any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity as a Lender or an Issuing Lender 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 Company or any of its Subsidiaries or other Affiliates as if such Person was not acting as the Administrative Agent and without any duty to account therefor to the Lenders or the Issuing Lenders.

SECTION 8.05. Successor Administrative Agent. Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time upon notice to the Lenders and the Company. Upon any such resignation, the Required Lenders shall have the right, with the consent of the Company (such consent not to be unreasonably withheld or delayed) in the absence of a continuing Event of Default, to appoint a successor. If no successor shall have been so appointed by the Company and the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent that shall be a commercial bank with an office in New York, New York, or an Affiliate of any such commercial bank, in either case acceptable to the Company in the absence of a continuing Event of Default (such acceptance not to be unreasonably withheld or delayed). Upon the acceptance by a successor of its appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all the rights, powers, privileges, obligations and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from all its duties and obligations under the Loan Documents. The fees payable by the Borrowers to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed in writing between the Company and such successor. After the Administrative Agent’s resignation hereunder, the provisions of this Article 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 it was acting as Administrative Agent.

SECTION 8.06. Acknowledgments of Lenders and Issuing Lenders. (a) Each Lender and each Issuing Lender acknowledges and agrees that (i) the Loan Documents set forth the terms of a commercial lending facility, (ii) it is engaged in making, acquiring or holding commercial loans and in providing other facilities set forth herein as may be applicable to such Lender or Issuing Lender, in each case in the ordinary course of business, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument (and each Lender and each Issuing Lender agrees not to assert a claim in contravention of the foregoing), (iii) it has, independently and without reliance upon the Administrative Agent, any Arranger or any other Lender or Issuing 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 or an Issuing Lender, as applicable, and to make, acquire or hold Loans hereunder or issue Letters of Credit hereunder and (iv) it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender or Issuing Lender, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities. Each Lender and each Issuing Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent, any Arranger or any other Lender or Issuing 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) 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 and each Issuing Lender, by delivering its signature page to this Agreement on the Effective Date, or delivering its signature page to an Assignment and Assumption or other applicable document, as the case may be, pursuant to which it shall become a Lender or Issuing 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, the Lenders or the Issuing Lenders on the Effective Date.

(c) (i) Each Lender and each Issuing Lender hereby agrees that (A) if the Administrative Agent notifies such Lender or such Issuing Lender that the Administrative Agent has determined in its sole discretion that any funds received by such Lender or such Issuing Lender 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 Lender (whether or not known to such Lender or such Issuing Lender), and demands the return of such Payment (or a portion thereof), such Lender or such Issuing Lender 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 Lender 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 (B) to the extent permitted by applicable law, such Lender or such Issuing Lender 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 any defense based on “discharge for value” or any similar doctrine. A notice of the Administrative Agent to any Lender or any Issuing Lender under this Section 8.06(c) shall be conclusive, absent manifest error.

(ii) Each Lender and each Issuing Lender hereby further agrees that if it receives a Payment from the Administrative Agent or any of its Affiliates (A) 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 (B) 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 Lender agrees 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 Lender shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender or such Issuing Lender 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 Borrowers hereby agree that (A) in the event an erroneous Payment (or portion thereof) is not recovered from any Lender or any Issuing Lender 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 Lender with respect to such amount and (B) an erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any obligations of the Borrowers under this Agreement or any other Loan Document; provided that for the avoidance of doubt, immediately preceding clauses (A) and (B) shall not apply to the extent any such Payment is, and solely with respect to the amount of such Payment that is, comprised of funds received by the Administrative Agent from the Borrower for the purpose of making such Payment.

(iv) Each party’s obligations under this Section 8.06(c) shall survive the resignation of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Lender or an Issuing Lender, or the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement or any provision hereof.

SECTION 8.07. Certain ERISA Matters. Each Lender (a) represents and warrants, as of the date such Person became a Lender party hereto, to, and (b) 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 the Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

In addition, unless either (1) sub-clause (i) in the immediately preceding paragraph is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding paragraph, such Lender further (a) represents and warrants, as of the date such Person became a Lender party hereto, to, and (b) 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 the Arrangers and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Loan Party, that the Administrative Agent, the Arrangers and their respective Affiliates are not fiduciaries with respect to the assets of such Lender involved in such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

SECTION 8.08. Miscellaneous. Anything herein to the contrary notwithstanding, none of the Arrangers nor any person named on the cover page of this Agreement as a Syndication Agent or a Documentation Agent shall have any duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an Issuing Lender hereunder, and shall incur no liability hereunder or thereunder, but shall have the benefit of the indemnities, reimbursement and exculpation provisions set forth herein. The provisions of this Article VIII are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Lenders, and, except solely to the extent of the Company's express rights to consent pursuant to and subject to the conditions set forth in this Article VIII, none of the Company or any of its Subsidiaries or other Affiliates shall have any rights as a third party beneficiary under any such provisions.

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) of this Section), 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 email, as follows:

- (i) if to any Loan Party, to the Company at:

2200 W. Don Tyson Parkway
Springdale, Arkansas 72762
Attention: Jonathan Rushing
Email: Jonathan.Rushing@tyson.com

with a copy to:

2200 W. Don Tyson Parkway
Springdale, Arkansas 72762
Attention: Brett Worlow
Email: Brett.Worlow@tyson.com

- (ii) if to the Administrative Agent, to:

JPMorgan Chase Bank, N.A.
500 Stanton Christiana Road, Ops 2, Floor 3
Newark, DE 19713
Attention: Loan and Agency Services Group
Email: harmeet.kaur@chase.com

with a copy to:

JPMorgan Chase Bank, N.A.
8181 Communication Parkway
Bldg B, 6th Floor, TXW-3620
Plano, TX 75024
Attention: Eduardo Lopez Peiro
Email: Eduardo.lopezpeiro@jpmorgan.com

(iii) in the case of delivery of any Compliance Certificates, financial statements, notices of default or any other information that is intended to be made available for all Lenders, by email to covenant.compliance@jpmchase.com; and

(iv) if to any Lender, Swingline Lender or Issuing Lender, to it at its address or email set forth in its Administrative Questionnaire.

All such notices and other communications (i) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received and (ii) delivered through email or other electronic communications to the extent provided in paragraph (b) of this Section shall be effective as provided in such paragraph. Any party hereto may change its address or email for notices and other communications hereunder by notice to the other parties hereto (or, in the case of such change by a Lender or an Issuing Lender, by notice to the Company and the Administrative Agent).

(b) Notices and other communications to the Lenders and Issuing Lenders hereunder may also be delivered or furnished by using the Approved Electronic Platform pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices to any Lender or Issuing Lender pursuant to Article II if such Lender or Issuing Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by such electronic communication. The Administrative Agent or the Company (on behalf of itself and the other Loan Parties) may, in its discretion, agree to accept notices and other communications to it hereunder by, in addition to email, other electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. All such notices and other communications (i) sent to an email address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by return email or other written acknowledgement), provided that if not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) posted to an Approved Electronic Platform shall be deemed received upon the deemed receipt by the intended recipient at its email address as described in the foregoing clause (b)(i) of notification that such notice or communication is available and identifying the website address therefor.

SECTION 9.02. Waivers; Amendments.

(a) No failure or delay by the Administrative Agent, any Issuing Lender or any Lender in exercising any right or power hereunder or under any other Loan Document 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 Lenders and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party 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 the issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Issuing Lender or any Lender may have had notice or knowledge of such Default at the time. No notice to or demand on the Company or any other Loan Party in any case shall entitle the Company or any other Loan Party to any other or further notice or demand in similar or other circumstances.

(b) Except as provided in clause (c) of this Section, none of this Agreement, any other Loan Document or any provision hereof or thereof may be waived, amended or modified, except, in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders or, in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, in each case, with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender, or change the currency in which Loans are available thereunder, 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 the default rate of interest set forth in Section 2.13(ed)) and except as provided in the final sentence of the definition of Applicable Rate), or reduce or forgive any fees payable hereunder, without the written consent of each Lender directly affected thereby, (iii) postpone the scheduled maturity date of any Loan, or the required date of reimbursement of any LC Disbursement, or any scheduled date for the payment of any interest or fees payable hereunder, or reduce or forgive the amount of, waive or excuse any such payment (other than the default rate of interest set forth in Section 2.13(ed)) and except as provided in the final sentence of the

definition of Applicable Rate), or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender directly affected thereby, (iv) change the order of payments specified in Section 2.18(c) or change Section 2.18(b) or 2.18(d) in a manner that would alter the pro rata allocation or sharing of payments required thereby, without the written consent of each Lender directly affected thereby, (v) change any of the provisions of this Section or the percentage set forth in the definition of "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (it being understood that, with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Commitments) or (vi) except as otherwise expressly permitted hereunder, permit any Loan Party to assign its rights hereunder or release all or substantially all of the value of the Guarantees created under the Guarantee Agreement (except as expressly provided in the Guarantee Agreement or this Agreement) or limit the liability in respect of all or substantially all of the value of such Guarantees 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, any Issuing Lender or any Swingline Lender without the prior written consent of the Administrative Agent, such Issuing Lender or such Swingline Lender, as the case may be. The Administrative Agent may also amend the Schedule 2.01 to reflect assignments entered into pursuant to Section 9.04.

(c) Notwithstanding anything to the contrary in this Section 9.02:

(i) if the Administrative Agent and the Company have jointly identified any ambiguity, mistake, defect, inconsistency, obvious error or any error or omission of a technical nature or any necessary or desirable technical change, in each case, in any provision of the Loan Documents, then the Administrative Agent and the Company shall be permitted to amend such provision solely to address such matter as reasonably determined by them acting jointly if such amendment is not objected to in writing by the Required Lenders to the Administrative Agent within five (5) Business Days following receipt of a copy thereof by the Lenders;

(ii) no consent with respect to any amendment, waiver or other modification of this Agreement or any other Loan Document 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 clause (b) of this Section and then only in the event such Defaulting Lender shall be directly and adversely affected by such amendment, waiver or other modification;

(iii) in the case of any amendment, waiver or other modification referred to in the first proviso of clause (b) of this Section, no consent with respect to any amendment, waiver or other modification of this Agreement or any other Loan Document shall be required of any Lender that receives payment in full of the principal of and interest accrued on each Loan made by such Lender, and all other amounts owing to or accrued for the account of such Lender under this Agreement and the other Loan Documents, at the time such amendment, waiver or other modification becomes effective and whose Commitments terminate by the terms and upon the effectiveness of such amendment, waiver or other modification; and

(iv) this Agreement may be amended in the manner provided in Sections 2.05, 2.06(j), 2.14(b), 2.20 and 2.23 and the term "LC Commitment", as such term is used in reference to any Issuing Lender, may be modified as contemplated by the definition of such term.

(d) The Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, waivers or other modifications on behalf of such Lender. Any amendment, waiver or other modification effected in accordance with this Section 9.02 shall be binding upon each Person that is at the time thereof a Lender and each Person that subsequently becomes a Lender.

SECTION 9.03. Expenses; Indemnity; Limitation on Liability.

(a) The Borrowers shall, jointly and severally, pay within 30 days after receipt of a reasonably detailed, written invoice therefor, together with documentation supporting such reimbursement requests, (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Arrangers and their respective Affiliates (but limited, in the case of legal fees and expenses, to the reasonable fees, disbursements and other charges of a single counsel selected by the Administrative Agent for all such Persons, taken as a whole (and, if reasonably necessary, one local counsel for each relevant jurisdiction for all such Persons, taken as a whole, as the Administrative Agent may deem appropriate in its good faith judgment)), in connection with the syndication of the credit facilities provided for herein, the preparation, execution, delivery and administration of the Loan Documents or any amendments, modifications or waivers of the provisions of the Loan Documents (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable and documented out-of-pocket expenses (but not legal fees and expenses) reasonably incurred by any Issuing Lender in connection with the issuance, amendment 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 Lender or any Lender (but limited, in the case of legal fees and expenses, and without duplication of such legal fees and expenses that are reimbursed pursuant to clause (a)(i) above, to the reasonable fees, disbursements and other charges of (A) a single counsel selected by the Administrative Agent (and, if reasonably necessary, one local counsel for each relevant jurisdiction for all such Persons, taken as a whole, as the Administrative Agent may deem appropriate in its good faith judgment) and (B) solely in the case of a potential or actual conflict of interest, one additional counsel to all affected Persons, taken as a whole (and, if reasonably necessary, one additional local counsel for each relevant jurisdiction for all such Persons, taken as a whole, as the Administrative Agent may deem appropriate in its good faith judgment)), in connection with the enforcement or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such reasonable and documented out-of-pocket expenses incurred during any workout or restructuring (and related negotiations) in respect of such Loans or Letters of Credit.

(b) The Borrowers shall, jointly and severally, indemnify the Administrative Agent, the Arrangers, the Issuing Lenders, the Swingline Lenders and each Lender and their Affiliates and the respective Related Parties 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 (provided, that in the case of legal fees and expenses, the Borrowers shall only be responsible for the reasonable and documented fees, disbursements and other charges of (i) a single counsel selected by the Administrative Agent for all such Indemnities, taken as a whole (and, if reasonably necessary, one local counsel for each relevant jurisdiction for all such Indemnities, taken as a whole, as the Administrative Agent may deem appropriate in its good faith judgment), and (ii) solely in the case of a potential or actual conflict of interest, one additional counsel to all affected Indemnities, taken as a whole (and, if reasonably necessary, one additional local counsel for each relevant jurisdiction for all such Indemnities, taken as a whole, as the Administrative Agent may deem appropriate in its good faith judgment)), incurred by or asserted against any Indemnitee arising out of, in connection with, or as a result of (i) the execution or delivery of the Loan Documents or any other agreement or instrument contemplated thereby, the performance by the parties to the Loan Documents of their respective obligations thereunder or the consummation of the Transactions or any other transactions contemplated thereby, (ii) any Loan or Letter of Credit or the use of the proceeds therefrom (including any refusal by an Issuing Lender 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 or proceeding relating to any of the foregoing (a “Proceeding”), whether based on contract, tort or any other theory, whether brought by a third party or by the Company or any Subsidiary and regardless of whether any Indemnitee is a party thereto; provided, that such indemnity shall not, as to any Indemnitee, be available to the extent that (x) such Liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the bad faith, gross negligence or willful misconduct of, or material breach of this Agreement by, such Indemnitee (or such Indemnitee’s Related Parties), (y) the Administrative Agent, the Arrangers or the Lenders have been indemnified under another provision of the Loan Documents or (z) such Liabilities or related expenses relate to disputes solely among the Indemnities that are not arising out of any act or omission by any Borrower or any Affiliate of any Borrower, other than claims against the Administrative Agent, any Arranger, or any other titled Person under this Agreement in its capacity or in fulfilling its role as such. This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes

that represent Liabilities or expenses arising from any non-Tax claim. All amounts due under this Section 9.03(b) shall be payable by the Borrowers within 30 days (x) after written demand therefor, in the case of any indemnification claim, and (y) after receipt of a reasonable detailed, written invoice therefor, together with documentation supporting such reimbursement requests, in the case of reimbursement of costs and expenses.

(c) To the extent that the Borrowers fail to pay any amount required to be paid by them to the Administrative Agent (or any sub-agent thereof), any Issuing Lender or any Swingline Lender or any Related Party of any of the foregoing under clauses (a) or (b) of this Section and without limiting the Borrowers' obligation to do so, each Lender severally agrees to pay to the Administrative Agent, such Issuing Lender or such Swingline Lender, as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or such sub-agent), such Issuing Lender or such Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), any Issuing Lender or any Swingline Lender in connection with such capacity. The obligations of the Lenders under this clause (c) are subject to the last sentence of Section 2.02(a) (which shall apply *mutatis mutandis* to the Lenders' obligations under this clause (c)). All amounts due under this clause (c) shall be payable within 30 Business Days after written demand therefor. To the fullest extent permitted by applicable law, the Borrowers shall not assert, or permit any of their Related Parties to assert, and the Borrowers hereby waive, (i) any claim against any Lender-Related Person, on any theory of liability, for any Liabilities arising from the use by others of information or other materials (including, without limitation, any personal data) obtained through telecommunications, electronic or other information transmission systems (including the Internet); provided that the foregoing shall not apply as to any Lender-Related Person to the extent such Liabilities are determined by a court of competent jurisdiction by final, non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of, or material breach of this Agreement by, such Lender-Related Person and (ii) any Liabilities against any Lender-Related Person, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof.

(d) To the fullest extent permitted by applicable law, no Lender-Related Person shall assert, and each of them hereby waives, (i) any claim against any Borrowers or any of their Related Parties, on any theory of liability, for any Liabilities arising from the use by others of information or other materials (including, without limitation, any personal data) obtained through telecommunications, electronic or other information transmission systems (including the Internet); provided that the foregoing shall not apply as to any Borrowers or any of their Related Parties to the extent such Liabilities are determined by a court of competent jurisdiction by final, non-appealable judgment to have resulted from the gross negligence, bad faith or willful misconduct of, or material breach of this Agreement by, any Borrower or any of its Related Parties and (ii) any Liabilities against the Borrowers, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; provided that nothing in this clause (e) shall limit any Loan Party's indemnity and reimbursement obligations set forth in this Section 9.03 or elsewhere in the Loan Documents to the extent such Liabilities or such special, indirect, consequential or punitive damages are included in any claim in connection with which such Indemnatee is entitled to indemnification hereunder or the representations and warranties of the Loan Parties set forth in the Loan Documents.

(e) Notwithstanding anything to the contrary contained in this Agreement, the Borrowers shall not be liable for any settlement of any Proceeding effectuated without the Borrowers' prior written consent (such consent not to be unreasonably withheld or delayed), but if settled with the Borrowers' written consent, or if there is a final judgment by a court of competent jurisdiction against an Indemnatee in any such Proceeding for which the Borrowers are required to indemnify such Indemnatee pursuant to this Section 9.03 or elsewhere in this Agreement or any other Loan Document, the Borrowers agree to indemnify and hold harmless each Indemnatee from and against any and all Liabilities and related expenses by reason of such settlement or judgment in accordance with this Section 9.03. The Borrowers shall not, without the prior written consent of the affected Indemnatee (which consent shall not be unreasonably withheld or delayed), settle, compromise, consent to the entry of any judgment in or otherwise seek to terminate any Proceeding in respect of which indemnification may be sought hereunder unless such settlement, compromise, consent or termination (i) includes an unconditional release of each Indemnatee from all liability arising out of such Proceeding and (ii) does not include a statement as to, or an admission of, fault, culpability or a failure to act by or on behalf of such Indemnatee. Notwithstanding the above in this Section 9.03, each Indemnatee shall be obligated to refund or return any and all amounts paid by the Borrowers under this Section 9.03 to such Indemnatee for any Liabilities or related expenses to the extent such Indemnatee is not entitled to payment of such amounts in accordance with the terms hereof.

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 branch or Affiliate of an Issuing Lender that issues any Letter of Credit), except that (i) neither the Company nor (except as otherwise expressly permitted by Section 6.03(a)) any of the other Borrowers may 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 Company or any other Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. 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 branch or Affiliate of an Issuing Lender that issues any Letter of Credit), Participants (to the extent provided in clause (c) of this Section), the Arrangers and, to the extent expressly contemplated hereby, the sub-agents of the Administrative Agent and the Related Parties of any of the Administrative Agent, any Arranger, any Issuing Lender or any Lender) 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 Eligible Assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans and participations in LC Disbursements and Swingline Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of: (A) the Company; provided that no consent of the Company shall be required for an assignment to (I) a Lender, an Affiliate of a Lender or an Approved Fund or (II) if an Event of Default under clause (a), (b), (h), (i) or (j) of Article VII has occurred and is continuing, any other assignee (it being agreed that, following such assignment, the Company shall be promptly notified thereof by the Administrative Agent); provided further that the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 10 Business Days after having received written notice thereof; (B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment to a Lender; and (C) each Issuing Lender and each Swingline Lender. Notwithstanding the foregoing, any Person that is a Fee Receiver but not a Permitted Fee Receiver shall not be an assignee without the written consent of the Company and the Administrative Agent (whether or not an Event of Default has occurred) (which consent may be withheld in the Company's and the Administrative Agent's sole discretion).

(i) Assignments shall be subject to the following additional conditions: (A) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the trade date specified in the Assignment and Assumption with respect to such

assignment or, if no date is so specified, 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 Company and the Administrative Agent shall otherwise consent (such consent not to be unreasonably withheld or delayed); provided that (x) no such consent of the Company shall be required if an Event of Default has occurred and is continuing and (y) the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within 10 Business Days after having received written notice thereof; (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; (C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption (or an agreement incorporating by reference a form of Assignment and Assumption posted on the Approved Electronic Platform) (which shall contain, without limitation, a representation and warranty from the assignee that such assignee is not a Competitor), together with a processing and recordation fee of \$3,500; provided that assignments made pursuant to Section 2.19(b) shall not require the signature of the assigning Lender to become effective; and (D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent any Tax forms required by Section 2.17(f) and 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 Loan Parties and their Affiliates 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. Notwithstanding anything to the contrary contained in this Agreement, the Administrative Agent (x) shall not have any responsibility or obligation to determine whether any Lender or potential Lender is a Competitor and (y) shall not have any liability with respect to any assignment or participation made to a Person that is a Competitor.

(ii) Subject to acceptance and recording thereof pursuant to clause (b)(v) 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 9.04 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.

(iii) The Administrative Agent, acting for this purpose as a non-fiduciary agent of the Borrowers, 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 Borrowers, the Administrative Agent, the Lenders and the Issuing 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 Borrowers and, as to entries pertaining to it, each Issuing Lender and each Lender, at any reasonable time and from time to time upon reasonable prior notice.

(iv) Upon its receipt of a duly completed Assignment and Assumption (or an agreement incorporating by reference a form of Assignment and Assumption posted on the Approved Electronic Platform) executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire and any Tax forms required by Section 2.17(f) (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. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this clause.

(c) (i) Any Lender may, without the consent of the Borrowers, the Administrative Agent, the Issuing Lenders or the Swingline Lenders, sell participations to any Person (other than a natural person ~~for~~ a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person) or the Company or any of its Affiliates or any Person that would be a Fee Receiver but not a Permitted Fee Receiver, unless such Fee Receiver receives written consent of the Company and the Administrative Agent (which consent may be withheld in the Company's and the Administrative Agent's sole discretion) or any Competitor (such Person, a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and 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, (C) such participation shall not increase the obligations of any Loan Party under any Loan Document, except as contemplated below, and (D) the Borrowers, the Administrative Agent, the Issuing Lenders 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.

(ii) For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 2.17(d) with respect to any payments made by such Lender to its Participant(s).

(iii) 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 the Loan Documents and to approve any amendment, modification or waiver of any provision of the Loan Documents; 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. Subject to clauses (c)(iii) and (v) of this Section, the Borrowers agree 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 Section 2.17(f) (it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender)) to the same extent (but no greater than) as if it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section. 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 shall be subject to Sections 2.18(d) and 2.19 as though it were a Lender.

(iv) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register to any Person (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) 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.

(v) A Participant shall not be entitled to receive any greater payment under Section 2.15, 2.16, 2.17 or 9.08 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Company's prior written consent; provided that the Participant shall be subject to the provisions of Sections 2.18 and 2.19 as if it were an assignee under clause (b).

(vi) Notwithstanding anything in this paragraph to the contrary, any bank that is a member of the Farm Credit System that (A) has purchased a participation in the minimum amount of \$7,000,000 on or after the Effective Date, (B) is, by written notice to the Company and the Administrative Agent ("Voting Participant Notification"), designated by the selling Lender as being entitled to be accorded the rights of a Voting Participant hereunder (any bank that is a member of the Farm Credit System so designated being called a "Voting Participant") and (C) receives the prior written consent of the Company (on behalf of itself and the other Borrowers) and the Administrative Agent to become a Voting Participant, shall be entitled to vote (and the voting rights of the selling Lender shall be correspondingly reduced), on a dollar for dollar basis, as if such participant were a Lender, on any matter requiring or allowing a Lender to provide or withhold its consent, or to otherwise vote on any proposed action. To be effective, each Voting Participant Notification shall, with respect to any Voting Participant, (i) state the full name, as well as all contact information required of an Assignee as set forth in Exhibit A hereto and (ii) state the dollar amount of the participation purchased. The Company and the Administrative Agent shall be entitled to conclusively rely on information contained in notices delivered pursuant to this paragraph. Notwithstanding the foregoing, each bank or other lending institution that is a member of the Farm Credit System designated as a Voting Participant in Schedule 9.04(c) (vi) hereto shall be a Voting Participant without delivery of a Voting Participant Notification and without the prior written consent of the Borrowers and the Administrative Agent.

(d) Any Lender may at any time, without the consent of the Borrowers or the Administrative Agent, 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 or any other central bank or the Farm Credit Funding Corp. or to any other entity organized under the Farm Credit Act, as amended, 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 Company and the other Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Lender 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 (other than contingent obligations) is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. Notwithstanding the foregoing or anything else to the contrary set forth in this Agreement or any other Loan Document, in the event that, in connection with the refinancing or repayment in full of the credit facility provided for herein, an Issuing Lender shall have provided to the Administrative Agent a written consent to the release of the Lenders from their obligations hereunder with respect to any Letter of Credit issued by such Issuing Lender (whether as a result of the obligations of the Borrowers in respect of such Letter of Credit having been collateralized in full by a deposit of cash with such Issuing Lender, or being supported by a letter of credit that names such Issuing Lender as the beneficiary thereunder, or otherwise), then from and after such time such Letter of Credit shall cease to be a "Letter of Credit" outstanding hereunder for all purposes of this Agreement and the other Loan Documents (including for purposes of determining whether any Borrower is required to comply with Articles V and VI hereof, but excluding Sections 2.15, 2.17 and 9.03 hereof and any expense reimbursement or indemnity provisions set forth in any other Loan Document), and the Lenders shall be deemed to have no participations in such

Letter of Credit, and no obligations with respect thereto, under Sections 2.06(e) and 2.06(f). 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 repayment of the Loans, the expiration or termination of the Letters or 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 and the other Loan Documents constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof, including the commitments of the Lenders and, if applicable, their Affiliates under any commitment letter or commitment advices submitted by them (but do not supersede any other provisions of any such commitment letter or any fee letter relating hereto that are not by the terms of such documents superseded by the terms of this Agreement upon the effectiveness of this Agreement, all of which provisions shall remain in full force and effect). This Agreement shall become effective as provided in Section 4.01 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 this Agreement, any other Loan Document and/or 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 the transactions contemplated hereby and/or thereby (each, an “Ancillary Document”) that is an Electronic Signature transmitted by fax, emailed .pdf or any other electronic means 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, electronic deliveries or the keeping of records in any electronic form (including deliveries by fax, 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 and the Issuing Lenders shall be entitled to rely on such Electronic Signature purportedly given by or on behalf of each Borrower without further verification thereof and (ii) upon the request of the Administrative Agent or any Lender or any Issuing Lender, any Electronic Signature shall be reasonably promptly followed by a manually executed counterpart. Without limiting the generality of the foregoing, the Borrowers hereby (A) 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, the Issuing Lenders and the Loan Parties, Electronic Signatures transmitted by fax, emailed .pdf or any other electronic means 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, (B) agree that the Administrative Agent and each of the Lenders and the Issuing 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), (C) 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 (D) waive any claim against any Lender-Related Person for any Liabilities arising solely from the Administrative Agent’s, any Lender’s and/or any Issuing Lender’s reliance on or use of Electronic Signatures and/or transmissions by fax, 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 Borrowers 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 any Loan Document 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 thereof; 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 and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off 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 or any such Affiliate to or for the credit or the account of the Borrowers against any of and all obligations of the Loan Parties now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under the Loan Documents and although such obligations may be unmaturing or are owed to a branch or office of such Lender different from the branch or office holding such deposit or obligation. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

SECTION 9.09. Governing Law; Jurisdiction; Venue; Consent to Service of Process.

(a) Governing Law. THIS AGREEMENT, AND ALL ACTIONS, CAUSES OF ACTION OR CLAIMS OF ANY KIND (WHETHER AT LAW, IN EQUITY, IN CONTRACT, IN TORT OR OTHERWISE) THAT MAY BE BASED UPON, ARISE OUT OF OR RELATED TO THIS AGREEMENT, SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAW OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAWS PRINCIPLES THEREOF.

(b) Jurisdiction. Each party hereto hereby irrevocably and unconditionally submits, for itself and its property, to the jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each party hereto hereby irrevocably and unconditionally agrees that all claims arising out of or relating to this Agreement or any other Loan Document brought by it or any of its Affiliates shall be brought, and shall be heard and determined, exclusively in such New York State or, to the extent permitted by law, in such Federal court. Each party hereto agrees that a final judgment in any such suit, 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.

(c) Venue. Each party hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection that it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in clause (b) 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 suit, action or proceeding in any such court.

(d) Consent to Service of Process. 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 or any other Loan Document 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, ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER 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.

(a) Each of the Administrative Agent, the Issuing Lenders 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' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep and shall keep such Information confidential (or will be subject to confidentiality obligations of employment or professional practice) and the disclosing party shall be responsible for any failure of such Persons to abide by this Section 9.12), (b) to the extent requested by any regulatory authority (including the Financial Industry Regulatory Authority and all successors thereto), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (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 any other Loan Document, (f) subject to an agreement containing provisions not less restrictive than 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 (in each case, other than to any Competitor or any other prospective assignee or Participant to whom the Company has theretofore affirmatively declined to provide its consent (to the extent such consent is required under this Agreement) to the assignment or participation of Loans or commitments under this Agreement) (or, in each case, its advisors) or (ii) any actual or prospective counterparty (or its advisors) to any Swap Agreement relating to the Loan Parties and their obligations, (g) with the consent of the Company, (h) 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 Lender or any Lender on a non-confidential basis from a source other than a Loan Party that is not to the knowledge of the receiving party in violation of any confidentiality restrictions (i) to the extent necessary in order to obtain CUSIP numbers with respect to the Loans, to the CUSIP Service Bureau or any similar agency, (j) in the case of information with respect to this Agreement that is of the type routinely provided by arrangers to such providers (but, in any event, excluding any fees that are not set forth in this Agreement), to data service providers, including league table providers, that serve the lending industry and (k) to any credit insurance provider (or its Related Parties) relating to the Company and its obligations. For the purposes of this Section, "Information" means all information received from a Loan Party and/or its Related Parties or representatives relating to any Loan Party, its Subsidiaries or their respective businesses, other than any such information that is available to the Administrative Agent, any Issuing Lender or any Lender on a non-confidential basis prior to disclosure by any Loan Party and/or its Related Parties or representatives; provided that, in the case of information received from the Company and/or its Related Parties or any Subsidiary after the Effective Date, such information is clearly identified at the time of delivery as confidential or is required to be delivered by a Loan Party hereunder. 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.

(b) Each Lender acknowledges that Information as defined in Section 9.12(a) furnished to it pursuant to this Agreement may include material non-public information concerning the Loan Parties and their Affiliates or their respective 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, applicable law, including Federal and state securities laws, and the terms hereof.

(c) All information, including waivers and amendments, furnished by the Loan Parties, their Related Parties or representatives 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 Loan Parties and their Affiliates or their respective securities. Accordingly, each Lender represents to the Company (on behalf of the Loan Parties) 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, applicable law and the terms hereof.

SECTION 9.13. USA Patriot Act and the Beneficial Ownership Regulation. Each Lender that is subject to the requirements of the Patriot Act hereby notifies the Loan Parties that pursuant to the requirements of the Patriot Act and/or the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies the Loan Parties, which information includes the names and addresses of the Loan Parties and other information that will allow such Lender to identify the Loan Parties in accordance with the Patriot Act and/or the Beneficial Ownership Regulation.

SECTION 9.14. No Fiduciary Relationship. The Loan Parties agree that in connection with all aspects of the transactions contemplated hereby and any communications in connection therewith, the Loan Parties, their Subsidiaries and their Affiliates, on the one hand, and the Administrative Agent, the Arrangers, the Issuing Lenders, the Lenders and their Affiliates, on the other hand, will have a business relationship that does not create, by implication or otherwise, any fiduciary duty on the part of the Administrative Agent, the Lenders, the Issuing Lenders or their Affiliates, and no such duty will be deemed to have arisen in connection with any such transactions or communications. The Administrative Agent, each Issuing Lender, each Lender and their respective Affiliates may have economic interests that conflict with those of the Loan Parties, their stockholders and/or their Affiliates.

SECTION 9.15. 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") that 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 Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.16. Subsidiary Borrower Representative. Each Subsidiary Borrower hereby designates the Company as its representative, agent and attorney-in-fact to act on its behalf as specified herein or in any other Loan Document. Each Subsidiary Borrower hereby authorizes the Company to take such actions on its behalf under the terms of this Agreement and the other Loan Documents and to exercise such powers and perform such duties hereunder and thereunder as are specified in this Agreement or the other Loan Documents or are reasonably incidental thereto, including issuing Borrowing Requests and Interest Election Requests, acceptance of amounts borrowed hereunder, giving instructions with respect to the disbursement of the proceeds of the Loans, giving and receiving all other notices and consents hereunder or under any of the other Loan Documents and taking all other actions (including in respect of compliance with covenants), in each case, on behalf of such Subsidiary Borrower under the Loan Documents. The Company hereby accepts such appointment. The Administrative Agent, the Issuing Lenders and the Lenders shall be entitled to rely on all notices, requests, consents, certifications and/or authorizations or other similar acts delivered or taken by the Company for or on behalf of any Subsidiary Borrower pursuant hereto or the other Loan Documents without inquiry and as if such notices, requests, consents, certifications and/or authorizations or other similar acts were delivered by such Subsidiary Borrower. Each representation, warranty, covenant, agreement and undertaking made on behalf of any Subsidiary Borrower by the Company shall be deemed for all purposes to have been made by such Subsidiary Borrower and shall be binding upon and enforceable against such Subsidiary Borrower to the same extent as it if the same had been made directly by such Subsidiary Borrower.

SECTION 9.17. Release of Guarantees.

(a) A Subsidiary Guarantor (other than any Borrower) shall be automatically released from its obligations under (x) the Loan Documents upon the consummation of any transaction permitted by this Agreement as a result of which (i) such Subsidiary Guarantor shall cease to be a Subsidiary and (ii) each other Guarantee by such Subsidiary Guarantor of any Material Indebtedness of the Company shall be released and (y) the Guarantee Agreement to the extent provided therein.

(b) In connection with any termination or release pursuant to this Section, the Administrative Agent, upon receipt of any certificates or other documents reasonably requested by it to confirm compliance with this Agreement, shall promptly execute and deliver to the Company or the applicable Loan Party, at the Company's expense, all documents that the Company or such Loan Party shall reasonably request to evidence such termination or release. Any execution and delivery of documents pursuant to this Section 9.17 shall be without recourse to or warranty by the Administrative Agent. The Lenders hereby irrevocably authorize the Administrative Agent to take all actions specified in this Section 9.17.

SECTION 9.18. Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to 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 that 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 company, 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.

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[FORM OF]
BORROWING REQUEST

[Date]

JPMorgan Chase Bank, N.A.
500 Stanton Christiana Road, Ops 2, Floor 3
Newark, DE 19713
Attention: Loan and Agency Services Group
Facsimile No.: (302) 634-8459
Email: harmeet.kaur@chase.com

With a copy to:

JPMorgan Chase Bank, N.A.
8181 Communication Parkway
Bldg B, 6th Floor, TXW-3620
Plano, TX 75024
Attention: Eduardo Lopez Peiro
Email: Eduardo.lopezpeiro@jpmorgan.com

[Morgan Stanley Loan Servicing
1300 Thames Street Wharf, 4th Floor
Baltimore, MD 21231
Facsimile No.: (718) 233-2140
Email: msloanservicing@morganstanley.com]^[1]

Ladies and Gentlemen:

Reference is made to the Revolving Credit Agreement, dated as of September 30, 2021 (as amended, restated, amended and restated, supplemented, extended and/or otherwise modified from time to time, the “Credit Agreement”), among Tyson Foods, Inc., a Delaware corporation (the “Company”), the Subsidiary Borrowers from time to time party thereto, the Lenders party thereto and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the “Administrative Agent”). Capitalized terms used but not otherwise defined herein shall have the meanings specified in the Credit Agreement.

The Company hereby gives you notice pursuant to Section [2.03][2.04] of the Credit Agreement that it requests, on behalf of the Borrower listed below, a Borrowing under the Credit Agreement and, in that connection, sets forth below the terms on which such Borrowing is req

[1] Select address as applicable. If Borrowing Request is for a Swingline Loan by Morgan Stanley Bank, N.A. in its capacity as a Swingline Lender, include their address also.

1 Name of Applicable Borrower:
2 Aggregate Amount of Borrowing[2]:
3 Date of Borrowing:[3]
4 Type of Borrowing:[4] [ABR Borrowing] [Term SOFR
Borrowing]
[Daily Simple SOFR Borrowing]
5 Interest Period:[5]
6 [Location and number of the applicable Borrower's account to
which funds are to be disbursed][Identity of the Issuing
Lender of the LC Disbursement being reimbursed]:[6]
7 [Name of Swingline Lender][7]

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[2] In the case of any Revolving Borrowing, not less than \$5,000,000 and in an integral multiple of \$1,000,000; provided that an ABR Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Total Commitment or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(f) of the Credit Agreement. In the case of a Swingline Loan, not less than \$500,000; provided, that a Swingline Loan may be in an aggregate amount that is equal to the entire unused balance of the Total Commitment.

[3] This date must be (a) a Business Day and (b) a date not earlier than (i) in the case of a Term SOFR Borrowing, three U.S. Government Securities Business Days after notice of the related Borrowing Request is delivered not later than 1:00 p.m., New York City time, (ii) in the case of an ABR Borrowing, the date on which notice of the related Borrowing Request is delivered not later than 12:00 noon, New York City time, (iii) if applicable pursuant to Section 2.14 of the Credit Agreement, in the case of a Daily Simple SOFR Borrowing, three U.S. Government Securities Business Days after notice of the related Borrowing Request is delivered not later than 1:00 p.m., New York City time, of (iv) in the case of a Swingline Loan, the date on which notice of the related Borrowing Request is delivered not later than 2:00 p.m., New York City time.

[4] Specify ABR Borrowing, Term SOFR Borrowing or, if applicable pursuant to Section 2.14 of the Credit Agreement, Daily Simple SOFR Borrowing. If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing.

[5] Applicable only to a Term SOFR Borrowing, and subject to the definition of "Interest Period". Must comply with the definition of "Interest Period" (i.e., commence on the date of such Borrowing and end on the numerically corresponding day in the calendar month that is one, three or six months thereafter) and end not later than the Commitment Termination Date.

[6] Select as applicable. Identity of the Issuing Lender is applicable if the Borrowing is requested to finance the reimbursement of an LC Disbursement as contemplated by Section 2.06(f).

[7] In the case of a Swingline Loan, identify the Swingline Lender requested to make such Loan.

Very truly yours,
TYSON FOODS, INC.,
By

Name:
Title:

Exhibit B-3

[FORM OF]
INTEREST ELECTION REQUEST

[Date]

JPMorgan Chase Bank, N.A.
500 Stanton Christiana Road, Ops 2, Floor 3
Newark, DE 19713
Attention: Loan and Agency Services Group
Facsimile No.: (302) 634-8459
Email: harmeet.kaur@chase.com

With a copy to:

JPMorgan Chase Bank, N.A.
8181 Communication Parkway
Bldg B, 6th Floor, TXW-3620
Plano, TX 75024
Attention: Eduardo Lopez Peiro
Email: Eduardo.lopezpeiro@jpmorgan.com

Ladies and Gentlemen:

Reference is made to the Revolving Credit Agreement, dated as of September 30, 2021 (as amended, restated, amended and restated, supplemented, extended and/or otherwise modified from time to time, the “Credit Agreement”), among Tyson Foods, Inc., a Delaware corporation (the “Company”), the Subsidiary Borrowers from time to time party thereto, the Lenders party thereto, and JPMorgan Chase Bank, N.A., as administrative agent (in such capacity, the “Administrative Agent”). Capitalized terms used but not otherwise defined herein shall have the meanings specified in the Credit Agreement.

This notice constitutes a notice of conversion or notice of continuation, as applicable, under Section 2.08 of the Credit Agreement, and the Company, on behalf of the Borrower listed below, hereby irrevocably notifies the Administrative Agent of the following information with respect to the conversion or continuation requested hereby:

1. Name of Applicable Borrower and Borrowing to which request applies[8]:
2. Principal Amount of Borrowing to be Converted/Continued[9]:
3. Effective Date of Election[10]:
4. Type of resulting Borrowing(s)[11]: [ABR Borrowing][Term SOFR Borrowing][Daily Simple SOFR Borrowing]
5. Interest Period of resulting Borrowing(s)[12]:

[Signature Page Follows]

[8] Specify last day of current Interest Period.

[9] If different options are being elected with respect to different portions of the Borrowing, indicate the portions thereof to be allocated to each resulting Borrowing.

[10] This date must be (a) a Business Day and (b) a date not earlier than (i) in the case of a conversion to or a continuation of a Term SOFR Borrowing, three Business Days after the date this Interest Election Request is delivered (if delivered not later than 1:00 p.m., New York City time), (ii) in the case of a conversion to an ABR Borrowing, the date on which this Interest Election Request is delivered (if delivered not later than 12:00 noon, New York City time) or (iii) if applicable pursuant to Section 2.14 of the Credit Agreement, in the case of a conversion to or a continuation of a Daily Simple SOFR Borrowing, three Business Days after the date of this Interest Election Request is delivered (if delivered not later than 1:00 p.m., New York City time).

[11] Specify whether the resulting Borrowing is to be an ABR Borrowing, a Term SOFR Borrowing or, if applicable pursuant to Section 2.14 of the Credit Agreement, a Daily Simple SOFR Borrowing. If different options are being elected with respect to different portions of the Borrowing, specify type for each resulting Borrowing.

[12] Applicable only if the resulting Borrowing is to be a Term SOFR Borrowing. Must comply with the definition of “Interest Period” (i.e., commence on the date of such Borrowing and end on the numerically corresponding day in the calendar month that is one, three or six months thereafter) and end not later than the Commitment Termination Date. If different options are being elected with respect to different portions of the Borrowing, specify for each resulting Borrowing.

Very truly yours,
TYSON FOODS, INC.,
By

Name:
Title:

Exhibit D-3

SUBSIDIARIES*

Advance Food Company, LLC
 AdvancePierre Foods Holdings, Inc.
 AdvancePierre Foods, Inc.
 Aidells Sausage Company, Inc.
 Allied Specialty Foods, Inc.
 APF Legacy Subs, LLC
 Artisan Bread Co., LLC
 Australian Food Corporation Pty Limited
 Australian Food Corporation Trust
 Barber Foods, LLC
 Bryan Foods, Inc.
 C.V. Holdings, Inc.
 CBFA Management Corp.
 Central Industries, Inc.
 Chefs Pantry, LLC
 Clovervale Farms, LLC
 Cobb (Hubei) Breeding Co., Ltd.
 Cobb (Shanghai) Enterprise Management Consulting Co., Ltd.
 Cobb Ana Damizlik Tavukculuk Sanayi Ve Ticaret Limited Sirketi (Cobb Turkey)
 Cobb Caribe S.A.
 Cobb Columbia S.A.S.
 Cobb Europe B.V.
 Cobb Europe Limited
 Cobb Peru (Andina) S.A.C.
 Cobb Worldwide Holding Company
 Cobb-Heritage, LLC
 Cobb-Vantress Brasil, Ltda
 Cobb-Vantress New Zealand Limited
 Cobb-Vantress Philippines, Inc.
 Cobb-Vantress, Inc.
 Cobb-Vantress, LLC
 Coominya AFC Pty Limited
 Coominya AFC Trust
 DFG Foods, Inc.
 Egbert LLC
 Equity Meat Corp.
 Flavor Corp.
 Flavor Holdings, Inc.
 Foodbrands America, Inc.
 Foodbrands Supply Chain Services, Inc.
 Gallo Salame, Inc.
 Global Employment Services, Inc.
 Golden Quality Foods Industry (England) Limited
 Golden Quality Foods Industry (Ireland) Limited
 Golden Quality Foods Industry (Norfolk) Limited
 Golden Quality Foods Industry (UK) Limited
 Golden Quality Foods Industry (Yorkshire) Limited
 Golden Quality Foods Retail (Norfolk) Limited
 Golden Quality Foods Retail (Yorkshire) Limited
 Hillshire Grain Services, LLC
 Hudson Midwest Foods, Inc.
 Hybro Genetics Brasil Ltda

PLACE OF INCORPORATION

Oklahoma
 Delaware
 Delaware
 Delaware
 Pennsylvania
 Ohio
 North Carolina
 Australia
 Australia
 Maine
 Delaware
 Philippines
 Delaware
 Mississippi
 Ohio
 Ohio
 China
 China
 Turkey
 Dominican Republic
 Columbia
 Netherlands
 United Kingdom
 Peru
 Delaware
 Delaware
 Brazil
 New Zealand
 Philippines
 Delaware
 Delaware
 Australia
 Australia
 Delaware
 Delaware
 Pennsylvania
 Delaware
 Delaware
 Delaware
 Delaware
 California
 Delaware
 United Kingdom
 United Kingdom
 United Kingdom
 United Kingdom
 United Kingdom
 United Kingdom
 United Kingdom
 Delaware
 Nebraska
 Brazil

IBP Caribbean, Inc.	Cayman Islands
IBP Foodservice, L.L.C.	Delaware
International Affiliates & Investment LLC	Delaware
Invicta Foods Limited	United Kingdom
Jiangsu Tyson Foods Co., Ltd	China
Keydutch Finance B.V.	Netherlands
Keydutch Investments B.V.	Netherlands
Keystone CLJV Holdings Limited	Hong Kong
Keystone County House Road, LLC	Delaware
Keystone Foods (AP) Limited	Hong Kong
Keystone Foods Holdco LLC	Delaware
Keystone Foods Intermediate LLC	Delaware
Keystone Foods LLC	Delaware
Keystone Foods Pty Limited	Australia
Keystone Management, Inc.	Delaware
Keystone Trading (Shanghai) Company Limited	China
LD Foods LLC	Delaware
Mac Food Services (Malaysia) SDN. BHD.	Malaysia
Madison Foods, Inc.	Delaware
McKey Food Services (Hong Kong) Limited	Hong Kong
McKey Food Services (Shandong) Limited	China
McKey Food Services (Thailand) Limited	Thailand
McKey Food Services Limited	China
McKey Luxembourg Holdings APMEA S.a.r.l.	Luxembourg
McKey Luxembourg Holdings S.a.r.l.	Luxembourg
McKey Luxembourg S.a.r.l.	Luxembourg
McKey VI Holdings Limited	Hong Kong
MFG (USA) Holdings, Inc.	Delaware
Myung Seung Food Company Ltd.	Korea
National Comp Care, Inc.	Delaware
New Canada Holdings, Inc.	Delaware
Oaklawn Capital Corporation	Delaware
Original Philly Holdings, Inc.	Pennsylvania
PBX, inc.	Delaware
Pierre Holdco, Inc.	Delaware
River Valley Ingredients, LLC	Delaware
Rizhao Tyson Foods Co., Ltd	China
Rizhao Tyson Poultry Co., Ltd	China
Rural Energy Systems, Inc.	Delaware
Sara Lee - Kiwi Holdings, LLC	Delaware
Sara Lee Diversified, LLC	Delaware
Sara Lee Foods, LLC	Delaware
Sara Lee Household & Body Care Malawi Ltd.	Malawi
Sara Lee International LLC	Delaware
Sara Lee International TM Holdings LLC	Delaware
Sara Lee Mexicana Holdings Investment, L.L.C.	Delaware
Sara Lee TM Holdings LLC	Delaware
Sara Lee Trademark Holdings Australasia LLC	Delaware
Saramar, L.L.C.	Delaware
Shandong Keystone Chinwhiz Foods Co. Ltd.	China
Shandong Tyson-Da Long Food Company Limited	China
Southern Family Foods, L.L.C.	Delaware
Southwest Products, LLC	Delaware
T1- 2022 PTY LTD	Australia

T2- 2022 PTY LTD	Australia
TACL Assurance, LLC	Arkansas
Tecumseh Poultry LLC	Nebraska
Texas Transfer, Inc.	Texas
TFA Leasing, LLC	Delaware
TFA Opportunity Zone Fund, LLC	Delaware
TFI of California, Inc.	California
The Bruss Company	Illinois
The Hillshire Brands Company	Maryland
The IBP Foods Co.	Delaware
The Pork Group, Inc.	Delaware
TVM Limited	Hong Kong
TyNet Corporation	Delaware
Tyson (Hubei) Food Technology Development Co., Ltd.	China
Tyson (Jiangsu) Livestock and Poultry Development Co. Ltd	China
Tyson (Shanghai) Enterprise Management Co., Ltd.	China
Tyson Americas Holding Sàrl	Luxembourg
Tyson Asia Pacific Pte. Ltd.	Singapore
Tyson Breeders, Inc.	Delaware
Tyson Case Ready, LLC	Delaware
Tyson Chicken, Inc.	Delaware
Tyson China Holding 2 Limited	Hong Kong
Tyson China Holding 3 Limited	Hong Kong
Tyson China Holding Limited	Hong Kong
Tyson Deli, Inc.	Delaware
Tyson EMEA Technology Solution, Unipessoal, LDA	Portugal
Tyson Europe Holding Company	Nova Scotia
Tyson Farms QOZB, LLC	Delaware
Tyson Farms, Inc.	North Carolina
Tyson Feed (Thailand) Limited	Thailand
Tyson Foods Brasil Investimentos Ltda.	Brazil
Tyson Foods Canada Inc. (Les Aliments Tyson Canada Inc.)	Ontario
Tyson Foods Europe B.V.	Netherlands
Tyson Foods France S.A.R.L.	France
Tyson Foods Germany GmbH	Germany
Tyson Foods Group Limited	United Kingdom
Tyson Foods Holland B.V.	Netherlands
Tyson Foods Huadong Development Co., Ltd (Tyson Foods East China Development Co., Ltd)	Hong Kong
Tyson Foods Iberia Alimentos, S.L.U.	Spain
Tyson Foods Italia S.p.A.	Italy
Tyson Foods Korea Ltd.	Korea
Tyson Foods oosterwolde B.V.	Netherlands
Tyson Foods Product Solutions Ltd	United Kingdom
Tyson Foods Products Limited	United Kingdom
Tyson Foods Restaurant Solutions Ltd	United Kingdom
Tyson Foods Scotland Europe Limited	United Kingdom
Tyson Foods Scotland Sales (Europe) Limited	United Kingdom
Tyson Foods Service Solutions Austria GmbH	Austria
Tyson Foods UK Holding Ltd	United Kingdom
Tyson Foods UK Ltd	United Kingdom
Tyson Foods Wrexham Limited	United Kingdom
Tyson Fresh Meats Sales and Distribution, LLC	Delaware
Tyson Fresh Meats, Inc.	Delaware

Tyson Global Holding Sàrl	Luxembourg
Tyson Golden Foods Poultry (Thailand) Limited	Thailand
Tyson Golden Poultry Siam (Thailand) Limited	Thailand
Tyson Hog Markets, Inc.	Delaware
Tyson India Holdings Ltd.	Mauritius
Tyson International APAC Ltd.	Thailand
Tyson International Company, Ltd.	Bermuda
Tyson International Holding Company	Delaware
Tyson International Holding Sàrl	Luxembourg
Tyson International Service Center, Inc.	Delaware
Tyson International Service Center, Inc. Asia	Delaware
Tyson International Service Center, Inc. Europe	Delaware
Tyson IT Solutions Private Limited	India
Tyson Kusto B.V.	Netherlands
Tyson Mexican Original, Inc.	Delaware
Tyson Mexico Trading Company S. de R.L. de CV.	Mexico
Tyson New Ventures, LLC	Delaware
Tyson of Wisconsin, LLC	Delaware
Tyson Opportunity Zone Fund, LLC	Delaware
Tyson Poultry (Thailand) Limited	Thailand
Tyson Poultry, Inc.	Delaware
Tyson Prepared Foods, Inc.	Delaware
Tyson Processing Services, Inc.	Delaware
Tyson Refrigerated Processed Meats, Inc.	Delaware
Tyson Sales and Distribution, Inc.	Delaware
Tyson Service Center Corp.	Delaware
Tyson Shared Services, Inc.	Delaware
Tyson Storm Lake Holdings, LLC	Delaware
Tyson UK Finance Limited	United Kingdom
Tyson Warehousing Services, LLC	Delaware
Uninex SA	Uruguay
WBA Analytical Laboratories, Inc.	Delaware
Wilton Foods, Inc.	New York
Xamol Consultores e Servicos, Unipessoal Lta.	Portugal
Zemco Industries, Inc.	Delaware

* The names of particular subsidiaries, primarily in the Netherlands, Portugal and the United Kingdom, have been omitted because considered in aggregate as a single subsidiary, they would not constitute, as of the end of the year covered by this report, a "significant subsidiary" as that term is defined in Rule 1.02(w) of Regulation S-X under the Securities Act of 1934.

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in the Registration Statements on Form S-8 (Nos. 333-261080, 333-186797, 333-115380, 333-115379 and 333-115378) and Form S-3 (No. 333-237981) of Tyson Foods, Inc. of our report dated November 14, 2022 relating to the financial statements, financial statement schedule and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP
Fayetteville, Arkansas
November 14, 2022

CERTIFICATIONS

I, Donnie King, certify that:

1. I have reviewed this annual report on Form 10-K of Tyson Foods, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of 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: November 14, 2022

/s/ Donnie King

Donnie King

President and Chief Executive Officer

CERTIFICATIONS

I, John R. Tyson, certify that:

1. I have reviewed this annual report on Form 10-K of Tyson Foods, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of 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: November 14, 2022

/s/ John R. Tyson

John R. Tyson

Executive Vice President and Chief 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 connection with the accompanying Annual Report of Tyson Foods, Inc. (the Company) on Form 10-K for the year ended October 1, 2022, as filed with the Securities and Exchange Commission on the date hereof (the Report), I, Donnie King, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ Donnie King

Donnie King
President and Chief Executive Officer
November 14, 2022

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the accompanying Annual Report of Tyson Foods, Inc. (the Company) on Form 10-K for the year ended October 1, 2022, as filed with the Securities and Exchange Commission on the date hereof (the Report), I, John R. Tyson, Executive Vice President and Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. 1350, as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002, to the best of my knowledge, that:

- (1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and result of operations of the Company.

/s/ John R. Tyson

John R. Tyson
Executive Vice President and Chief Financial Officer
November 14, 2022