KBR, INC.
Form 4
February 27, 2015

FORM 4

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

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934, Section 17(a) of the Public Utility Holding Company Act of 1935 or Section 30(h) of the Investment Company Act of 1940

OMB APPROVAL

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Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. *See* Instruction 1(b).

(Print or Type Responses)

1. Name and Address of Reporting Person *
Bradie Stuart

(Last) (First) (Middle)

601 JEFFERSON STREET

(Street)

HOUSTON, TX 77002

(City) (State) (Zip)

2. Issuer Name **and** Ticker or Trading Symbol
KBR, INC. [KBR]

3. Date of Earliest Transaction (Month/Day/Year)
02/25/2015

4. If Amendment, Date Original Filed(Month/Day/Year)

5. Relationship of Reporting Person(s) to Issuer

(Check all applicable)

_____ Director _____ 10% Owner
__X__ Officer (give title below) _____ Other (specify below)
President and CEO

6. Individual or Joint/Group Filing(Check Applicable Line)
_X_ Form filed by One Reporting Person
___ Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1.Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	02/25/2015		A		61,950 (1)	A	$ 0	144,289	D	

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

SEC 1474 (9-02)

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned
(*e.g.*, puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4, and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Underlying Securities (Instr. 3 and 4)	
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares
Stock Options	$ 18.16	02/25/2015		A		123,176 (2)		02/25/2016	02/25/2025	Common Stock	123,176

Reporting Owners

Reporting Owner Name / Address	Relationships			
	Director	10% Owner	Officer	Other
Bradie Stuart 601 JEFFERSON STREET HOUSTON, TX 77002			President and CEO	

Signatures

Jeffrey B. King, Attorney-In-Fact	02/27/2015
**Signature of Reporting Person	Date

Explanation of Responses:

***** If the form is filed by more than one reporting person, *see* Instruction 4(b)(v).

****** Intentional misstatements or omissions of facts constitute Federal Criminal Violations. *See* 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

(1) The reporting person was granted restricted stock units that convert to common stock on a 1-to-1 ratio and vest 33 1/3% on each anniversary of the grant date.

(2) The reporting person was granted options that vest at a rate of 33 1/3% on the first anniversary, 66 2/3% on the second anniversary and 100% on the third anniversary from the original date of grant.

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, *see* Instruction 6 for procedure.
Potential persons who are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB number. ds and acknowledges that under the terms of this Agreement, Parent and the Merger Subs obligations hereunder are not in any way contingent upon or otherwise subject to Parent s or the Merger Subs consummation of any financing arrangements, Parent or the Merger Subs obtaining of any financing or the availability, grant, provision or extension of any financing to Parent or the Merger Subs.

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Section 4.25 Ownership of Company Common Stock. Neither Parent nor the Merger Subs is, nor at any time during the last three (3) years has been, an interested stockholder of the Company as defined in Section 203 of the DGCL (other than as contemplated by this Agreement).

Section 4.26 Agreements with the Company Stockholders, Directors, Officers and Employees. As of the date of this Agreement, neither Parent, the Merger Subs nor any of their Affiliates is a party to any Contract, or has made or entered into any formal or informal arrangements or other understandings (whether or not binding), with any beneficial owner of more than five percent (5%) of the outstanding Company Common Stock, pursuant to which such holder would be entitled to receive consideration of a different amount or nature than the Merger Consideration or pursuant to which any such holder agrees to vote to adopt this Agreement or approve the Mergers or with any director or officer of the Company or any of its subsidiaries that in any way relates to this Agreement, the transactions contemplated by this Agreement or the post-Closing operation of the Surviving Company. Neither Parent, the Merger Subs nor any of their Affiliates is party to any agreement with respect to the voting of any capital stock or voting securities of, or voting of other equity interests in, Parent, other than the Stockholders Agreement, dated as of December 3, 2017 (as it may be modified, the Parent Stockholders Agreement), by and among Albertsons Companies, Inc., Albertsons Investor Holdings, LLC and KIM ACI, LLC. Neither Parent, the Merger Subs nor any of their Affiliates is party to any agreement that provides for the payment of management or other fees to any direct or indirect stockholder of Parent, the Merger Subs or any of their Affiliates except for the Limited Liability Company Agreement of Albertsons Investor Holdings LLC, the last payment under which was made on February 2, 2018.

Section 4.27 Takeover Statutes. The Parent Board has taken appropriate action so that the restrictions on business combinations contained in Section 203 of the DGCL will not apply with respect to, or as a result of, the execution of this Agreement or the consummation of the transactions contemplated hereby. No other fair price, moratorium, control share acquisition or other similar antitakeover statute or regulation enacted under any Laws applicable to Parent or any of its subsidiaries is applicable to this Agreement or the transactions contemplated hereby, including the Mergers.

Section 4.28 Key Payors. Since December 2, 2017 to the date of this Agreement, to the knowledge of Parent, no Parent Key Payor has provided written notice to Parent that it intends to terminate any Contracts which would result in a reduction of the aggregate annual revenue to be received by Parent and its subsidiaries in the twelve (12) month period ended December 2, 2018 in an amount material to Parent and its subsidiaries, taken as a whole, as compared to the twelve (12) month period ended on December 2, 2017. To the extent permitted by applicable Law, Parent has promptly provided the Company with any known written notice of the type described in the foregoing sentence received by Parent or its subsidiaries after the date of this Agreement.

Section 4.29 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in Article III, each of Parent and the Merger Subs acknowledges that neither the Company nor any other Person on behalf of the Company makes any other express or implied representation or warranty with respect to the Company or its subsidiaries or with respect to any other information provided to Parent or the Merger Subs, including any information, documents, projections, forecasts or other material made available to Parent or the Merger Subs or their Representatives in the Data Room or management presentations in expectation of the transactions contemplated by this Agreement, including with respect to the completeness, accuracy or currency of any such information.

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ARTICLE V

CONDUCT OF BUSINESS OF THE COMPANY PENDING THE MERGERS

Section 5.1 Conduct of Business of the Company Pending the Mergers. From the date of this Agreement until the earlier of the Effective Time and the termination of this Agreement in accordance with Article IX, except (w) as expressly contemplated or permitted by this Agreement or as expressly contemplated by the WBA Asset Purchase Agreement and the ancillary agreements relating thereto, (x) as set forth in the applicable subsections of Section 5.1 of the Company Disclosure Schedule, (y) as required by applicable Laws, or (z) as consented to by Parent in writing (such consent not to be unreasonably withheld, conditioned or delayed), the Company shall, and shall cause its subsidiaries to (a) conduct its business in all material respects in the ordinary course, consistent with past practice, (b) use its commercially reasonable efforts to (x) preserve intact, in all material respects, its business organization, and its assets and properties, in each case, that are material to the Company and its subsidiaries, taken as a whole, and (y) maintain in all material respects the benefits of its existing business relationships with its customers, suppliers, distributors and Company Key Payors, in each case whose business relationships are material to the Company and its subsidiaries, taken as a whole, and (c) not:

(i) amend its certificate of incorporation, bylaws or equivalent governing instruments;

(ii) (A) acquire any business or Person (whether by merger, consolidation, acquisition of stock or assets or otherwise), or make any investment in any Person, in each case, except for (1) investments in wholly-owned subsidiaries of the Company and, to the extent necessary to comply with any Company Indenture or Company Credit Agreement, non-wholly owned Restricted Subsidiaries (as such term is defined in the applicable Company Indenture or Company Credit Agreement) of the Company existing on the date hereof or hereinafter formed in accordance with the terms of this Agreement, (2) investments or purchases of inventory, supplies and other assets in the ordinary course of business consistent with past practice, (3) capital expenditures permitted pursuant to Section 5.1(c)(x), (4) file-buy acquisitions in the ordinary course of business or (5) acquisitions or investments for consideration that does not exceed $25,000,000 in the aggregate and that would not reasonably be expected to (x) result in any material delay in the obtaining or materially increase the risk of not obtaining any required Consent from any Governmental Entity with respect to the transactions contemplated by this Agreement or (y) materially increase the risk of any Governmental Entity entering a Legal Restraint prohibiting or materially delaying the consummation of the Mergers or the other transactions contemplated by this Agreement; or (B) acquire or license any Intellectual Property from any third party that would be material to the Company and its subsidiaries, taken as a whole, except (1) in the ordinary course of business consistent with past practice or (2) capital expenditures permitted pursuant to Section 5.1(c)(x);

(iii) issue, deliver, sell, pledge, dispose of, grant, award or encumber (or authorize the issuance, delivery, sale, pledge, disposition of, grant, award or encumbrance), any shares of capital stock, ownership interests or voting securities, or any options, warrants, convertible securities or other rights of any kind to acquire or receive any shares of capital stock, any other ownership interests or any voting securities (including restricted stock, stock appreciation rights, phantom stock or similar instruments), of the Company or any of its subsidiaries (except for (A) the issuance of shares of Company Common Stock upon the exercise of Company Stock Options outstanding as of the date hereof in accordance with the terms of the applicable Company Stock Plan and award agreement, (B) the issuance of shares of Company Common Stock in connection with the vesting or settlement of Company RSAs or Company RSUs, as applicable, outstanding as of the date hereof, in each case, in accordance with the terms of the applicable Company Stock Plan and award agreement, (C) the grant of equity awards to new

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hires in the ordinary course of business consistent with past practice and in accordance with Section 5.1(c)(iii) of the Company Disclosure Schedule, (D) for any issuance, sale or disposition to the Company or a wholly-owned subsidiary of the Company by any subsidiary of the Company or (E) any pledge, grant or encumbrance of capital stock, ownership interests or voting securities to the extent necessary to comply with any Company Indenture or Company Credit Agreement), or adopt a plan of complete or partial liquidation;

(iv) reclassify, combine, split, subdivide, redeem, purchase or otherwise acquire any shares of capital stock of the Company (except (A) for the acquisition of shares of Company Common Stock tendered by directors or employees in connection with a cashless exercise of Company Stock Options outstanding as of the date hereof or in order to pay Taxes in connection with the exercise of Company Stock Options outstanding as of the date hereof pursuant to the terms of the applicable Company Stock Plan and award agreement or (B) shares of Company Common Stock withheld in order to pay Taxes in connection with the vesting or settlement of any Company RSAs or Company RSUs outstanding as of the date hereof pursuant to the terms of the applicable Company Stock Plan and award agreement), or reclassify, combine, split or subdivide any capital stock or other ownership interests of any of the Company s subsidiaries;

(v) waive any rights under or amend the Rights Plan, except as contemplated by Section 3.5(c) and Section 5.3;

(vi) create or incur any Lien, other than (A) Company Permitted Liens, (B) Liens securing indebtedness permitted pursuant to Section 5.1(c)(xv) or (C) other Liens on any assets of the Company or its subsidiaries which other Liens, in the aggregate, would be immaterial in scope and amount to the Company and its subsidiaries, taken as a whole;

(vii) make any loans or advances to any Person (other than the Company, any of its wholly-owned subsidiaries or, to the extent necessary to comply with any Company Indenture or Company Credit Agreement, any of its non-wholly owned Restricted Subsidiaries (as such term is defined in the applicable Company Indenture or Company Credit Agreement) existing on the date hereof or hereinafter formed in accordance with the terms of this Agreement) other than (A) to vendors or suppliers in the ordinary course of business consistent with past practice or (B) customary relocation or travel advances to employees in the ordinary course;

(viii) except for the transactions contemplated by the WBA Asset Purchase Agreement or the ancillary agreements relating thereto, (A) sell or otherwise dispose of (whether by merger, consolidation or disposition of stock or assets or otherwise) any assets or any corporation, partnership or other business organization or division thereof, or (B) sublicense, transfer, allow to lapse or expire, pledge, abandon, discontinue, fail to maintain or otherwise dispose of any right, title or interest of the Company or any of its subsidiaries in any Intellectual Property, in each case of (A) and (B) other than (1) in the ordinary course of business consistent with past practice, (2) for consideration not in excess of $100,000,000 in the aggregate, (3) dispositions of surplus property or (4) to the Company or any of its wholly-owned subsidiaries;

(ix) declare, authorize, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock (except for any dividend or distribution by a subsidiary of the Company to the Company or another subsidiary of the Company; provided, however, that any dividend or other distribution with respect to the capital stock of a non-wholly owned subsidiary of the Company must be made at least pro rata to the Company or any of its subsidiaries entitled to such dividend or other distribution);

(x) commit, make or authorize any capital expenditures, except (A) to the extent consistent in the aggregate with the Company s budget relating to capital expenditures, as disclosed on Section 5.1(c)(x) of the Company Disclosure Schedule, (B) in the ordinary course of business consistent with past practice, (C) the repair or replacement of assets subject to a

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casualty or condemnation event or to the extent such capital expenditure is made with, or subsequently reimbursed out of, insurance or other proceeds relating to any casualty or condemnation event or (D) not in excess of $25,000,000 in the aggregate during any twelve (12) month period;

(xi) other than in the ordinary course of business consistent with past practice or as required by Law, modify in a manner adverse and material to the Company and its subsidiaries, taken as a whole, or terminate (other than in accordance with or as permitted by Section 7.15 or Section 7.24) any Company Material Contract;

(xii) amend, modify, rescind, cancel, or waive any rights of the Company or its subsidiaries under the agreements set forth in Section 5.1(c)(xii) of the Company Disclosure Schedule, in each case, in a manner that is materially adverse to the Company and its subsidiaries taken as a whole;

(xiii) enter into any Contract that would have been a Company Material Contract had it been entered into prior to the date of this Agreement, other than (A) in the ordinary course of business consistent with past practice or (B) to renew or replace any Company Material Contract that has expired or terminated in accordance with its terms;

(xiv) other than in the ordinary course of business of the Company and its subsidiaries, taken as a whole, consistent with past practice (determined in relation to the business of the Company and its subsidiaries, taken as a whole), (A) terminate (prior to the expiration of such Company Real Property Lease), or modify or amend on terms materially adverse to the Company, any of the Company Real Property Leases, (B) renew, extend, or exercise any option to renew or extend any of the Company Real Property Leases or (C) enter into any new contract that, if in effect on the date of this Agreement, would be a Company Real Property Lease, except for the purpose of relocating from a current lease location in the ordinary course of business consistent with past practice;

(xv) incur indebtedness for borrowed money, modify in a manner adverse and material to the Company and its subsidiaries, taken as a whole, the terms of any such indebtedness for borrowed money, or assume or guarantee the indebtedness obligations of any Person for borrowed money, other than (A) borrowings (including letters of credit) under the Company s and its subsidiaries credit facilities listed on Section 5.1(c)(xv) of the Company Disclosure Schedule, (B) pursuant to intercompany arrangements among or between the Company and any of its subsidiaries existing on the date hereof (or hereinafter formed or acquired in accordance with the terms of this Agreement) or among or between any subsidiaries of the Company existing on the date hereof (or hereinafter formed or acquired in accordance with the terms of this Agreement), (C) assumptions, guarantees or endorsements by the Company or subsidiaries of the Company of indebtedness not prohibited by this Section 5.1 or outstanding as of the date hereof, or (D) any commodity, currency, sale or hedging agreements which can be terminated on or sold with ninety (90) days or less notice, without penalty (which, for the avoidance of doubt, shall not include customary settlement costs), entered into in the ordinary course of business for *bona fide* risk mitigation purposes and not for speculative purposes;

(xvi) other than as required pursuant to the terms of any Company Plan in effect on the date hereof: (A) terminate, enter into, amend or renew (or communicate any intention to take such action) any material Company Plan, other than routine amendments to health and welfare plans (other than severance plans) that do not materially increase benefits or result in a material increase in administrative costs, (B) other than as permitted by Section 5.1(c)(xvi) of the Company Disclosure Schedule, adopt any compensation or benefit arrangement that would be a material Company Plan if it were in existence as of the date of this Agreement, (C) increase the benefits or compensation provided to any Company Service Provider, other than increases (1) in the ordinary course of business consistent with past practice to any Company Service Provider

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below the level of a Company Senior Employee or (2) to any Company Senior Employee not in excess of three percent (3%) in the aggregate of such Company Senior Employee s base salary as of the date hereof, (D) grant (1) any bonus or cash incentive compensation other than in the ordinary course of business consistent with past practice or (2) any retention, severance or termination benefits, other than as permitted by Section 5.1(c)(xvi) of the Company Disclosure Schedule, (E) other than as permitted by Section 5.1(c)(iii) or Section 5.1(c)(xvi) of the Company Disclosure Schedule, grant any new equity awards, amend the terms of outstanding equity awards, or discretionarily accelerate the vesting or payment of any award, (F) take any action to fund or secure the payment of any amounts under any Company Plan, (G) other than as required by GAAP, change any assumptions used to calculate funding or contribution obligations under any Company Plan, or increase or accelerate the funding rate in respect of any Company Plan or (H) hire or engage the services of any individual who would be a Company Senior Employee other than any individual replacing a former employee who was a Company Senior Employee in the ordinary course of business and on terms consistent with past practice;

(xvii) other than as required by applicable Law or GAAP (or as required to conform to any changes in statutory or regulatory accounting rules (including GAAP or regulatory requirements with respect thereto)), (A) file any amended Tax Return, (B) make any change to any method of accounting (or accounting principles in connection therewith), (C) make or change any Tax election, (D) surrender any claim for a refund of Taxes or (E) consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to the Company or any of its subsidiaries, in each case in clauses (A) through (E), which would be material to the Company and its subsidiaries, taken as a whole;

(xviii) voluntarily recognize any union or other labor organization as the representative of any of the employees of the Company or any of its subsidiaries or, other than in the ordinary course of business, enter into any new or amended Collective Bargaining Agreement with any labor organization or other representative of any employees of the Company or any of its subsidiaries;

(xix) settle any Proceeding that is adverse and material to the Company and its subsidiaries, taken as a whole, other than (A) Proceedings in the ordinary course of business consistent with past practice, (B) Proceedings involving no remedies other than (1) monetary remedies not exceeding $20,000,000 individually (in each case, net of any insurance proceeds or indemnity, contribution or similar payments received by the Company or any of its subsidiaries in respect thereof) and (2) such immaterial non-monetary remedies as are agreed to in the ordinary course of business, consistent with past practice, (C) Proceedings set forth on Section 5.1(c)(xix) of the Company Disclosure Schedule involving no remedies other than such remedies described on Section 5.1(c)(xix) of the Company Disclosure Schedule or (D) Proceedings with respect to Company Transaction Litigation, which are addressed in Section 7.11(a);

(xx) fail to renew or maintain material existing insurance policies or comparable replacement policies in each case that are material to the Company and its subsidiaries, taken as a whole, other than in the ordinary course of business consistent with past practice, in each case subject to market conditions regarding available terms, coverage provisions and in prudent business practices at the time that any insurance policy is renewed or replaced; or

(xxi) agree, authorize or commit to do any of the foregoing actions described in Section 5.1(c)(i) through Section 5.1(c)(xx).

Section 5.2 Closing of WBA Asset Purchase Transaction. The Company shall use and shall cause its subsidiaries to use their reasonable best efforts to take, or cause to be taken, and to assist and cooperate with Walgreens Boots Alliance, Inc. and Walgreen Co. in taking or causing to be taken, all actions required by the WBA Asset Purchase Agreement and each of the ancillary agreements

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relating thereto and to use its reasonable best efforts to do, or cause to be done, all things reasonably necessary, proper or advisable under the WBA Asset Purchase Agreement and each of the ancillary agreements relating thereto and applicable Law to consummate and make effective the transactions contemplated thereby pursuant to the terms of the WBA Asset Purchase Agreement and the ancillary agreements relating thereto, in each case only to the extent required by the WBA Asset Purchase Agreement and such ancillary agreements.

Section 5.3 Rights Plan. The Company Board and the Company shall take all actions necessary to render the Rights Plan inapplicable to the Mergers and the other transactions contemplated by this Agreement.

Section 5.4 No Control of Company s Business. Nothing contained in this Agreement shall give Parent or the Merger Subs, directly or indirectly, the right to control or direct the Company s or its subsidiaries operations prior to the Effective Time. Prior to the Effective Time, the Company shall have the right to exercise, consistent with the terms and conditions of this Agreement, complete unilateral control and supervision over its and its subsidiaries business and operations.

ARTICLE VI

CONDUCT OF BUSINESS OF PARENT PENDING THE MERGERS

Section 6.1 Conduct of Business of Parent Pending the Mergers. From the date of this Agreement until the earlier of the Effective Time and the termination of this Agreement in accordance with Article IX, except (w) as expressly contemplated or permitted by this Agreement, (x) as set forth in the applicable subsections of Section 6.1 of the Parent Disclosure Schedule, (y) as required by applicable Laws, or (z) as consented to by the Company in writing (such consent not to be unreasonably withheld, conditioned or delayed), Parent shall, and shall cause its subsidiaries to (a) conduct its business in all material respects in the ordinary course, consistent with past practice, (b) use its commercially reasonable efforts to (x) preserve intact, in all material respects, its business organization, and its assets and properties, in each case, that are material to Parent and its subsidiaries, taken as a whole, and (y) maintain in all material respects the benefits of its existing business relationships with its customers, suppliers, distributors and Parent Key Payors, in each case whose business relationships are material to Parent and its subsidiaries, taken as a whole, and (c) not:

(i) amend its certificate of incorporation, bylaws or equivalent governing instruments;

(ii) (A) acquire any business or Person (whether by merger, consolidation, acquisition of stock or assets or otherwise), or make any investment in any Person, in each case, except for (1) investments in wholly-owned subsidiaries of Parent existing on the date hereof or hereinafter formed in accordance with the terms of this Agreement, (2) investments or purchases of inventory, supplies and other assets in the ordinary course of business consistent with past practice, (3) capital expenditures permitted pursuant to Section 6.1(c)(ix), (4) file-buy acquisitions in the ordinary course of business or (5) acquisitions or investments for consideration that does not exceed $50,000,000 in the aggregate and that would not reasonably be expected to (x) result in any material delay in the obtaining or materially increase the risk of not obtaining any required Consent from any Governmental Entity with respect to the transactions contemplated by this Agreement or (y) materially increase the risk of any Governmental Entity entering a Legal Restraint prohibiting or materially delaying the consummation of the Mergers or the other transactions contemplated by this Agreement; or (B) acquire or license any Intellectual Property from any third party that would be material to Parent and its subsidiaries, taken as a whole, except (1) in the ordinary course of business consistent with past practice or (2) capital expenditures permitted pursuant to Section 6.1(c)(ix);

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(iii) issue, deliver, sell, pledge, dispose of, grant, award or encumber (or authorize the issuance, delivery, sale, pledge, disposition of, grant, award or encumbrance), any shares of capital stock, ownership interests or voting securities, or any options, warrants, convertible securities or other rights of any kind to acquire or receive any shares of capital stock, any other ownership interests or any voting securities (including restricted stock, stock appreciation rights, phantom stock or similar instruments), of Parent or any of its subsidiaries (except for (A) the grant of equity awards to new hires in the ordinary course of business consistent with past practice and in accordance with Section 6.1(c)(iii) of the Parent Disclosure Schedule or (B) for any issuance, sale or disposition to Parent or a wholly-owned subsidiary of Parent by any subsidiary of Parent), or adopt a plan of complete or partial liquidation;

(iv) reclassify, combine, split, subdivide, redeem, purchase or otherwise acquire any shares of capital stock of Parent, or reclassify, combine, split or subdivide any capital stock or other ownership interests of any of Parent s subsidiaries;

(v) create or incur any Lien, other than (A) Parent Permitted Liens, (B) Liens securing indebtedness permitted pursuant to Section 6.1(c)(xiii) or (C) other Liens on any assets of Parent or its subsidiaries which other Liens, in the aggregate, would be immaterial in scope and amount to Parent and its subsidiaries, taken as a whole;

(vi) make any loans or advances to any Person (other than Parent, any of its wholly-owned subsidiaries or, to the extent necessary to comply with any Parent Indenture or Parent Credit Agreement, any of its non-wholly owned Restricted Subsidiaries (as such term is defined in the applicable Parent Indenture or Parent Credit Agreement) existing on the date hereof or hereinafter formed in accordance with the terms of this Agreement) other than (A) to vendors or suppliers in the ordinary course of business consistent with past practice or (B) customary relocation or travel advances to employees in the ordinary course;

(vii) (A) sell or otherwise dispose of (whether by merger, consolidation or disposition of stock or assets or otherwise) any assets or any corporation, partnership or other business organization or division thereof, or (B) sublicense, transfer, allow to lapse or expire, pledge, abandon, discontinue, fail to maintain or otherwise dispose of any right, title or interest of Parent or any of its subsidiaries in any Intellectual Property, in each case of (A) and (B) other than (1) in the ordinary course of business consistent with past practice, (2) for consideration not in excess of $100,000,000 in the aggregate, (3) dispositions of surplus property or (4) to Parent or any of its wholly-owned subsidiaries;

(viii) declare, authorize, set aside, make or pay any dividend or other distribution, payable in cash, stock, property or otherwise, with respect to any of its capital stock (except for any dividend or distribution by a subsidiary of Parent to Parent or another subsidiary of Parent; provided, however, that any dividend or other distribution with respect to the capital stock of a non-wholly owned subsidiary of Parent must be made at least pro rata to Parent or any of its subsidiaries entitled to such dividend or other distribution);

(ix) commit, make or authorize any capital expenditures, except (A) to the extent consistent in the aggregate with Parent s budget relating to capital expenditures, as disclosed on Section 6.1(c)(ix) of the Parent Disclosure Schedule, (B) in the ordinary course of business consistent with past practice, (C) the repair or replacement of assets subject to a casualty or condemnation event or to the extent such capital expenditure is made with, or subsequently reimbursed out of, insurance or other proceeds relating to any casualty or condemnation event or (D) not in excess of $50,000,000 in the aggregate during any twelve (12) month period;

(x) other than in the ordinary course of business consistent with past practice or as required by Law, modify in a manner adverse and material to Parent and its subsidiaries, taken as a whole, or terminate any Parent Material Contract;

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(xi) enter into any Contract that would have been a Parent Material Contract had it been entered into prior to the date of this Agreement, other than (A) in the ordinary course of business consistent with past practice or (B) to renew or replace any Parent Material Contract that has expired or terminated in accordance with its terms;

(xii) other than in the ordinary course of business of Parent and its subsidiaries, taken as a whole, consistent with past practice (determined in relation to the business of Parent and its subsidiaries, taken as a whole), (A) terminate (prior to the expiration of such Parent Real Property Lease), or modify or amend on terms materially adverse to Parent, any of the Parent Real Property Leases, (B) renew, extend, or exercise any option to renew or extend any of the Parent Real Property Leases or (C) enter into any new contract that, if in effect on the date of this Agreement, would be a Parent Real Property Lease, except for the purpose of relocating from a current lease location in the ordinary course of business consistent with past practice;

(xiii) incur indebtedness for borrowed money, modify in a manner adverse and material to Parent and its subsidiaries, taken as a whole, the terms of any such indebtedness for borrowed money, or assume or guarantee the indebtedness obligations of any Person for borrowed money, other than (A) borrowings (including letters of credit) under Parent s and its subsidiaries credit facilities listed on Section 6.1(c)(xiii) of the Parent Disclosure Schedule, (B) pursuant to intercompany arrangements among or between Parent and any of its wholly owned subsidiaries existing on the date hereof (or hereinafter formed or acquired in accordance with the terms of this Agreement) or among or between any wholly owned subsidiaries of Parent existing on the date hereof (or hereinafter formed or acquired in accordance with the terms of this Agreement), (C) assumptions, guarantees or endorsements by Parent or subsidiaries of Parent of indebtedness not prohibited by this Section 6.1 or outstanding as of the date hereof, (D) any commodity, currency, sale or hedging agreements which can be terminated on or sold with ninety (90) days or less notice, without penalty (which, for the avoidance of doubt, shall not include customary settlement costs), entered into in the ordinary course of business for *bona fide* risk mitigation purposes and not for speculative purposes or (E) the Debt Financing (and the Backstop ABL Facility (as defined in the Debt Commitment Letter)), *provided* that any financing incurred subject to this Section 6.1(c)(xiii) shall not impair Parent s ability to obtain the Debt Financing or its obligations under Section 7.18;

(xiv) other than as required pursuant to the terms of any Parent Plan in effect on the date hereof: (A) terminate, enter into, amend or renew (or communicate any intention to take such action) any material Parent Plan, other than routine amendments to health and welfare plans (other than severance plans) that do not materially increase benefits or result in a material increase in administrative costs, (B) other than as permitted by Section 6.1(c)(xiv) of the Parent Disclosure Schedule, adopt any compensation or benefit arrangement that would be a material Parent Plan if it were in existence as of the date of this Agreement, (C) increase the benefits or compensation provided to any Parent Service Provider, other than increases (1) in the ordinary course of business consistent with past practice to any Parent Service Provider below the level of a Parent Senior Employee or (2) to any Parent Senior Employee not in excess of three percent (3%) in the aggregate of such Parent Senior Employee s base salary as of the date hereof, (D) grant (1) any bonus or cash incentive compensation other than in the ordinary course of business consistent with past practice or (2) any retention, severance or termination benefits, other than as permitted by Section 6.1(c)(xiv) of the Parent Disclosure Schedule, (E) other than as permitted by Section 6.1(c)(iii) or Section 6.1(c)(xiv) of the Parent Disclosure Schedule, grant any new equity awards, amend the terms of outstanding equity awards, or discretionarily accelerate the vesting or payment of any award, (F) take any action to fund or secure the payment of any amounts under any Parent Plan, (G) other than as required by GAAP, change any assumptions used to calculate funding or contribution obligations under any Parent Plan, or increase or accelerate the funding rate in respect of any Parent Plan or (H) hire or engage the

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services of any individual who would be a Parent Senior Employee other than any individual replacing a former employee who was a Parent Senior Employee in the ordinary course of business and on terms consistent with past practice;

(xv) other than as required by applicable Law or GAAP (or as required to conform to any changes in statutory or regulatory accounting rules (including GAAP or regulatory requirements with respect thereto)), (A) file any amended Tax Return, (B) make any change to any method of accounting (or accounting principles in connection therewith), (C) make or change any Tax election, (D) surrender any claim for a refund of Taxes or (E) consent to any extension or waiver of the limitation period applicable to any Tax claim or assessment relating to Parent or any of its subsidiaries, in each case in clauses (A) through (E), which would be material to Parent and its subsidiaries, taken as a whole;

(xvi) voluntarily recognize any union or other labor organization as the representative of any of the employees of Parent or any of its subsidiaries or, other than in the ordinary course of business, enter into any new or amended Parent Collective Bargaining Agreement with any labor organization or other representative of any employees of Parent or its subsidiaries;

(xvii) settle any Proceeding that is adverse and material to Parent and its subsidiaries, taken as a whole, other than (A) Proceedings in the ordinary course of business consistent with past practice, (B) Proceedings involving no remedies other than (1) monetary remedies not exceeding $20,000,000 individually (in each case, net of any insurance proceeds or indemnity, contribution or similar payments received by Parent or any of its subsidiaries in respect thereof) and (2) such immaterial non-monetary remedies as are agreed to in the ordinary course of business, consistent with past practice, (C) Proceedings set forth on Section 6.1(c)(xvii) of the Parent Disclosure Schedule involving no remedies other than such remedies described on Section 6.1(c)(xvii) of the Parent Disclosure Schedule or (D) Proceedings with respect to Parent Transaction Litigation, which are addressed in Section 7.11(b);

(xviii) fail to renew or maintain material existing insurance policies or comparable replacement policies in each case that are material to Parent and its subsidiaries, taken as a whole, other than in the ordinary course of business consistent with past practice, in each case subject to market conditions regarding available terms, coverage provisions and in prudent business practices at the time that any insurance policy is renewed or replaced; or

(xix) agree, authorize or commit to do any of the foregoing actions described in Section 6.1(c)(i) through Section 6.1(c)(xviii).

Section 6.2 No Control of Parent s Business. Nothing contained in this Agreement shall give the Company, directly or indirectly, the right to control or direct Parent s or its subsidiaries operations prior to the Effective Time. Prior to the Effective Time, Parent shall have the right to exercise, consistent with the terms and conditions of this Agreement, complete unilateral control and supervision over its and its subsidiaries business and operations.

ARTICLE VII

ADDITIONAL AGREEMENTS

Section 7.1 Acquisition Proposals.

(a) The Company shall not, and shall cause its subsidiaries and its and its subsidiaries directors, officers and employees not to, and shall use its reasonable best efforts to cause its and its subsidiaries attorneys, investment bankers and other advisors or representatives (collectively with its

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subsidiaries and its and its subsidiaries directors, officers and employees, Representatives) not to, directly or indirectly, (i) initiate, solicit, knowingly encourage, knowingly induce or knowingly facilitate (including by providing non-public information relating to the Company or its subsidiaries) the making of any Acquisition Proposal or any inquiry, offer or proposal that would reasonably be expected to lead to an Acquisition Proposal, (ii) engage or otherwise participate in any negotiations or discussions (other than, in response to a *bona fide* Acquisition Proposal or other inquiry, offer or proposal after the date hereof that was not initiated, solicited, encouraged or facilitated, and did not otherwise result from a material violation of this Section 7.1, contacting such Person and its advisors for the purpose of clarifying the material terms of any such Acquisition Proposal or inquiry, offer or proposal and the likelihood and timing of consummation thereof) concerning, or provide access to its properties, books and records or any confidential or nonpublic information or data to, any Person in connection with, relating to or for the purpose of encouraging or facilitating an Acquisition Proposal or any inquiry, offer or proposal that would reasonably be expected to lead to an Acquisition Proposal, (iii) approve, endorse or recommend, or propose publicly to approve, endorse or recommend, any Acquisition Proposal, or (iv) execute or enter into any letter of intent, agreement in principle, merger agreement, acquisition agreement or other similar written or oral agreement relating to any Acquisition Proposal (each, an Alternative Acquisition Agreement), and the Company shall not resolve or agree to do any of the foregoing. Without limiting the foregoing, it is agreed that any violation of any of the restrictions set forth in the preceding sentence by any Representatives of the Company or any of its subsidiaries shall be a breach of this Section 7.1(a) by the Company. The Company shall, shall cause its subsidiaries and its and its subsidiaries directors, officers and employees to, and shall use its reasonable best efforts to cause its and its subsidiaries other Representatives to, immediately cease and cause to be terminated any solicitations of, discussions or negotiations with, or provision of access to non-public information relating to the Company or its subsidiaries to, any Person (other than the Parties and their respective Representatives) in connection with any Acquisition Proposal. The Company also agrees that it will promptly request each Person (other than the Parties and their respective Representatives) that has prior to the date hereof executed a confidentiality agreement in connection with its consideration of an Acquisition Proposal to promptly return or destroy all confidential information furnished to such Person by or on behalf of it or any of its subsidiaries prior to the date hereof and shall terminate access to data rooms furnished in connection therewith. The Company shall promptly (and in any event within twenty-four (24) hours) notify Parent orally and in writing of the receipt of any inquiries, proposals or offers, any requests for non-public information, or any requests for discussions or negotiations with the Company or any of its Representatives, in each case with respect to an Acquisition Proposal or any offer, inquiry or proposal that would reasonably be expected to lead to an Acquisition Proposal, which notice shall include a summary of the material terms and conditions of, and the identity of the Person making, such Acquisition Proposal, inquiry, proposal or offer, and, if applicable, copies of any such written requests, proposals or offers, including proposed agreements, and thereafter shall keep Parent reasonably informed, on a prompt basis (and in any event within twenty-four (24) hours), of any material developments regarding any Acquisition Proposals or any material change to the terms and status of any such Acquisition Proposal or the material aspects of any bid process established by the Company to review such proposals or offers. The Company agrees that neither it nor any of its subsidiaries shall terminate, waive or amend to similar effect any existing standstill or similar agreement to which it or one of its subsidiaries is a party, except to the extent that prior to, but not after, obtaining the Company Requisite Vote, after consultation with its outside legal counsel, the Company Board determines that the failure to take such action would be reasonably likely to be inconsistent with its fiduciary duties under applicable Law.

(b) Notwithstanding anything to the contrary in this Agreement, nothing contained herein shall prevent the Company or the Company Board from:

(i) taking and disclosing to its stockholders a position contemplated by Rule 14d-9 and Rule 14e-2(a) promulgated under the Exchange Act (or any similar communication to

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stockholders in connection with the making or amendment of a tender offer or exchange offer, in each case, to the extent legally required) or from making any other disclosure to stockholders if the Company Board determines in good faith that the failure to make such disclosure would be reasonably likely to be inconsistent with the Company Board s fiduciary duties under applicable Law (provided that neither the Company nor the Company Board may effect a Change of Recommendation unless expressly permitted by Section 7.1(c) or Section 7.2(d), and provided, further, that any such disclosure that has the substantive effect of withdrawing or adversely modifying the Company Recommendation shall be deemed to be a Change of Recommendation); provided, further, that the issuance by the Company or the Company Board of a stop, look and listen communication as contemplated by Rule 14d-9(f) promulgated under the Exchange Act (or any similar communication to its stockholders) in which the Company has not indicated that the Company Board has changed the Company Recommendation shall not constitute a Change of Recommendation;

(ii) prior to, but not after, obtaining the Company Requisite Vote, providing access to its properties, books and records and providing any confidential or non-public information or data in response to a request therefor by a Person or group who has made a *bona fide* Acquisition Proposal after the date hereof that was not initiated, solicited, encouraged or facilitated, and did not otherwise result from a material violation of this Section 7.1, if the Company Board (A) shall have determined in good faith, after consultation with the Company s outside legal counsel and financial advisor, that such Acquisition Proposal constitutes or could reasonably be expected to lead to a Superior Proposal and (B) has received from the Person so requesting such information an executed Acceptable Confidentiality Agreement; provided that any such access, information or data has previously been provided to Parent or its Representatives or is provided to Parent prior to or substantially concurrently with the time such access, information or data is provided to such Person or group;

(iii) prior to, but not after, obtaining the Company Requisite Vote, engaging in any negotiations or discussions with any Person and its Representatives who has made a *bona fide* Acquisition Proposal after the date hereof that was not initiated, solicited, encouraged or facilitated in, and did not otherwise result from a, material violation of this Section 7.1, if the Company Board shall have determined in good faith, after consultation with the Company s outside legal counsel and financial advisor, that such Acquisition Proposal constitutes or could reasonably be expected to lead to a Superior Proposal; or

(iv) prior to, but not after, obtaining the Company Requisite Vote, making a Change of Recommendation (but only if permitted by Section 7.1(c) or Section 7.2(d)).

(c) Notwithstanding anything in this Agreement to the contrary, if, at any time prior to, but not after, obtaining the Company Requisite Vote, in response to a *bona fide* Acquisition Proposal that was made after the date hereof and was not initiated, solicited, encouraged or facilitated, and did not otherwise result from a material violation of this Section 7.1, the Company Board determines in good faith (i) after consultation with the Company s outside legal counsel and financial advisor, that such Acquisition Proposal constitutes a Superior Proposal taking into account any adjustment to the terms and conditions of this Agreement proposed by Parent and the Merger Subs in response to such Acquisition Proposal and (ii) after consultation with the Company s outside legal counsel, that the failure to take the action in (A) and/or (B) below would be reasonably likely to be inconsistent with the Company Board s fiduciary duties under applicable Law, the Company or the Company Board may (and may resolve or agree to) (A) terminate this Agreement under Section 9.1(d)(ii) and enter into a definitive merger agreement, acquisition agreement or similar written agreement with respect to such Superior Proposal and/or (B) effect a Change of Recommendation in accordance with clause (1)(A) of Section 7.2(d); provided, however, that, if the Company terminates the Agreement pursuant to Section 9.1(d)(ii), the Company pays to Parent the Company Termination Fee required to be paid

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under Section 9.2(b)(i) concurrently with or prior to such termination; provided, further, that the Company shall not be entitled to enter into such Alternative Acquisition Agreement and terminate this Agreement or effect a Change of Recommendation pursuant to clause (1)(A) of Section 7.2(d) unless (1) the Company delivers to Parent a written notice (a Company Notice), advising Parent that the Company Board proposes to take such action and containing the material terms and conditions of the Superior Proposal that is the basis of the proposed action by the Company Board (including the identity of the party making such Superior Proposal and copies of any written proposals or offers, including proposed agreements) and (2) at or after 11:59 p.m., New York City time, on the fourth (4th) Business Day immediately following the day on which the Company delivered the Company Notice (such period from the time the Company Notice is provided until 11:59 p.m., New York City time, on the fourth (4th) Business Day immediately following the day on which the Company delivered the Company Notice, the Notice Period), the Company Board reaffirms in good faith (after consultation with the Company s outside legal counsel and financial advisor and taking into account any adjustment to the terms and conditions of this Agreement proposed by Parent during the Notice Period) that such Acquisition Proposal continues to constitute a Superior Proposal and (after consultation with the Company s outside legal counsel) that the failure to take such action would be reasonably likely to be inconsistent with the Company Board s fiduciary duties under applicable Law. If requested by Parent, the Company will, and will cause its Representatives to, during the Notice Period, engage in good faith negotiations with Parent and its Representatives regarding any adjustments in the terms and conditions of this Agreement proposed by Parent so that such Acquisition Proposal would cease to constitute a Superior Proposal. The Company agrees to notify Parent promptly if it determines during such Notice Period not to terminate this Agreement and enter into the Alternative Acquisition Agreement referred to in the Company Notice. Any amendment to the financial terms or any other material amendment to the terms and conditions of a proposed Alternative Acquisition Agreement relating to a Superior Proposal will be deemed to be a new proposal or proposed Alternative Acquisition Agreement relating to a Superior Proposal for purposes of this Section 7.1(c) requiring a new Company Notice and an additional Notice Period; provided, however, that such additional Notice Period shall expire at 11:59 p.m., New York City time, on the second (2nd) Business Day immediately following the day on which the Company delivers such new Company Notice (it being understood and agreed that in no event shall any such additional two (2) Business Day Notice Period be deemed to shorten the initial four (4) Business Day Notice Period).

(d) For purposes of this Agreement, the following terms shall have the meanings assigned below:

(i) Acquisition Proposal means any proposal or offer (including a tender offer or exchange offer, but excluding the transactions contemplated by the WBA Asset Purchase Agreement) from any Person or group of Persons (other than Parent or the Merger Subs) relating to (A) any merger, consolidation, dissolution, liquidation, recapitalization, reorganization, share exchange, business combination, purchase, or similar transaction with respect to the Company or any of its subsidiaries whose business constitutes twenty percent (20%) or more of the consolidated revenues, net income or assets of the Company and its subsidiaries, taken as a whole (after giving pro forma effect to the portion of the transactions contemplated by the WBA Asset Purchase Agreement that have been completed as of the date of such proposal or offer), or (B) any direct or indirect acquisition or purchase, in one transaction or a series of related transactions, of assets (including equity securities of any subsidiary of the Company) or businesses that constitute twenty percent (20%) or more of the consolidated revenues, net income or assets of the Company and its subsidiaries, taken as a whole, or twenty percent (20%) or more of the total voting power of the equity securities of the Company (in each case after giving pro forma effect to the portion of the transactions contemplated by the WBA Asset Purchase Agreement that have been completed as of the date of such proposal or offer).

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(ii) Superior Proposal means a *bona fide* written Acquisition Proposal (with all references to twenty percent (20%) or more in the definition of Acquisition Proposal being deemed to reference fifty percent (50%) or more) that the Company Board in good faith, after consultation with the Company s financial advisors and outside legal counsel, determines would, if consummated, result in a transaction more favorable from a financial point of view to the stockholders of the Company than the Mergers taking into account all financing (including availability thereof) and regulatory aspects of such Acquisition Proposal, the likelihood and timing of consummation thereof (as compared to the transactions contemplated hereby), such other matters as the Company Board deems relevant and any changes to the terms of this Agreement proposed by Parent in response to such Superior Proposal pursuant to, and in accordance with, Section 7.1(c).

Section 7.2 Preparation of Form S-4 and Proxy Statement/Prospectus; Company Stockholders Meeting.

(a) As promptly as reasonably practicable following the date of this Agreement, (i) the Company and Parent shall jointly prepare and cause to be filed with the SEC the Proxy Statement/Prospectus in preliminary form, and (ii) Parent shall prepare and cause to be filed with the SEC, the Form S-4 with respect to the issuance of Parent Common Stock in the Merger, which will include the Proxy Statement/Prospectus with respect to the Company Stockholders Meeting. Each of the Company and Parent shall use its reasonable best efforts to (A) have the Form S-4 declared effective under the Securities Act as promptly as practicable after such filing, (B) ensure that the Form S-4 complies in all material respects with the applicable provisions of the Exchange Act and the Securities Act, and (C) keep the Form S-4 effective for so long as necessary to complete the Merger. Each of the Company and Parent shall furnish all information concerning itself, its Affiliates and the holders of its shares to the other and provide such other assistance as may be reasonably requested in connection with the preparation, filing and distribution of the Form S-4 and Proxy Statement/Prospectus. The Form S-4 and Proxy Statement/Prospectus shall include all information reasonably requested by such other Party to be included therein. Each of the Company and Parent shall promptly notify the other upon the receipt of any comments from the SEC or any request from the SEC for amendments or supplements to the Form S-4 or Proxy Statement/Prospectus or any other proxy or consent solicitation statement with respect to the Company Stockholders Meeting, and shall, as promptly as practicable after receipt thereof, provide the other with copies of all correspondence between it and its Representatives, on one hand, and the SEC, on the other hand, and all written comments with respect to the Proxy Statement/Prospectus or the Form S-4 or any other proxy or consent solicitation statement with respect to the Company Stockholders Meeting received from the SEC and advise the other party of any oral comments with respect to the Proxy Statement/Prospectus or the Form S-4 or any other proxy or consent solicitation statement with respect to the Company Stockholders Meeting received from the SEC. Each of the Company and Parent shall use its reasonable best efforts to respond as promptly as practicable to any comments from the SEC with respect to the Proxy Statement/Prospectus, and Parent shall use its reasonable best efforts to respond as promptly as practicable to any comment from the SEC with respect to the Form S-4. Notwithstanding the foregoing, prior to filing the Form S-4 (or any amendment or supplement thereto) or mailing the Proxy Statement/Prospectus (or any amendment or supplement thereto) or any other proxy or consent solicitation statement with respect to the Company Stockholders Meeting or responding to any comments of the SEC with respect thereto, each of the Company and Parent shall cooperate and provide the other a reasonable opportunity to review and comment on such document or response in advance (including the proposed final version of such document or response) and consider in good faith any comments provided by the Company or Parent or any of their respective Representatives with respect thereto. Parent shall advise the Company, promptly after it receives notice thereof, of the time of effectiveness of the Form S-4, the issuance of any stop order relating thereto or the suspension of the qualification of the Parent Common Stock issuable in connection with the Merger for offering or sale in any jurisdiction,

and Parent shall use its reasonable best efforts to have any such stop order or suspension lifted, reversed or otherwise terminated. Parent shall also use its reasonable best efforts to take any other action required to be taken under the Securities Act, the Exchange Act, any applicable foreign or state securities or blue sky Laws and the rules and regulations thereunder in connection with the issuance of the Parent Common Stock in the Merger, and the Company shall furnish all information concerning the Company, the Company s subsidiaries and the holders of the Company Common Stock as may be reasonably requested in connection with any such actions.

(b) If, at any time prior to obtaining the Company Requisite Vote, any information relating to the Company or Parent, respectively, or any of their respective Affiliates, should be discovered by the Company or Parent which, in the reasonable judgment of the Company or Parent, respectively, should be set forth in an amendment of, or a supplement to, any of the Form S-4 or the Proxy Statement/Prospectus, so that any of such documents would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Party which discovers such information shall promptly notify the other Party, and the Company and Parent shall cooperate in the prompt filing with the SEC of any necessary amendment of, or supplement to, the Proxy Statement/Prospectus or the Form S-4 and, to the extent required by Law, in disseminating the information contained in such amendment or supplement to stockholders of the Company. Nothing in this Section 7.2(b) shall limit the obligations of any Party under Section 7.2(a). For purposes of this Section 7.2, any information concerning or related to the Company, its Affiliates or the Company Stockholders Meeting will be deemed to have been provided by the Company, and any information concerning or related to Parent or its Affiliates will be deemed to have been provided by Parent.

(c) As promptly as practicable following the date that the Form S-4 is declared effective under the Securities Act (or such later date as the Parties shall agree), the Company shall, in accordance with applicable Law and its organizational documents, establish a record date for, duly call, give notice of, convene and hold a meeting of its stockholders for the purpose of approving and adopting this Agreement (including any adjournment or postponement thereof, the Company Stockholders Meeting). The Company shall use its reasonable best efforts to cause the Proxy Statement/Prospectus to be mailed to the stockholders of the Company entitled to vote at the Company Stockholders Meeting as soon as practicable after the Form S-4 is declared effective under the Securities Act (or such later date as the Parties shall agree). Notwithstanding the foregoing provisions of this Section 7.2(c), if, on a date for which the Company Stockholders Meeting is scheduled, the Company has not received proxies representing a sufficient number of shares of Company Common Stock to obtain the Company Requisite Vote, whether or not a quorum is present, the Company shall have the right to make one or more successive postponements or adjournments of the Company Stockholders Meeting; (other than, following consultation with Parent, any adjournments or postponements required by applicable Law, including adjournments or postponements to the extent required under applicable Law to ensure that any required supplement or amendment to the Proxy Statement/Prospectus is provided or made available to the Company stockholders or to permit dissemination of information which is material to stockholders voting at the Company Stockholders Meeting and to give the Company stockholders sufficient time to evaluate any such supplement or amendment or other information). Without the prior written consent of Parent, the adoption of this Agreement shall be the only matter (other than matters of procedure and matters required by applicable Law to be voted on by the Company s stockholders in connection with the adoption of this Agreement) that the Company shall propose to be acted on by the stockholders of the Company at the Company Stockholders Meeting.

(d) The Company shall (i) subject to Section 7.1(c), include in the Proxy Statement/Prospectus the Company Recommendation and (ii) subject to Section 7.1(c), use its reasonable best efforts to obtain the Company Requisite Vote, including to actively solicit (or cause to be solicited)

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proxies necessary to obtain the Company Requisite Vote; provided that the Company Board may (A) fail to include the Company Recommendation in the Proxy Statement/Prospectus distributed to stockholders; (B) approve, endorse or recommend, or propose publicly to approve, endorse or recommend, or otherwise declare advisable to the stockholders of the Company, an Acquisition Proposal; (C) following the commencement of a tender offer or exchange offer that constitutes an Acquisition Proposal, fail to publish, send or give to its stockholders, pursuant to Rule 14e-2 under the Exchange Act, within the ten (10) Business Day period (as specified in Rule 14e-2 under the Exchange Act) after such tender offer or exchange offer is first published, sent or given, or subsequently amended in any material respect, a statement recommending that stockholders reject such tender offer or exchange offer and affirming the Company Recommendation; or (D) formally resolve to effect or publicly announce an intention to effect any of the foregoing, in each case prior to obtaining the Company Requisite Vote (a Change of Recommendation), if (1) (A) a *bona fide* Acquisition Proposal that was made after the date hereof and was not initiated, solicited, encouraged or facilitated in, and did not otherwise result from a material violation of Section 7.1 is made to the Company and is not withdrawn and the Company Board determines in good faith, after consultation with the Company s financial advisor and outside legal counsel that such Acquisition Proposal constitutes a Superior Proposal or (B) there exists any event, development, circumstance, change, effect, condition or occurrence (other than an Acquisition Proposal) that was not known by the Company Board or, if known, the consequences of which were not known or reasonably foreseeable, as of the date of this Agreement, (2) the Company Board shall have determined in good faith, after consultation with its outside legal counsel, that the failure of the Company Board to effect a Change of Recommendation would be reasonably likely to be inconsistent with its fiduciary duties under applicable Law, and (3) (A) if such Change of Recommendation is made in response to an Acquisition Proposal, the Company complies with the provisions of Section 7.1(c) or (B) if such Change of Recommendation is not made in response to an Acquisition Proposal, the Company (1) delivers to Parent a written notice informing Parent that the Company Board proposes to take such action and the basis of the proposed action no less than four (4) Business Days before taking such action and (2) during such four (4) Business Day period, if requested by Parent, engages in good faith negotiations with Parent and its Representatives regarding any adjustments in the terms and conditions of this Agreement proposed by Parent so that such event, development, circumstance, change, effect, condition or occurrence would cease to warrant a Change of Recommendation. The Company shall keep Parent updated with respect to proxy solicitation results as reasonably requested by Parent. Notwithstanding anything to the contrary contained in this Agreement, if the Company Board makes a Change of Recommendation, the Company nevertheless shall submit this Agreement to the holders of Company Shares for approval and adoption at the Company Stockholders Meeting unless and until this Agreement is terminated in accordance with its terms.

Section 7.3 Stock Exchange Listing. Parent and the Company shall use reasonable best efforts to cause the shares of Parent Common Stock to be issued in the Merger and such other shares to be reserved for issuance in connection with the Merger to, prior to Closing, be approved for listing on the NYSE, subject to official notice of issuance.

Section 7.4 Further Action; Efforts.

(a) Subject to the terms and conditions of this Agreement, including Section 7.4(d), each party shall use its reasonable best efforts to take, or cause to be taken, and to assist and cooperate with the other parties in taking or causing to be taken, all actions and to use its reasonable best efforts to do, or cause to be done, all things reasonably necessary, proper or advisable under this Agreement and applicable Law to consummate and make effective the Mergers and the other transactions contemplated by this Agreement in the most expeditious manner practicable. Without limiting the foregoing sentence, each party agrees to (i) (A) within five (5) Business Days after the date of this Agreement (unless a later time is mutually agreed between the Parties), make appropriate filings of

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Notification and Report Forms pursuant to the HSR Act, (B) as promptly as practicable after the date of this Agreement (unless a later time is mutually agreed between the Parties), make appropriate filings with appropriate insurance Governmental Entities, and (C) as promptly as practicable and advisable, after the date of this Agreement, make appropriate filings under any Healthcare Law or Insurance Law that are necessary or advisable in connection with the Mergers or any of the other transactions contemplated by this Agreement; and (ii) as promptly as practicable and advisable, after the date of this Agreement, prepare and submit all other filings, notifications, information updates and other presentations required by or in connection with seeking, and obtain, all consents, approvals, clearances, expirations or terminations of waiting periods, non-actions, waivers, exemptions, Permits, orders, change of ownership approvals or other authorizations (Consents) from any Governmental Entity or other third party, in each case that are necessary or advisable in connection with the Mergers or any of the other transactions contemplated by this Agreement, and to assist and cooperate with the other party in connection with the foregoing; provided that the Company shall have no obligation to amend or modify any Contract or pay any fee to any third party for the purpose of obtaining any such Consent, or pay any costs and expenses of any third party resulting from the process of obtaining such Consent. The Parties shall not, and shall not permit any of their respective subsidiaries to, engage in, publicly propose or enter into any transaction that would reasonably be expected to (x) result in any material delay in the obtaining or materially increase the risk of not obtaining any required Consent from any Governmental Entity with respect to the transactions contemplated by this Agreement or (y) materially increase the risk of any Governmental Entity entering a Legal Restraint prohibiting or materially delaying the consummation of the Mergers or the other transactions contemplated by this Agreement. Notwithstanding anything set forth in the foregoing, nothing in this Section 7.4(a) shall permit Parent to enter into a transaction that would materially and adversely impact the ability of Parent or the Merger Subs to obtain the Debt Financing (or alternative financing in lieu thereof).

(b) Subject to Section 7.4(d), each of Parent, on the one hand, and the Company, on the other hand, shall in connection with the reasonable best efforts referenced in Section 7.4(a) and Section 7.4(c), as applicable, (i) cooperate in all respects with each other and their respective Representatives in connection with any filing or submission and in connection with any Proceeding by or before a Governmental Entity, including any Proceeding initiated by a private party; (ii) promptly inform the other party and/or its counsel, and provide copies, of any substantive communication received by such party from, or given by such party to, the Federal Trade Commission (the FTC), the Antitrust Division of the Department of Justice (the DOJ) or any other Governmental Entity or such private party, in each case regarding any such filing, submission, Proceeding or the transactions contemplated hereby; (iii) comply, as early as practicable and advisable, with any request for additional information, documents or other materials received by such Party or any of its subsidiaries from the FTC, the DOJ or any such other Governmental Entity, and without limiting the foregoing, to the extent there is a Request for Additional Information from the FTC or DOJ (a Second Request) following the HSR Filing, the parties shall certify substantial compliance with the Second Request no later than one hundred twenty (120) days following receipt of the Second Request; (iv) not directly or indirectly extend any waiting period under the HSR Act except with the prior written consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); (v) permit the other party and/or its counsel to review and discuss reasonably in advance, and consider in good faith the views of the other party and/or its counsel in connection with, any proposed substantive communication to be given by it to the DOJ, the FTC or any such other Governmental Entity or, in connection with any Proceeding by such private party, any other person; and (vi) to the extent not prohibited by the DOJ, the FTC or such other Governmental Entity, give the other party and/or its counsel reasonable advance notice of any in-person meeting, and any conference call that is initiated by such Party or scheduled in advance, with such Governmental Entity or such private party and not participate independently therein without first giving the other party and/or its counsel reasonable opportunity to attend and participate therein or, in the event such other party and/or its counsel does not attend or participate therein, consulting with such other party and/or its counsel reasonably in advance and considering in good faith the views of

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such other party and/or its counsel in connection therewith. Parent and the Company may, as each deems advisable and necessary, reasonably designate any competitively sensitive material provided to the other under this Section 7.4(b) as Antitrust Counsel Only Material. Such materials and the information contained therein shall be given only to the outside antitrust counsel (or previously agreed outside consultant, as applicable) of the recipient and shall not be disclosed by such outside counsel (or previously agreed outside consultant, as applicable) to employees, officers or directors of the recipient unless express permission is obtained in advance from the source of the materials (Parent or the Company, as the case may be) or its legal counsel. Materials provided by a Party to the other Party pursuant to this Section 7.4(b) may be redacted (A) to remove references concerning the valuation of Parent, the Company or any of their respective subsidiaries, (B) as necessary to comply with contractual arrangements, and (C) as necessary to address privilege or confidentiality concerns.

(c) If any objections are asserted with respect to the Merger or the other transactions contemplated hereby under any Antitrust Law or if any suit or Proceeding, whether judicial or administrative, is instituted by any Governmental Entity or other Person challenging the Merger or other transactions contemplated hereby under any Antitrust Law, each of Parent and the Company shall use its reasonable best efforts to: (i) oppose or defend against any action to prevent or enjoin consummation of the Merger and the other transactions contemplated herein, and/or (ii) take such action as reasonably necessary to overturn any legal restraint or regulatory action by any Governmental Entity to block consummation of the Merger or the other transactions contemplated by this Agreement, including by defending any suit, action, or other legal Proceeding through litigation on the merits of any claim asserted by any Governmental Entity or other Person in order to avoid entry of, or to have vacated, overturned or terminated, including by appeal if necessary, in order to resolve any such objections or challenge as such Governmental Entity or other Person may have to such transactions under such Antitrust Law so as to permit consummation of the transactions contemplated by this Agreement prior to the End Date; provided that Parent and the Company shall cooperate with one another in connection with all proceedings related to the foregoing.

(d) Nothing in this Section 7.4 or in this Agreement will require Parent or the Company to take any action, including entering into any consent decree, hold separate orders or other arrangements, that (i) requires the divestiture of any assets of any of the Company, Parent or any of their subsidiaries, (ii) limits Parent s or its subsidiaries freedom of action with respect to, or its or their ability to retain the Company and its subsidiaries or any portion thereof or any of Parent s or its affiliates other assets or businesses, or (iii) in Parent s reasonable judgment would be expected to have a material adverse impact on any of its or its subsidiaries businesses or the businesses to be acquired by it pursuant to this Agreement, either individually or in the aggregate; provided, however, that Parent shall agree to the sale, divestiture or disposition of any assets of the Company or its subsidiaries that do not exceed $45 million in retail four-wall EBITDA if necessary or advisable in order to obtain any required Antitrust Consents.

(e) Notwithstanding anything in this Agreement to the contrary, with respect to the matters covered in this Section 7.4, it is agreed that Parent and the Company shall cooperate to make all strategic decisions and jointly undertake all discussions, negotiations and other proceedings, and coordinate all activities with respect to any requests that may be made by, or any actions, consents, undertakings, approvals, or waivers that may be sought by or from, any Governmental Entity, including determining the strategy for contesting, litigating or otherwise responding to objections to, or Proceedings challenging, the consummation of the Merger and the other transactions contemplated by this Agreement. Neither the Company nor Parent shall permit any of its Representatives to, make any offer, acceptance or counter-offer to or otherwise engage in negotiations or discussions with any Governmental Entity with respect to any proposed settlement, consent decree, commitment or remedy or, in the event of litigation, discovery, admissibility of evidence, timing or scheduling without consent from the other Party, provided, however, that the Company s consent with respect to any offer made by

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Parent to any Governmental Entity, or Parent s acceptance of any offer made by any Governmental Entity, in each case, with respect to the sale, divestiture or disposition of any assets of the Company or its subsidiaries necessary or advisable in order to obtain any required Antitrust Consents that exceeds the threshold set forth in Section 7.4(d) shall not be unreasonably withheld, conditioned or delayed.

Section 7.5 Notification of Certain Matters. The Company and Parent shall each give prompt notice to the other Party of (a) any written notice or other written communication received from any Governmental Entity in connection with the Mergers or the other transactions contemplated hereby or from any other Person, in each case alleging that the consent of such Person is or may be required in connection with the Mergers, and (b) any Proceedings commenced or, to the Company s or Parent s knowledge, respectively, threatened, that relate to the Mergers or the other transactions contemplated hereby, in each case of clauses (a) and (b) other than with respect to Antitrust Laws, which are the subject of Section 7.4; provided, however, that the delivery of any notice pursuant to this Section 7.5 shall not (i) affect the representations, warranties, covenants or agreements of the Parties or the conditions to the obligations of the Parties under this Agreement or (ii) limit the remedies available to the Party receiving such notification.

Section 7.6 Access to Information and Cooperation; Confidentiality.

(a) Upon reasonable prior written notice from the other Party, each of Parent and the Company shall, and shall use its reasonable best efforts to cause its subsidiaries, officers, directors and employees to, afford the officers, employees, auditors and other authorized representatives of the other Party reasonable access, to the extent permitted by applicable Law, to its officers, employees, properties, offices, other facilities and books and records (including personnel records). Any such access shall be at reasonable times during normal business hours and under supervision of a designee of the Company or Parent, at such Party s discretion. Notwithstanding the foregoing, (i) any such access shall be in such a manner as not to interfere unreasonably with the business or operations of Parent, the Company or their respective subsidiaries; and (ii) no Party nor any of their respective subsidiaries shall be required to provide access where such Party determines in its reasonable judgment that such access would be reasonably likely to (A) result in the loss of the protection of any attorney-client or other privilege held by such Party or any of its subsidiaries, (B) violate any applicable Law, or (C) breach any binding agreement entered into prior to the date of this Agreement of such Party or any of its subsidiaries with any third party; provided that, except for the WBA Asset Purchase Agreement and each of the ancillary agreements related thereto, such Party shall have used commercially reasonable efforts to make appropriate substitute arrangements under circumstances in which the restrictions of this clause would apply.

(b) With respect to the access granted pursuant to this Section 7.6, each Party will, and will cause their respective Representatives to, comply with the terms and conditions of (i) that certain letter agreement, dated September 18, 2017, between the Company and Albertsons Companies, LLC (the Confidentiality Agreement), which Confidentiality Agreement shall remain in full force and effect in accordance with its terms and (ii) the Clean Room Agreement.

Section 7.7 Stock Exchange Delisting. Prior to the Closing Date, the Company shall cooperate with Parent and use reasonable best efforts to take, or cause to be taken, all actions, and do or cause to be done all things, reasonably necessary, proper or advisable on its part under applicable Laws and rules and policies of the NYSE to enable the delisting of the Company Shares from the NYSE and the deregistration of the Company Shares under the Exchange Act as promptly as practicable after the Effective Time.

Section 7.8 Publicity. Following the execution of this Agreement, Parent and the Company shall issue an initial joint press release agreed upon by Parent and the Company regarding the Mergers and

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thereafter neither the Company nor Parent shall issue any press releases or otherwise make public announcements with respect to the Mergers and the other transactions contemplated by this Agreement without the other Party s prior consent (such consent not to be unreasonably withheld, conditioned or delayed) in each case except as such release or announcement may be required by Law or by the rules or regulations of any United States securities exchange to which the relevant Party is subject, in which case such Party shall use its reasonable best efforts to consult with the other Party in advance of such release or announcement. Notwithstanding anything to the contrary contained in this Agreement, the restrictions in this Section 7.8 shall not apply to any communication made by any Party regarding an Acquisition Proposal or a Change of Recommendation or in connection with any Proceeding in which the Parties are adverse to each other. Nothing in this Section 7.8 shall limit the ability of any Party to make additional disclosures that are consistent in all but *de minimis* respects with the prior public disclosures regarding the transactions contemplated by this Agreement.

Section 7.9 Employee Matters.

(a) For a period beginning on the Closing Date and ending on the twelve (12) month anniversary of the Closing Date (or, if shorter, during an employee s period of employment following the Closing Date), Parent shall provide, or shall cause the Surviving Company to provide, to the employees of the Company or its subsidiaries who are not represented by a labor organization and who continue to be employed by the Company or the Surviving Company or any subsidiary or Affiliate thereof (the Continuing Non-Union Employees), (i) the same base salary and wage rate as the base salary and wage rate provided to such Continuing Non-Union Employee immediately prior to the Effective Time, (ii) employee incentive compensation opportunities, but excluding equity incentive compensation opportunities, that are no less favorable in the aggregate than the incentive compensation opportunities provided to such Continuing Non-Union Employees immediately prior to the Effective Time, (iii) equity incentive compensation opportunities that are no less favorable than the equity incentive compensation opportunities provided to comparable employees of Parent who are not represented by a labor organization immediately following the Effective Time, and (iv) employee benefits that are substantially comparable in the aggregate (including with respect to the proportion of employee cost) to the employee benefits provided to such Continuing Non-Union Employees immediately prior to the Effective Time. Commencing on the Closing Date, the Surviving Company shall observe the terms of all existing Collective Bargaining Agreements that govern the wages, hours and other terms and conditions of employment of employees of the Company or its subsidiaries who are covered by such Collective Bargaining Agreements and who continued to be employed by the Surviving Company or any subsidiary or Affiliate thereof (the Continuing Union-Represented Employees).

(b) (i) For the twelve (12) month period following the Closing Date, Parent shall provide, or shall cause the Surviving Company to provide, to the Continuing Non-Union Employees, severance benefits which are no less favorable than those set forth in Section 7.9(b)(i) of the Company Disclosure Schedule and (ii) from and after the Effective Time, Parent shall cause the Surviving Company and its subsidiaries to honor, in accordance with their terms, all Company Plans set forth in Section 7.9(b)(ii) of the Company Disclosure Schedule (each, a Company Agreement); provided that nothing herein shall prevent the Surviving Company from amending or terminating any such Company Agreement in accordance with its terms. Parent and the Company hereby agree that the occurrence of the Closing shall constitute a Change in Control for purposes of all Company Stock Plans, Company Plans and related trusts set forth in Section 7.9(b)(iii) of the Company Disclosure Schedule.

(c) With respect to each benefit plan, program, practice, policy or arrangement maintained by Parent or its subsidiaries (including the Surviving Company) following the Effective Time and in which any of the Continuing Non-Union Employees or Continuing Union-Represented Employees (collectively, the Continuing Employees) participate (the Parent Plans), and except to the extent

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necessary to avoid duplication of benefits, for purposes of determining eligibility to participate, vesting, accrual of and entitlement to benefits (but not for accrual of or entitlement to pension benefits, post-employment or retiree welfare benefits, special or early retirement programs or window separation programs), service with the Company and its subsidiaries (or predecessor employers to the extent the Company provides or has recognized past service credit) shall be treated as service with Parent and its subsidiaries. Each applicable Parent Plan shall waive eligibility waiting periods and pre-existing condition limitations to the extent waived or not included under the corresponding Company Plan. Parent agrees to use commercially reasonable efforts to give or cause its subsidiaries (including the Surviving Company) to give the Continuing Employees credit under the applicable Parent Plan for amounts paid prior to the Effective Time during the calendar year in which the Effective Time occurs under a corresponding Company Plan for purposes of applying deductibles, copayments and out-of-pocket maximums as though such amounts had been paid in accordance with the terms and conditions of the Parent Plan.

(d) The Company shall, and shall cause each of its subsidiaries to, comply in all material respects with each of their respective obligations under applicable Law before the Closing Date to inform and consult (or otherwise), under applicable Law and the terms of any Collective Bargaining Agreements that govern the wages, hours and other terms and conditions of employment of employees of the Company or its subsidiaries, with any labor organizations with respect to any Continuing Union-Represented Employees affected by the transactions contemplated by this Agreement.

(e) Parent shall or shall cause the Surviving Company and its Affiliates to continue to honor all Collective Bargaining Agreements until their respective expiration, modification or amendment. To the extent required by Law or any applicable Collective Bargaining Agreement, Parent shall assume or become party to any Collective Bargaining Agreements effective upon the Closing.

(f) Upon the written request of Parent at least ten (10) Business Days Prior to the Closing Date, the Company Board shall adopt resolutions providing that no rights to contributions will accrue after, and that all of the Company Plans sponsored or maintained by the Company or any of its subsidiaries that are defined contribution plans intended to be qualified within the meaning of Section 401(a) of the Code (the Company 401(k) Plans) shall be terminated as of immediately prior to the Closing Date (but conditioned upon the occurrence of the Closing). In such event, (i) the Continuing Employees shall be eligible as of the Closing Date to commence participation in a defined contribution plan maintained by Parent or any of its subsidiaries that is intended to be qualified within the meaning of Section 401(a) of the Code (the Parent 401(k) Plan) prior to the Closing Date, and thereafter (as applicable), the Company and Parent shall take any and all action as may reasonably be required, including amendments to the Company 401(k) Plans or the Parent 401(k) Plan, to permit each Continuing Employee to make rollover contributions of eligible rollover distributions (within the meaning of Section 401(a)(31) of the Code) in cash, shares of Parent Common Stock or notes (representing plan loans from the Company 401(k) Plan) in an amount equal to the eligible rollover distribution portion of the account balance distributable to such Continuing Employee from such Company 401(k) Plan to the corresponding Parent 401(k) Plan subject to the receipt of a favorable IRS determination letter with respect to the termination of such Company 401(k) Plan. Notwithstanding anything in this Section 7.9(f) to the contrary, Parent shall not request that the Company Board terminate the Company 401(k) Plans as of immediately prior to the Closing Date in the event that the Continuing Employees shall not be eligible to commence participation in a Parent 401(k) Plan on the Closing Date.

(g) Nothing in this Agreement shall confer upon any Continuing Employee any right to continue in the employ or service of Parent, the Surviving Company or any Affiliate of Parent, or shall interfere with or restrict in any way the rights of Parent, the Surviving Company or any Affiliate of

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Parent, which rights are hereby expressly reserved, to discharge or terminate the services of any Continuing Employee at any time for any reason whatsoever, with or without cause, except to the extent expressly provided otherwise in a written agreement between Parent, the Surviving Company, the Company or any Affiliate of Parent and the Continuing Employee. Notwithstanding any provision in this Agreement to the contrary, nothing in this Section 7.9 shall (i) be deemed or construed to be an amendment or other modification of any Company Plan, Parent Plan or any other employee benefit plan, (ii) prevent Parent, the Surviving Company or any Affiliate of Parent from amending or terminating any Company Plans in accordance with their terms or (iii) create any third-party rights in any current or former employee or other service provider of the Company or its Affiliates (or any beneficiaries or dependents thereof).

Section 7.10 Directors and Officers Indemnification and Insurance.

(a) For six (6) years from and after the Effective Time, the Surviving Company shall indemnify and hold harmless each present and former director, officer and employee of the Company or any of its subsidiaries (in each case, when acting or having acted in such capacity), determined as of the Effective Time (the Indemnified Parties), against any costs and expenses (including reasonable attorneys fees), judgments, fines, losses, claims, damages or liabilities incurred in connection with any Proceeding, arising out of matters existing or occurring at or prior to the Effective Time, whether asserted or claimed prior to, at or after the Effective Time, to the fullest extent that the Company would have been permitted under applicable Law, the Company Certificate of Incorporation, the Company Bylaws and the certificate of incorporation and bylaws, or equivalent governing documents, of any of the Company s subsidiaries, and any indemnification agreements with any directors, officers and employees of the Company or any of its subsidiaries in effect on the date of this Agreement to indemnify such Person (and the Surviving Company shall also advance expenses (including reasonable attorneys fees and expenses) as incurred to the fullest extent permitted under applicable Law; provided that the Person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined that such Person is not entitled to indemnification).

(b) From and after the Effective Time, the provisions in the Surviving Company s limited liability company agreement with respect to indemnification, advancement of expenses and exculpation of former or present directors, officers and employees shall be no less favorable to such directors, officers and employees than such provisions contained in the Company Certificate of Incorporation and Company Bylaws in effect immediately before the Effective Time.

(c) Prior to the Effective Time, the Company shall be permitted to and, if the Company fails to do so, Parent shall cause the Surviving Company as of the Effective Time to, obtain and fully pay for tail insurance policies for the extension of the directors and officers liability coverage of the Company s existing directors and officers insurance policies for a claims reporting or discovery period of at least six (6) years from and after the Effective Time, that shall be from an insurance carrier with the same or better credit rating as the Company s insurance carrier as of the date hereof with respect to directors and officers liability insurance (collectively, D&O Insurance) with benefits and levels of coverage (including terms relating thereto) that are at least as favorable as the Company s existing policies with respect to matters existing or occurring prior to the Effective Time (including in connection with this Agreement, the Mergers or the transactions contemplated thereby); provided, however, that in no event shall the Company expend, or shall Parent or the Surviving Company be required to expend, for such policies an aggregate premium amount in excess of three hundred percent (300%) of the annual premiums currently paid by the Company for such insurance. If the Company and the Surviving Company for any reason fail to obtain such tail insurance policies as of the Effective Time, (i) the Surviving Company shall, and Parent shall cause the Surviving Company to, continue to maintain in effect for a period of at least six (6) years from and after the Effective Time the D&O Insurance in place as of the date of this Agreement with benefits and levels of coverage (including terms relating thereto)

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that are at least as favorable as provided in the Company s existing policies as of the date of this Agreement, or (ii) the Surviving Company shall, and Parent shall cause the Surviving Company to, obtain D&O Insurance for such six (6) year period with benefits and levels of coverage (including terms relating thereto) that are at least as favorable as the Company s existing policies as of the date of this Agreement; provided, however, that in no event shall Parent or the Surviving Company be required to expend for such policies an annual premium amount in excess of three hundred percent (300%) of the annual premiums currently paid by the Company for such insurance; and, provided, further, that if the annual premiums of such insurance coverage exceed such amount, the Surviving Company shall obtain a policy with the best available coverage for a cost not exceeding such amount. The Surviving Company shall maintain such policies in full force and effect, and continue to honor the obligations thereunder for a period of not less than six (6) years from and after the Effective Time.

(d) The provisions of this Section 7.10 are intended to be for the benefit of, and shall be enforceable by, each of the Indemnified Parties and their respective heirs, successors and representatives.

(e) The rights of the Indemnified Parties under this Section 7.10 shall be in addition to any rights such Indemnified Parties may have under the Company Certificate of Incorporation, the Company Bylaws and the certificate of incorporation and bylaws, or equivalent governing documents, of any of the Company s subsidiaries, and any indemnification agreements in effect on the date of this Agreement.

Section 7.11 Transaction Litigation.

(a) Subject to entry into a customary joint defense agreement, the Company shall give Parent the opportunity to consult with the Company regarding, and participate in the defense of, any litigation related to this Agreement, the Mergers or the other transactions contemplated by this Agreement brought by a stockholder of the Company against the Company or any member of the Company Board after the date of this Agreement and prior to the Effective Time (the Company Transaction Litigation), and the Company shall not settle or agree to settle any such Company Transaction Litigation without Parent s prior written consent (such consent not to be unreasonably withheld, conditioned or delayed), except as set forth in Section 7.11(a) of the Company Disclosure Schedule.

(b) Subject to entry into a customary joint defense agreement, Parent shall give the Company the opportunity to consult with Parent regarding, and participate in the defense of, any litigation related to this Agreement, the Mergers or the other transactions contemplated by this Agreement brought by a stockholder of Parent against Parent or any member of the Parent Board after the date of this Agreement and prior to the Effective Time (the Parent Transaction Litigation), and Parent shall not settle or agree to settle any such Parent Transaction Litigation without the Company s prior written consent (such consent not to be unreasonably withheld, conditioned or delayed), except as set forth in Section 7.11(b) of the Parent Disclosure Schedule.

Section 7.12 Obligations of the Merger Subs. Parent guarantees the due, prompt and faithful payment, performance and discharge by the Merger Subs of, and the compliance by the Merger Subs with, all of the covenants, agreements, obligations and undertakings of the Merger Subs under this Agreement in accordance with the terms of this Agreement, and covenants and agrees to take all actions necessary or advisable to ensure such payment, performance and discharge by the Merger Subs hereunder. Parent shall promptly following execution of this Agreement, deliver to the Company evidence of its vote or action by written consent approving and adopting this Agreement and the Mergers in accordance with applicable Law, the certificate of incorporation and bylaws of Merger Sub and the certificate of formation and limited liability company agreement of Merger Sub II.

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Section 7.13 Rule 16b-3. Prior to the Effective Time, the Company and Parent shall use all reasonable efforts to take such steps as may be reasonably necessary or advisable hereto to cause any dispositions of Company equity securities (including derivative securities) or acquisitions of Parent equity securities (including derivative securities) pursuant to, or resulting from, the transactions contemplated by this Agreement by each individual who is subject to the reporting requirements of Section 16(a) of the Exchange Act with respect to the Company (or will become subject to the reporting requirements with respect to Parent) to be exempt under Rule 16b-3 promulgated under the Exchange Act.

Section 7.14 Company Financing Cooperation.

(a) The Company shall, and shall cause its subsidiaries and its and their respective Representatives to, use its and their respective commercially reasonable efforts to provide such cooperation as may be reasonably requested by Parent or the Merger Subs in connection with the Financing to be made by Parent, including, as applicable, by: (i) using reasonable best efforts to, upon reasonable advance notice, cause the Company s senior management to participate in a reasonable number of due diligence meetings, drafting sessions, rating agency presentations, lender meetings, investor road shows and meetings with parties acting as arrangers, bookrunners, underwriters, initial purchasers, placement agents and/or other lenders and investors for the Financing; (ii) providing such customary historical financial and other customary pertinent information with respect to the Company and its subsidiaries as may be reasonably requested by Parent for use in connection with the Financing and designating, upon request, whether any such information is suitable to be made available to lenders and other investors who do not wish to receive material non-public information with respect to the Company and its subsidiaries; (iii) providing information regarding the Company and its subsidiaries reasonably necessary to assist Parent in preparing pro forma financial statements if Parent determines such pro forma financial statements are legally required or customary in connection with the Financing or any other SEC filing required to be made by Parent, but in any case including financial statements giving pro forma effect to the sale of the 1,932 stores, three distribution centers, and assets related thereto to Walgreen Co. pursuant to the WBA Asset Purchase Agreement, it being understood that the Company shall not be required to change its fiscal year, and it being further understood that the pro forma financial statements delivered pursuant to Section 3.8 hereof, satisfy the Company s obligation, except if similar financing statements for a future period shall be reasonably required; (iv) providing reasonable assistance to the Parent and its subsidiaries in connection with the preparation by Parent of offering memoranda, private placement memoranda, prospectuses, prospectus supplements, registration statements, bank confidential information memoranda, lender and investor presentations, road show materials, rating agency presentations and similar documents and materials, in each case, under this clause (iv), in connection with the Financing, and reasonably assisting with the preparation of the definitive documentation for the Financing, including by providing information reasonably necessary for the completion of any schedules thereto, in each case to the extent, and solely to the extent, such materials relate to information concerning the Company and its subsidiaries and reasonably assisting in preparing certificates and other documentation required to be delivered in connection with the Financing; (v) using commercially reasonable efforts to cause Deloitte & Touche LLP to cooperate with Parent, including by participating in accounting due diligence sessions upon reasonable advance notice, using reasonable best efforts to obtain the consent of, and facilitate the delivery of, customary comfort letters (including as to customary negative assurance) from, Deloitte & Touche LLP (including by providing customary management letters and requesting legal letters to obtain such consent) if reasonably necessary or customary for Parent s use of the financial statements of the Company and its subsidiaries in any marketing or offering materials to be used in connection with the Financing; (vi) cooperating reasonably with any customary due diligence requests by Parent, its Financing Sources and their respective legal counsel; (vii) reasonably assisting Parent in obtaining corporate, corporate family, credit, facility and securities ratings from rating agencies; (viii) furnishing promptly (and in any event at least three (3) days prior to the Closing Date)

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all documentation and other information reasonably requested in writing at least ten (10) Business Days prior to the Closing Date by parties acting as lead arrangers, agents or underwriters, as applicable, required by any Governmental Entity in connection with the Financing under applicable know your customer and anti-money laundering rules and regulations, including the U.S. Patriot Act; (ix) providing information reasonably requested by Parent (to the extent reasonably available to the Company or a subsidiary of the Company) to assist Parent in obtaining appraisals (including appraisals compliant with the Financial Institutions Reform, Recovery and Enforcement Act of 1989) required to be prepared with respect to properties of the Company and its subsidiaries under applicable Law, and in preparing borrowing base certificates; (x) assisting with the preparation of a Company perfection certificate; (xi) facilitating the pledging of collateral for the Financing; (xi) assisting in the completion of a customary field examination and appraisal (including, but not limited to, inventory and pharmacy appraisals); and (xii) delivering notices of prepayment and/or redemption within the time periods required by the Company Credit Agreement and/or the Company Notes, as the case may be, and using reasonable best efforts to obtain customary payoff letters and lien terminations in respect of the Company Credit Agreement and instructions of discharge in respect of the Company Indentures, in each case, to the extent, and in the manner contemplated by, this Section 7.14 and Section 7.15 hereof, and giving any other necessary notices to allow for the payoff, discharge and termination of all indebtedness required by this Agreement to be repaid and terminated (subject to the provisions of this Section 7.14 and Section 7.15). The Company hereby consents to the use of the trademarks, service marks and logos of the Company and its subsidiaries in connection with the arrangement of the Financing if such trademarks, service marks and logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage the Company or any of its subsidiaries or the reputation or goodwill of the Company or any of its subsidiaries or any of their logos and on such other customary terms and conditions as the Company shall reasonably impose. Notwithstanding the foregoing, nothing herein shall require such cooperation to the extent it would (i) unreasonably disrupt the ordinary conduct of the business or operations of the Company or its subsidiaries, (ii) require the Company or its subsidiaries to agree to pay any fees, reimburse any expenses or otherwise incur any actual or potential liability or give any indemnities, pledge any collateral or make any prepayment of indebtedness prior to the Effective Time unless Parent reimburses or is required to reimburse or indemnify the Company or its subsidiaries pursuant to this Agreement or otherwise agrees to do so, (iii) require the Company or its subsidiaries to take any action that would reasonably be expected, in the reasonable judgment of the Company after consultation with its legal counsel, to conflict with, or result in any violation or breach of, any applicable (A) Laws or (B) obligations of confidentiality (not created in contemplation hereof) binding on the Company or its subsidiaries (provided that in the event that the Company or its subsidiaries do not provide information in reliance on the exclusion in this clause (B), the Company and its subsidiaries shall provide notice to Parent promptly that such information is being withheld (but solely if providing such notice would not violate such obligation of confidentiality)) (iv) require the Company or its subsidiaries to (A) subject to the requirements of Section 7.14(a)(v) and Section 7.15, pass resolutions or consents, approve or authorize the execution of, or execute, any document, agreement, certificate or instrument or take any other corporate action with respect to the Financing or (B) provide or cause its legal counsel to provide any legal opinions that are not required in connection with the transactions contemplated by Section 7.15 or (v) require the Company to prepare separate financial statements for any of its subsidiaries, financial statements pursuant to Rules 3-10 other than consistent with past practice (other than assisting with preparation of a footnote in Parent s financial statements) or 3-16 of Regulation S-X or any new compensation information or (vi) require the Company or any subsidiary thereof to incur additional indebtedness (including guarantees), such that the Company is unable to satisfy any applicable debt incurrence requirement at Closing in the merger covenant in the Company Indentures. Parent acknowledges and agrees that any access or information contemplated to be provided by the Company or any of its subsidiaries pursuant to this Section 7.14 shall, to the extent such information constitutes material non-public information of the Company, only be provided to other Persons, including any Financing Sources, if such other Person affirmatively agrees to maintain the confidentiality of such information

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pursuant to a customary confidentiality agreement and to comply with all federal and state securities laws and regulations applicable to such information.

(b) To the extent the Company Credit Agreement has not previously been discharged or terminated on or prior to the second (2nd) Business Day prior to the Closing Date, the Company shall use its reasonable best efforts to cause the agent under each Company Credit Agreement to deliver to Parent a copy of a draft payoff letter (subject to delivery of funds as arranged by Parent) with respect to each Company Credit Agreement (each, a Payoff Letter and collectively, the Payoff Letters), in customary form, which Payoff Letters shall (i) indicate the total amount required to be paid to fully satisfy all principal, interest, prepayment premiums, penalties, breakage costs and any other monetary obligations then due and payable under the relevant Company Credit Agreement as of the anticipated Closing Date (and the daily accrual thereafter) (such amount payable with respect to any Payoff Letter and Company Credit Agreement, the Payoff Amount), (ii) state that upon receipt of the Payoff Amount under each such Payoff Letter, the related Company Credit Agreement and all related loan documents shall be terminated (but excluding any contingent obligations, including, without limitation, indemnification obligations, that in any such case are not then due and payable and that by their terms are to survive the termination of any Company Credit Agreement and the related loan documents), and (iii) provide that all Liens and all guarantees in connection therewith relating to the assets and properties of the Company or any of its subsidiaries securing such obligations shall be released and terminated upon the payment of each Payoff Amount on the Closing Date (subject to delivery of funds as arranged by Parent and the filing of appropriate UCC-3 termination statements and other termination filings). Except as set forth in Section 7.15(d), the Company shall be unconditionally obligated to provide to the agent under each Company Credit Agreement the Payoff Amount required under each Payoff Letter substantially simultaneously with the Closing.

(c) Parent shall, promptly upon written request by the Company, reimburse the Company for all reasonable and documented out-of-pocket costs, fees and expenses (including attorneys fees and expenses) to the extent such costs, fees and expenses are incurred by the Company, its subsidiaries or their respective Representatives in connection with any such party complying with the obligations under this Section 7.14, and Parent shall indemnify and hold harmless the Company, its subsidiaries and their respective Representatives from and against any and all losses, damages, claims, interest, awards, judgments, penalties, costs or expenses suffered or incurred by them to the extent such losses, damages, claims, interest, awards, judgments, penalties, costs or expenses arose out of the actions taken by the Company, its subsidiaries or their respective Representatives pursuant to this Section 7.14 (other than information provided by the Company, its subsidiaries or Representatives in writing for express use therein), except in the event such losses, damages, claims, interest, awards, judgments, penalties, costs or expenses are determined by a final non-appealable judgment of a court of competent jurisdiction to have arisen out of or resulted from the gross negligence or willful misconduct of the Company, any of its subsidiaries or any of their respective Representatives.

Section 7.15 Redemptions.

(a) As soon as reasonably practicable after the receipt of any written request by Parent to do so, and without limiting the Company s ability to otherwise redeem, repurchase, tender, discharge or make an asset sale offer, the Company shall take all actions and prepare and deliver all other documents (including any officers certificates and legal opinions) as may be reasonably required under the applicable Company Indenture (i) to issue a notice of redemption for all of the outstanding aggregate principal amount of the applicable series of the Company s 9.25% Senior Notes due 2020 (the Company 2020 Notes), the Company s 6.75% Senior Notes due 2021 (the Company 2021 Notes) and the Company s 6.125% Senior Notes due 2023 (the Company 2023 Notes and, together with the Company 2020 Notes and the Company 2021 Notes, the Company Notes) (together with all accrued and unpaid interest and applicable premiums related to such series of Company Notes)

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pursuant to the applicable provisions of the applicable Company Indentures (such redemptions, the Redemptions); provided, however, that such notice shall not be required to be issued by the Company prior to the Effective Time unless the redemption provided for in such notice is conditioned on the occurrence of the Effective Time and such condition is permitted under the applicable Company Indenture governing the series of Company Notes that are the subject of such redemption as determined by the Company after consultation with its legal counsel, and (ii) (A) subject to Section 7.15(d), with respect to the Company 2020 Notes and Company 2021 Notes, irrevocably depositing with the applicable trustee on the Closing Date funds sufficient to pay in full the then outstanding aggregate principal amount of, accrued and unpaid interest through the redemption date on, and applicable premiums or consent payments related to, such series of Company Notes and to take such other actions as are necessary to cause the satisfaction and discharge of the applicable Company Indentures and such series of Company Notes substantially concurrently with the Closing and (B) with respect to the Company 2023 Notes, take such actions as are necessary to cause the satisfaction and discharge of the applicable Company Indentures and such series of Company Notes substantially concurrently with the Closing, subject to the irrevocable deposit by Parent with the applicable trustee on the Closing Date of funds sufficient to pay in full the then outstanding aggregate principal amount of, accrued and unpaid interest through the redemption date on, and applicable premiums or consent payments related to, such series of Company Notes, as arranged by Parent, after giving effect to the net cash proceeds from the transactions contemplated by the WBA Asset Purchase Agreement available therefor, less the Payoff Amounts required under Section 7.14(b), and with respect to the Company 2023 Notes, the amounts deposited with the applicable trustees in accordance with Section 7.15(a)(ii)(A). Parent shall assist the Company in connection with the foregoing; provided that, to the extent requested by Parent, the Company or the Company s counsel shall provide all legal opinions required in connection with the transactions contemplated by this Section 7.15 but, in the case of a redemption or satisfaction and discharge, only to the extent such notice of redemption is issued or such satisfaction and discharge is consummated, as applicable, on or prior to the Closing Date, it being understood that Parent s counsel shall provide all legal opinions required in connection therewith to the extent required after the Closing Date. Subject to the preceding sentence, the Company shall provide, and shall cause its subsidiaries to, and shall use its reasonable best efforts to cause their respective Representatives to, provide all cooperation reasonably requested by Parent in connection with the Redemptions (which for the avoidance of doubt shall not include any defeasance). Notwithstanding the foregoing, none of the provisions in this Section 7.15 shall restrict or prohibit the Company from voluntarily, without any request or instruction from Parent, taking any action or delivering any documents in connection with a redemption of any of the Company Notes, in whole or in part, or otherwise acquiring Company Notes, or making an asset sale prepayment offer in respect of any of the Company Notes at any time, provided that such redemptions be completed, or such Company Notes be otherwise satisfied and discharged, at or prior to the Effective Time (such redemptions or satisfaction and discharge, a Pre-Effective Time Redemption).

(b) Parent shall make available to the Company on or prior to the Effective Time all funds necessary to satisfy any obligations of the Company to the Company s debt holders under the Company 2020 Notes, Company 2021 Notes and Company 2023 Notes, in accordance with Section 7.15(d), that may arise as a result of the transactions contemplated by this Section 7.15, including any funds necessary to complete the Redemption of any Company Notes. Parent shall, promptly upon written request by the Company, reimburse the Company for all reasonable and documented out-of-pocket costs, fees and expenses (including attorneys fees and expenses) to the extent such costs, fees and expenses are incurred by the Company, its subsidiaries or their respective Representatives in connection with it complying with its obligations under this Section 7.15, and Parent shall indemnify and hold harmless the Company and its subsidiaries and Representatives from and against any and all losses, damages, claims, interest, awards, judgments, penalties, costs or expenses suffered or incurred by them to the extent such losses, damages, claims, interest, awards, judgments, penalties, costs or expenses arose out of the actions taken by the Company, its subsidiaries or its

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Representatives pursuant to this Section 7.15 (other than information provided in writing by the Company or its subsidiaries or Representatives), except in the event such losses, damages, claims, interest, awards, judgments, penalties, costs or expenses are determined by a final, non-appealable judgment of a court of competent jurisdiction to have arisen out of or resulted from the gross negligence or willful misconduct of the Company, any of its subsidiaries or any of their respective Representatives.

(c) Notwithstanding the foregoing, nothing in this Section 7.15 shall require the Company s cooperation to the extent it would (i) unreasonably disrupt the ordinary conduct of the business or operations of the Company or its subsidiaries, (ii) other than with respect to the net cash proceeds from the transactions contemplated by the WBA Asset Purchase Agreement used to fund the Redemptions as set forth elsewhere herein, require the Company or its subsidiaries to agree to pay any fees, reimburse any expenses or otherwise incur any liability or give any indemnities prior to the Effective Time unless Parent reimburses or is required to reimburse or indemnify the Company or its subsidiaries pursuant to this Agreement or otherwise agrees to do so, (iii) require the Company or its subsidiaries to take any action that would reasonably be expected, in the reasonable judgment of the Company, after consultation with its legal counsel, to conflict with, or result in any violation or breach of, any applicable Laws, order or any Contract of the Company, (iv) cause any representation or warranty in this Agreement to be breached or become inaccurate, cause any condition to the Closing to fail to be satisfied or otherwise cause any breach of this Agreement or (v) cause the Redemption of any Company Notes or the Payoff of the Company Credit Agreement in the event the Mergers are not consummated.

(d) Notwithstanding anything to the contrary contained in this Agreement, in the event that there remains any outstanding amounts or obligations under the Company 2020 Notes, Company 2021 Notes, Company 2023 Notes or Company Credit Agreement following the Company s use of the net cash proceeds received under the WBA Asset Purchase Agreement in accordance with Section 7.24 hereof, Parent shall make available to the Company on or prior to the Effective Time all funds necessary to satisfy any such remaining obligations under such Company 2020 Notes, Company 2021 Notes, Company 2023 Notes and Company Credit Agreement.

Section 7.16 Anti-Takeover Statute. If any fair price, moratorium, control share acquisition, business combination o other similar antitakeover statute or regulation enacted under any federal, state, local or foreign Laws applicable to the Parties is, or will be, applicable to this Agreement, the Mergers or the other transactions contemplated hereby, the Company, the Company Board, Parent and/or the Parent Board, as applicable, shall grant all such approvals and take all such actions within their control as are necessary so that the transactions contemplated hereby may be consummated as promptly as practicable on the terms contemplated hereby and shall otherwise act to eliminate or minimize the effects of such statute or regulation on such transactions contemplated hereby.

Section 7.17 Resignation of Directors. At the Closing, the Company shall use reasonable best efforts to cause all directors of the Company and, as specified by Parent reasonably in advance of the Closing, all directors of each subsidiary of the Company, in each case, to execute and deliver a letter effecting his or her resignation as a director (but not as an employee and without prejudice to such person s rights as an employee) of such entity effective at the Effective Time.

Section 7.18 Parent and the Merger Subs Financing Cooperation.

(a) Subject to Section 7.18(c), each of Parent and the Merger Subs shall use reasonable best efforts to take, or cause to be taken, such actions and do, or cause to be done, such things necessary, proper or advisable to arrange and obtain the Debt Financing contemplated by the Debt Commitment Letter and satisfy the conditions contained therein, including using reasonable best efforts

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to enforce in all material respects its rights under the Debt Commitment Letter. Parent shall keep the Company reasonably informed with respect to any material developments concerning the status of the Debt Financing and shall promptly respond to any written requests from the Company concerning such status. Parent agrees to notify the Company promptly, and in any event within two (2) Business Days, after Parent has knowledge thereof, if at any time prior to the Closing Date (i) the Debt Commitment Letter or any of the commitments with respect to the Debt Financing thereunder, any definitive financing agreement entered into in replacement of all or a portion of the Debt Financing contemplated by the Debt Commitment Letter, as applicable, shall expire or be terminated (except, in either case, in accordance with its terms or unless concurrently replaced by commitments from other financing sources or otherwise in accordance with the terms of Section 7.18(c)), (ii) for any reason, all or a portion of the Debt Financing under the Debt Commitment Letter becomes unavailable (except in accordance with its terms or unless concurrently replaced by commitments from other financing sources or from proceeds of other sources of financing or cash or otherwise in accordance with the terms of Section 7.18(c)) or (iii) any Financing Source or any other Person that is a party to the Debt Commitment Letter breaches, defaults or repudiates the Debt Commitment Letter or, to the knowledge of Parent, threatens in writing to do any of the foregoing and such breach, default or repudiation would reasonably be expected to adversely affect the conditionality, timing, availability or amount of the Debt Financing. If Parent becomes aware that any portion of the Debt Financing becomes unavailable under the Debt Commitment Letter, except in accordance with the terms of the Debt Commitment Letter or unless concurrently replaced by commitments from other financing sources or from proceeds of other sources of financing or cash or otherwise in accordance with the terms of Section 7.18(c), Parent shall use its reasonable best efforts to arrange and obtain in replacement thereof alternative financing from alternative sources in an amount sufficient to consummate the Mergers and the other transactions contemplated by this Agreement as promptly as practicable following the occurrence of such event (and Parent shall not agree or consent to such Debt Financing becoming unavailable except as permitted under Section 7.18(c)).

(b) In the event the Debt Financing (or any Permanent Financing) or any portion thereof is funded in advance of the Closing Date, then Parent, the Merger Subs or any other applicable subsidiary thereof shall keep and maintain at all times prior to the Closing Date the proceeds of the Debt Financing (or any Permanent Financing) available for the purpose of funding the transactions contemplated by this Agreement; provided that if the terms of the Debt Financing (or any Permanent Financing) require the proceeds of the Debt Financing (or the Permanent Financing) to be held in escrow (or similar arrangement) pending the consummation of the transactions contemplated under this Agreement, then such proceeds may be held in escrow, so long as the conditions to the release of such funds are no more onerous to Parent or the Merger Subs than the conditions to borrowing of the Debt Financing contemplated by the Debt Commitment Letter.

(c) Except as otherwise provided in this Section 7.18(c), neither Parent nor the Merger Subs shall agree to or permit any amendment, supplement, modification, termination or reduction of, or grant any waiver of, any condition, remedy or other provision under the Debt Commitment Letter without the prior written consent of the Company if such amendment, supplement, modification, termination, reduction or waiver would or would reasonably be expected to (i) delay or prevent the Closing, (ii) impose new or additional conditions or otherwise expand any of the conditions to the funding of the Debt Financing or reduce the amount of the Debt Financing that will be available on the Closing Date, (iii) materially adversely impact the ability of Parent or the Merger Subs to obtain the Debt Financing or (iv) materially adversely impact the ability of Parent or the Merger Subs to enforce its rights against the other parties to the Debt Commitment Letter; provided that, notwithstanding anything in this Section 7.18(c) or in Section 7.18(a) to the contrary, Parent or the Merger Subs may (A) amend, supplement or modify the Debt Commitment Letter to add lenders, lead arrangers, bookrunners, syndication agents or similar entities who had not executed the Debt Commitment Letter as of the date of this Agreement, and (B) enter into other debt financing arrangements and thereby reduce all or a

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portion of the aggregate amount of the Debt Financing by the amount of, or the amount of any commitment for, any such debt financing so long as the conditions to funding under such debt financing arrangements satisfy clause (ii) above (as determined by Parent in good faith) (any such debt financing, a Permanent Financing and, together with the Debt Financing, the Financing) Upon any amendment, supplement, modification, termination, reduction or waiver of the Debt Commitment Letter in accordance with this Section 7.18(c) or any replacement of the Debt Commitment Letter in accordance with Section 7.18(a), (i) references herein to Debt Commitment Letter shall include such document as amended, supplemented, modified, terminated, reduced or waived in compliance with this Section 7.18(c) or replaced in accordance with Section 7.18(a) and (ii) references to Debt Financing shall include the financing contemplated by the Debt Commitment Letter as amended, supplemented, modified or waived in compliance with this Section 7.18(c). To the extent that, after giving effect to any reductions contemplated by clause (B) above, no commitments remain outstanding under the Debt Commitment Letter, Parent may terminate the Debt Commitment Letter. To the extent any Company Indenture relating to the Company s 7.70% Notes due 2027 or the Company s 6.85% Notes due 2028 remains outstanding following the Closing and the terms of any Financing results in a guarantee or security interest being required under such Company Indenture, Parent and Merger Sub shall take all such action as is reasonably necessary (including, without limitation the providing of any required guaranty, security interest or certificate) such that no default or event of default occurs under such Company Indenture.

Section 7.19 Certain Tax Matters.

(a) Parent and the Company shall each use its reasonable best efforts to cause the Mergers, taken together, to qualify as a reorganization within the meaning of Section 368(a) of the Code, including (i) taking any action that such party knows would reasonably be expected to support such qualification, (ii) not taking any action that such party knows would reasonably be expected to prevent such qualification and (iii) considering and negotiating in good faith such amendments to this Agreement as may be reasonably required in order to obtain such qualification (it being understood that no party will be required to agree to any such amendment). Provided the opinion conditions contained in Section 8.2(d) and Section 8.3(d) of this Agreement have been satisfied, for federal income Tax purposes, each of the Company, Parent and the Merger Subs shall report the Mergers in a manner consistent with such qualification.

(b) Parent and the Company shall each use its reasonable best efforts to obtain the Tax opinions described in Section 8.2(d) and Section 8.3(d), and any other Tax opinion that may be required in connection with the preparation and filing of the Form S-4 and Proxy Statement/Prospectus, including by causing its officers to execute and deliver to the law firms delivering such Tax opinions certificates at such time or times as may reasonably be requested by such law firms. Each of the Company, Parent and the Merger Subs shall use its reasonable best efforts not to take or cause to be taken any action that would cause to be untrue (or fail to take or cause not to be taken any action which inaction would cause to be untrue) any of the representations included in the certificates described in this Section 7.19. Each Party s right to take any action disclosed on Section 5.1 of the Company Disclosure Schedule or Section 6.1 of the Parent Disclosure Schedule, as applicable, shall be subject to and subordinate to such Party s respective obligations under this Section 7.19.

Section 7.20 Governance.

(a) On or prior to the Effective Time, Parent s Board of Directors shall cause the number of directors that will constitute the full Board of Directors of Parent at the Effective Time to be nine (9). The Board of Directors of Parent at the Effective Time shall be composed of: (i) Robert G. Miller, who shall be Chairman, and Lenard B. Tessler, who shall be Lead Director (provided, however, that if either Mr. Miller or Mr. Tessler is unable to so serve, their replacement shall be designated in writing by

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Parent); (ii) John T. Standley (provided, however, that if Mr. Standley is unable to so serve, his replacement shall be designated in writing by the Company); (iii) two (2) directors designated in writing by Parent, at least one of whom shall be qualify as independent under the listing rules of the NYSE and shall not be a partner or employee of Cerberus or its Affiliates (including its portfolio companies), or of a co-investor in Parent (or its Affiliates (including its portfolio companies)) as of immediately prior to the Mergers; (iv) three (3) directors designated in writing by the Company, each of whom who shall qualify as independent under the listing rules of the NYSE; and (v) one (1) director jointly designed by Parent and the Company, who shall be qualify as independent under the listing rules of the NYSE and who shall not be a partner or employee of Cerberus or its Affiliates (including its portfolio companies), or of a co-investor in Parent (or its Affiliates (including its portfolio companies)) as of immediately prior to the Mergers.

(b) Subject to Section 7.20(a), Parent s Board of Directors shall take all necessary action to nominate and cause, from and after the Effective Time:

(i) until such time as Cerberus Capital Management, L.P. and its controlled affiliated investment funds and managed accounts (collectively, Cerberus) ceases to hold at least at least ten percent (10%) of the issued and outstanding shares of Parent Common Stock, two (2) individuals designated in writing by Cerberus to be elected to Parent s Board of Directors; and

(ii) from and after the time that Cerberus ceases to hold at least ten percent (10%) of the issued and outstanding shares of Parent Common Stock and until such time as Cerberus ceases to hold at least five percent (5%) of the issued and outstanding shares of Parent Common Stock, one (1) individual designated in writing by Cerberus to be elected to Parent s Board of Directors.

(c) Until such time as Cerberus ceases to hold at least fifteen percent (15%) of the issued and outstanding shares of Parent Common Stock, Parent s Board of Directors shall take all necessary action to cause a director designated in writing by Cerberus to be elected as Lead Director and if Robert Miller has ceased to be Chairman, a director designated by Cerberus to be Chairman, provided that either the Lead Director or the Chairman shall qualify as independent under the listing rules of the NYSE and shall not be a partner or employee of Cerberus or its Affiliates (including its portfolio companies) or of a co-investor in Parent (or its Affiliates (including its portfolio companies)) as of immediately prior to the Mergers.

(d) From and after the time that Cerberus ceases to hold at least fifteen percent (15%) of the issued and outstanding shares of Parent Common Stock and until such time as Cerberus ceases to hold at least ten percent (10%) of the issued and outstanding shares of Parent Common Stock, Parent s Board of Directors shall take all action necessary to cause a director designated in writing by Cerberus to be elected as Lead Director.

(e) Immediately after the Effective Time, Parent will have co-corporate headquarters in Boise, Idaho, and in the Harrisburg, Pennsylvania metropolitan area.

Section 7.21 Registration Rights Agreement; Lock-Up Agreement; No Action Agreement. At the Effective Time, Parent and the holders of Parent Common Stock, after giving effect to the distribution contemplated by Section 8.3(e), but prior to the consummation of the Mergers, shall execute and deliver a Registration Rights Agreement and Lock-Up Agreement, substantially in the forms attached hereto as Exhibit A and Exhibit B. At or prior to the Effective Time, Parent shall, and shall cause each of Cerberus, Schottenstein Stores Corporation, Klaff Realty, LP, Kimco Realty Corporation and Lubert-Adler Partners, L.P. to, execute and deliver a No Action Agreement, substantially in the form attached hereto as Exhibit C, which shall be effective at the Closing.

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Section 7.22 Termination of Agreements. Prior to the Effective Time, Parent shall, and shall cause its subsidiaries to, (a) terminate the Parent Stockholders Agreement and any other agreement with respect to the voting of any capital stock or voting securities of, or voting of other equity interests in, Parent, without any continuing liabilities or obligations for Parent, the Company or any of their subsidiaries, other than the Registration Rights Agreement and Lock-Up Agreement to be entered into pursuant to Section 7.21, and (b) take all action necessary to terminate or amend any agreement to which Parent or any of its subsidiaries is a party that provides for the payment of a management fee or any other payments to any stockholder of Parent such that no management fees or any other payments remain payable to any stockholder of Parent after the date hereof.

Section 7.23 Assumption of Certain Obligations. Parent shall, upon consummation of the Mergers, assume (including by operation of Law) any remaining obligations of the Company under the WBA Asset Purchase Agreement, the Transition Services Agreement, dated as of October 17, 2017, by and between the Company and Walgreen Co. and the Transitional Trademark License Agreement, dated as of October 17, 2017, by and among the Company, Walgreen Co. and Name Rite, L.L.C.

Section 7.24 Use of Proceeds. An amount equal to the net proceeds received by the Company under the WBA Asset Purchase Agreement shall be, or shall have been, used to (a) redeem or otherwise repurchase the Company 2020 Notes and the Company 2021 Notes pursuant to Section 7.15(a), (b) effect a Pre-Effective Time Redemption pursuant to Section 7.15(a) and Section 7.15(d), (c) pay down amounts due under the Company Credit Agreement, the Company s Tranche 1 Term Loan due August 2020, or the Company s Tranche 2 Term Loan due June 2021, or (d) extinguish current liabilities associated with the stores sold and employees transferred to the extent such liabilities exceed current assets retained associated with the stores sold. Notwithstanding the foregoing, pending application of such net cash proceeds, the Company may temporarily reduce Company Credit Agreement borrowings without a reduction in commitments.

Section 7.25 Share Limitation. Notwithstanding anything herein to the contrary, immediately prior to the Effective Time, (a) Parent shall have no shares of Parent Preferred Stock and no more than 282,877,942 shares of Parent Common Stock (including any phantom units and management incentive units) and (b) the Company shall have no shares of Company Preferred Stock and no more than 1,118,750,658 shares of Company Common Stock (assuming the Rights Plan has not been triggered and not including any Company RSU that by its terms provides for settlement in cash), in each case, outstanding on a fully diluted, as converted and as exercised basis.

ARTICLE VIII

CONDITIONS OF MERGER

Section 8.1 Conditions to Obligations of Each Party to Effect the Mergers. The respective obligations of each Party to effect the Mergers shall be subject to the satisfaction (or, to the extent permitted by applicable Law, waiver by each of the Company and Parent) at or prior to the Closing of the following conditions:

(a) Stockholder Approval. The Company shall have obtained the Company Requisite Vote;

(b) No Legal Restraints. No Law or injunction (whether temporary, preliminary or permanent) shall have been enacted, entered, promulgated or enforced by any Governmental Entity of competent jurisdiction (collectively, the Legal Restraints) that prevents, makes illegal, prohibits, restrains or enjoins the consummation of the Mergers;

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(c) Antitrust Consents. The waiting period (and any extension thereof) applicable to the consummation of the Mergers under the HSR Act shall have expired or been earlier terminated;

(d) NYSE Listing. The shares of Parent Common Stock to be issued in the Merger and such other shares to be reserved for issuance in connection with the Merger shall have been approved for listing on the NYSE, subject to official notice of issuance;

(e) Form S-4. The Form S-4 shall have become effective under the Securities Act, and no stop order suspending the effectiveness of the Form S-4 shall have been issued and no Proceedings for that purpose shall have been initiated by the SEC; and

(f) WBA Asset Purchase Agreement Proceeds. The Company shall have received no less than $4.076 billion of gross proceeds under the WBA Asset Purchase Agreement pursuant to the terms of the WBA Asset Purchase Agreement, including the amount of gross proceeds set forth on Section 8.1(f) of the Company Disclosure Schedule that have been received by the Company on or prior to the date hereof.

(g) Other Regulatory Approvals. The Consent of the Governmental Entity set forth on Section 8.1(g) of the Company Disclosure Schedule shall have been obtained.

Section 8.2 Conditions to Obligations of Parent and the Merger Subs. The obligations of Parent and the Merger Subs to effect the Mergers shall be further subject to the satisfaction (or, to the extent permitted by applicable Law, waiver by Parent) at or prior to the Closing of the following conditions:

(a) Representations and Warranties. (i) The representations and warranties of the Company set forth in the first sentence of Section 3.1 (*Organization and Qualification; Subsidiaries*), Section 3.4 (*Authority*), Section 3.12 (*Absence of Certain Changes and Events*) and Section 3.22 (*Brokers*) shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of such date and time (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date), (ii) the representations and warranties of the Company set forth in Section 3.3(a) and the first sentence and clause (i) of the second sentence of Section 3.3(b) (*Capitalization*) shall be true and correct in all but *de minimis* respects as of the date of this Agreement and as of the Closing Date as though made on and as of such date and time (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct in all but *de minimis* respects as of such earlier date) and (iii) the representations and warranties of the Company set forth in this Agreement (other than those identified in clauses (i) and (ii)) shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of such date and time (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date), except to the extent the failure of such representations and warranties of the Company to be so true and correct (without giving effect to any Material Adverse Effect, materiality or similar qualifications contained therein), individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect;

(b) Performance of Obligations of the Company. The Company shall have performed in all material respects each of the obligations, and complied in all material respects with each of the agreements and covenants, required to be performed by, or complied with by, it under this Agreement at or prior to the Closing;

(c) Certificate. Parent shall have received a certificate of the Chief Executive Officer or the Chief Financial Officer of the Company certifying that the conditions set forth in Section 8.2(a), Section 8.2(b) and Section 8.2(e) have been

satisfied;

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(d) Company Tax Opinion. The Company shall have received an opinion of Skadden, Arps, Slate, Meagher & Flom LLP, Tax counsel to the Company, on the basis of certain facts, representations and assumptions set forth in such opinion, dated as of the date on which the Effective Time occurs, to the effect that the Mergers, taken together, will qualify as a reorganization within the meaning of Section 368(a) of the Code. In rendering such opinion, Skadden, Arps, Slate, Meagher & Flom LLP shall be entitled to rely upon the representations of officers of the Company and Parent made in the manner specified in Section 7.19(b); and

(e) No Company Material Adverse Effect. Since the date of this Agreement, there shall not have occurred a Company Material Adverse Effect.

Section 8.3 Conditions to Obligations of the Company. The obligation of the Company to effect the Mergers shall be further subject to the satisfaction (or, to the extent permitted by applicable Law, waiver by the Company) at or prior to the Closing of the following conditions:

(a) Representations and Warranties. (i) The representations and warranties of Parent and the Merger Subs set forth in the first sentence of Section 4.1 (*Organization and Qualification; Subsidiaries*), Section 4.4 (*Authority*); Section 4.10(b) (*Absence of Certain Changes and Events)* and Section 4.19 (*Brokers)* shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of such date and time (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date); (ii) the representations and warranties of Parent and the Merger Subs set forth in Section 4.3(a) and the first sentence and clause (i) of the second sentence of Section 4.3(b) (*Capitalization*) shall be true and correct in all but *de minimis* respects as of the date of this Agreement and as of the Closing Date as though made on and as of such date and time (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct in all but *de minimis* respects as of such earlier date); and (iii) the representations and warranties of Parent set forth in this Agreement (other than those identified in clauses (i) and (ii)) shall be true and correct as of the date of this Agreement and as of the Closing Date as though made on and as of such date and time (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be true and correct as of such earlier date), except to the extent the failure of such representations and warranties of Parent to be so true and correct (without giving effect to any Material Adverse Effect, materiality or similar qualifications contained therein), individually or in the aggregate, has had or would reasonably be expected to have a Parent Material Adverse Effect;

(b) Performance of Obligations of Parent and the Merger Subs. Each of Parent and the Merger Subs shall have performed in all material respects each of the obligations, and complied in all material respects with each of the agreements and covenants, required to be performed by, or complied with by, it under this Agreement at or prior to the Closing;

(c) Certificate. The Company shall have received a certificate of the Chief Executive Officer or the Chief Financial Officer of Parent, certifying that the conditions set forth in Section 8.3(a), Section 8.3(b) and Section 8.3(f) have been satisfied;

(d) Parent Tax Opinion. Parent shall have received an opinion of Schulte, Roth & Zabel LLP, Tax counsel to Parent, on the basis of certain facts, representations and assumptions set forth in such opinion, dated as of the date on which the Effective Time occurs, to the effect that the Mergers, taken together, will qualify as a reorganization within the meaning of Section 368(a) of the Code. In rendering such opinion, Schulte Roth & Zabel LLP shall be entitled to rely upon the representations of officers of the Company and Parent made in the manner specified in Section 7.19(b);

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(e) Distribution of Parent Stock. Albertsons Investor Holdings LLC shall have distributed all Parent Common Stock held by it to its respective equity holders;

(f) No Parent Material Adverse Effect. Since the date of this Agreement, there shall not have occurred a Parent Material Adverse Effect; and

(g) Additional Agreements. Parent shall have delivered to the Company the Lock-Up Agreement, No Action Agreement and the Standstill Agreement, substantially in the form attached hereto as Exhibit B, Exhibit C and Exhibit D, respectively, and such agreements shall remain in full force and effect as of the Closing.

ARTICLE IX

TERMINATION

Section 9.1 Termination. This Agreement may be terminated and the Mergers may be abandoned at any time prior to the Effective Time, notwithstanding the adoption of this Agreement by the stockholders of the Company (except in the case of a termination pursuant to Section 9.1(d)(ii), which may only be invoked prior to the receipt of the Company Requisite Vote):

(a) by mutual written consent of Parent and the Company;

(b) by Parent or the Company if any court of competent jurisdiction or other Governmental Entity shall have issued a Legal Restraint that prevents, makes illegal, prohibits, restrains or enjoins the consummation of the Mergers and such Legal Restraint is or shall have become final and nonappealable; provided that the right to terminate this Agreement pursuant to this Section 9.1(b) shall not be available to a Party whose breach of this Agreement was the primary cause of, or primarily resulted in, the issuance of such Legal Restraint;

(c) by either Parent or the Company if the Effective Time shall not have occurred on or before August 18, 2018 (the End Date); provided that the right to terminate this Agreement pursuant to this Section 9.1(c) shall not be available to a Party whose breach of this Agreement was the primary cause of, or primarily resulted in, the failure of the Effective Time to occur on or before the End Date; provided, further, that, if on the End Date all of the conditions set forth in Section 8.2 and Section 8.3 have been satisfied (or, with respect to the conditions that by their terms must be satisfied at the Closing, would have been so satisfied if the Closing would have occurred) or remain capable of being satisfied but any of the conditions set forth in Section 8.1(a) (due to the Company Stockholders Meeting not having been held yet), Section 8.1(c), Section 8.1(e) and/or Section 8.1(g) has not been satisfied, then either Parent or the Company may extend the End Date to November 18, 2018 by delivery of written notice of such extension to the other party not less than three (3) Business Days prior to the End Date, in which case the End Date shall be deemed for all purposes to be such later date;

(d) by written notice of the Company to Parent:

(i) if there shall have been a breach of any (i) representation or warranty or (ii) covenant or agreement on the part of Parent or the Merger Subs contained in this Agreement, or any such representation or warranty shall have become inaccurate, such that the conditions set forth in Section 8.3(a) or Section 8.3(b) would not be satisfied, and such breach or inaccuracy has not been cured within thirty (30) days after the receipt of notice thereof or such breach or inaccuracy is not reasonably capable of being cured within such period; provided that the

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Company shall not have the right to terminate this Agreement pursuant to this Section 9.1(d) if the Company is then (A) in material breach of any of its covenants or agreements contained in this Agreement; or (B) in breach of any of its representations or warranties contained in this Agreement and the failure of such representations and warranties of the Company to be so true and correct (without giving effect to any Material Adverse Effect, materiality or similar qualifications contained therein), individually or in the aggregate, has had or would reasonably be expected to have a Company Material Adverse Effect;

(ii) prior to, but not after, obtaining the Company Requisite Vote, in accordance with, and subject to compliance with the terms and conditions of, Section 7.1(c);

(e) by written notice of Parent to the Company if:

(i) there shall have been a breach of any (A) representation or warranty or (B) covenant or agreement on the part of the Company contained in this Agreement, or any such representation or warranty shall have become inaccurate, such that the conditions set forth in Section 8.2(a) or Section 8.2(b) would not be satisfied, and such breach or inaccuracy has not been cured within thirty (30) days after the receipt of notice thereof or such breach or inaccuracy is not reasonably capable of being cured within such period; provided that Parent shall not have the right to terminate this Agreement pursuant to this Section 9.1(e)(i) if Parent or the Merger Subs are then (1) in material breach of any of its covenants or agreements contained in this Agreement or (2) in breach of any of its representations or warranties contained in this Agreement, and the failure of such representations and warranties of Parent or the Merger Subs to be so true and correct (without giving effect to any Material Adverse Effect, materiality or similar qualifications contained therein), individually or in the aggregate, has had or would reasonably be expected to have a Parent Material Adverse Effect; or

(ii) the Company Board shall have made a Change of Recommendation; or

(f) by either Parent or the Company if the Company Requisite Vote shall not have been obtained at the Company Stockholders Meeting duly convened therefor or at any adjournment or postponement thereof, in each case, at which a vote on the adoption of this Agreement was taken.

Section 9.2 Effect of Termination.

(a) In the event of the termination of this Agreement pursuant to Section 9.1, this Agreement shall forthwith become void and there shall be no liability or obligation on the part of any Party, except as provided in Section 7.6(b), Section 7.8, this Section 9.2, Section 9.3 and Article X, which shall survive such termination; provided, however, that nothing herein shall relieve any Party of any liability for damages resulting from fraud or Willful Breach prior to such termination by any Party (which the Parties acknowledge and agree shall be determined by a court of competent jurisdiction in accordance with Section 10.13 applying the governing Law in accordance with Section 10.9), in which case the aggrieved Party shall be entitled to all rights and remedies available at law or equity. Notwithstanding anything contained in this Agreement to the contrary, Parent expressly acknowledges and agrees that Parent s and the Merger Subs obligations hereunder are not conditioned in any manner upon Parent or the Merger Subs obtaining any financing. The failure, for any reason, of Parent or the Merger Subs to consummate the Mergers and the other transactions contemplated by this Agreement on the date that the Closing is required to occur pursuant to Section 1.2 hereof shall constitute a Willful Breach of this Agreement by Parent and the Merger Subs. The Parties acknowledge and agree that (i) nothing in this Section 9.2 shall be deemed to affect their right to specific performance under Section 10.12 and (ii) no termination of this Agreement shall affect the obligations of the Parties contained in the Confidentiality Agreement and Clean Room Agreement.

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(b) In the event that:

(i) this Agreement is terminated (x) by the Company pursuant to Section 9.1(d)(ii) or (y) by Parent pursuant to Section 9.1(e)(ii) (provided that such termination was not the result of a Parent Material Adverse Effect), then the Company shall pay $65 million (the Company Termination Fee) to Parent (or its designee), at or prior to the time of termination and as a condition to such termination in the case of a termination by the Company or as promptly as reasonably practicable in the case of a termination pursuant by Parent (and, in any event, within two (2) Business Days following such termination), payable by wire transfer of immediately available funds to an account designated by Parent;

(ii) this Agreement is terminated by either Parent or the Company pursuant to Section 9.1(f), or by Parent pursuant to Section 9.1(e)(i) or by either Parent or the Company pursuant to Section 9.1(c), and (A) at any time after the date of this Agreement, but prior to the date of the Company Stockholders Meeting (in the case of Section 9.1(f)), prior to the breach giving rise to such right of termination (in the case of Section 9.1(e)(i)) or prior to such termination (in the case of Section 9.1(c)), any Person shall have publicly announced an intention (whether or not conditional) to make an Acquisition Proposal, or an Acquisition Proposal shall have otherwise become publicly known, and (B) within twelve (12) months after such termination, the Company or any of its subsidiaries shall have entered into a definitive agreement with respect to an Acquisition Proposal (regardless of whether consummated), or an Acquisition Proposal shall have been consummated involving the Company or any of its subsidiaries (whether or not involving the same Acquisition Proposal as that which was publicly announced or otherwise became publicly known prior to such termination), then, in any such event, the Company shall pay to Parent (or its designee) the Company Termination Fee, at or prior to the earlier to occur of the Company entering into a definitive agreement with respect to such Acquisition Proposal or the consummation of such Acquisition Proposal, payable by wire transfer of immediately available funds to an account designated by Parent; provided, however, that for purposes of this Section 9.2(b)(ii), references to twenty percent (20%) in the definition of Acquisition Proposal shall be deemed to be references to fifty percent (50%) ;

(iii) this Agreement is terminated by either the Company or Parent pursuant to Section 9.1(f) and, prior to the Company Requisite Vote having not been obtained, (i) an Acquisition Proposal has been publicly announced and (ii) the Company Board has made a Change of Recommendation or taken no position on such Acquisition Proposal, then the Company shall promptly, but in no event later than two (2) days after being notified of such by Parent, pay to Parent (or its designee) all of the documented out-of-pocket expenses incurred by Parent or the Merger Subs in connection with or related to the authorization, preparation, negotiation, execution and performance of this Agreement and the transactions contemplated by this Agreement up to a maximum amount of $10 million, payable by wire transfer of immediately available funds; provided that any amounts paid under this Section 9.2(b)(iii) shall be credited (without interest) against any Company Termination Fee if paid to Parent (or its designee) pursuant to the terms of this Agreement; and

(iv) this Agreement is terminated by Parent or the Company, as applicable, pursuant to (x) Section 9.1(b) and the applicable Legal Restraint giving rise to such termination right is issued under or pursuant to any Antitrust Law or (y) Section 9.1(c), and, in either case of clause (x) or (y), on the termination date the only conditions to closing set forth in Section 8.1 or Section 8.2 that have not been satisfied (other than those conditions that by their nature are to be satisfied at the Closing, which conditions would be capable of being satisfied at the Closing if the Closing Date were on the termination date) are the conditions set forth in Section 8.1(b) (but only if the applicable Legal Restraint causing such condition not to be satisfied is issued under or pursuant to any Antitrust Law) and/or Section 8.1(c), then Parent shall pay $65 million (the Parent Termination Fee) to the Company (or its designee) by wire transfer of immediately available

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funds to the account designated by the Company, at or prior to the time of termination in the case of a termination by Parent, or as promptly as reasonably practicable (and, in any event, within two (2) Business Days following such termination) in the case of a termination by the Company; provided, that Parent shall not be required to pay the Company the Parent Termination Fee if Parent confirms in writing that Parent is willing to agree to the sale, divestiture or disposition of assets of the Company or its subsidiaries in excess of the threshold set forth in Section 7.4(d) in order to obtain any required Antitrust Consents and the Company determines, subject to the proviso set forth in Section 7.4(e) not to agree to such a sale, divestiture or disposition.

(c) The Parties acknowledge and hereby agree that in no event shall the Company be required to pay the Company Termination Fee, or Parent be required to pay the Parent Termination Fee, on more than one occasion.

(d) Except in the case of fraud or Willful Breach, each Party agrees that notwithstanding anything in this Agreement to the contrary, (i) in the event that the Company Termination Fee becomes payable and is actually paid to Parent in accordance with this Section 9.2, the payment of such Company Termination Fee (and any amounts payable under Section 9.2(b)(iii)) shall be the sole and exclusive remedy of Parent, the Merger Subs, and their respective subsidiaries, stockholders, Affiliates, officers, directors, employees and Representatives against the Company or any of its Representatives or Affiliates and (ii) in no event will Parent, the Merger Subs or their respective subsidiaries seek to recover any other money damages or seek any other remedy based on a claim at law or in equity with respect to, in the case of each of clauses (i) and (ii), (A) any loss suffered, directly or indirectly, as a result of the failure of the Mergers to be consummated, (B) the termination of this Agreement, (C) any liabilities or obligations arising under this Agreement, or (D) any claims or actions arising out of or relating to any breach, termination or failure of or under this Agreement, and (iii) upon payment of any Company Termination Fee in accordance with this Section 9.2 (and any amounts payable under Section 9.2(b)(iii)), neither the Company nor any of its Affiliates or Representatives shall have any further liability or obligation to Parent, the Merger Subs or any of their respective subsidiaries relating to or arising out of this Agreement or the transactions contemplated hereby.

(e) Except in the case of fraud or Willful Breach, each Party agrees that notwithstanding anything in this Agreement to the contrary, (i) in the event that the Parent Termination Fee becomes payable and is actually paid to the Company in accordance with this Section 9.2, the payment of such Parent Termination Fee shall be the sole and exclusive remedy of the Company and its subsidiaries, stockholders, Affiliates, officers, directors, employees and Representatives against Parent, the Merger Subs or any of their respective Representatives or Affiliates and (ii) in no event will the Company or its subsidiaries seek to recover any other money damages or seek any other remedy based on a claim at law or in equity with respect to, in the case of each of clauses (i) and (ii), (A) any loss suffered, directly or indirectly, as a result of the failure of the Mergers to be consummated, (B) the termination of this Agreement, (C) any liabilities or obligations arising under this Agreement, or (D) any claims or actions arising out of or relating to any breach, termination or failure of or under this Agreement, and (iii) upon payment of any Parent Termination Fee in accordance with this Section 9.2, none of Parent, the Merger Subs or any of their respective Affiliates or Representatives shall have any further liability or obligation to the Company or any of its subsidiaries relating to or arising out of this Agreement or the transactions contemplated hereby.

(f) Each of the Company, Parent and the Merger Subs acknowledges that the agreements contained in this Section 9.2 are an integral part of the transactions contemplated by this Agreement and that, without these agreements, the Parties would not enter into this Agreement. Accordingly, if any Party fails to promptly pay any amount due pursuant to this Section 9.2, and the other Party commences a Proceeding that results in a judgment against the failing Party for the amount set forth in this Section 9.2 or a portion thereof, the failing Party shall pay to the other Party all fees, costs and

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expenses of enforcement (including attorney s fees as well as expenses incurred in connection with any such action), together with interest on such amount or such portion thereof at the prime lending rate as published in the *Wall Street Journal*, in effect on the date such payment is required to be made.

Section 9.3 Expenses. Except as otherwise specifically provided herein (and any amounts payable under Section 9.2(b)(iii)), each Party shall bear its own expenses in connection with this Agreement and the transactions contemplated hereby.

ARTICLE X

GENERAL PROVISIONS

Section 10.1 Non-Survival of Representations, Warranties, Covenants and Agreements. None of the representations, warranties, covenants and agreements in this Agreement or in any instrument delivered pursuant to this Agreement, including any rights arising out of any breach of such representations, warranties, covenants and agreements, shall survive the Effective Time, except for (a) those covenants and agreements contained herein that by their terms apply or are to be performed in whole or in part after the Effective Time or after the termination of this Agreement and (b) those contained in this Article X.

Section 10.2 Modification or Amendment. Subject to the provisions of applicable Law, at any time prior to the Effective Time, the Parties (by action of their respective boards of directors) may modify, amend or supplement this Agreement only by written agreement, executed and delivered by duly authorized officers of the respective Parties; provided, however, that unless otherwise agreed by the Parties, after the Company Requisite Vote has been obtained there shall be no amendment of this Agreement that would require the further approval of the stockholders of the Company under applicable Law without such approval having first been obtained; provided, further, that notwithstanding anything to the contrary contained herein, this Section 10.2, Section 10.8, Section 10.13, Section 10.14, Section 10.15 and any definitions or other provisions to the extent that they affect or modify such Sections, shall not be amended, modified, supplemented or waived, and no consent shall be given thereunder, in each case in any manner that is adverse to the interests of the Financing Sources without their prior written consent.

Section 10.3 Waiver. At any time prior to the Effective Time, any Party may (a) extend the time for the performance of any of the obligations or other acts of the other Parties, (b) waive any inaccuracies in the representations and warranties contained herein or in any document delivered pursuant hereto and (c) subject to the requirements of applicable Law, waive compliance with any of the agreements or conditions contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party or Parties to be bound thereby and specifically referencing this Agreement. The failure of any Party to assert any rights or remedies shall not constitute a waiver of such rights or remedies.

Section 10.4 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given by delivery in person, by facsimile or by email (with affirmative confirmation of receipt by the receiving Party), by registered or certified mail (with postage prepaid, return receipt requested) or by a nationally recognized courier service (with signed

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confirmation of receipt) to the respective Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

(a) if to the Company:

Rite Aid Corporation

30 Hunter Lane

Camp Hill, PA 17011

Attention: James J. Comitale

Facsimile: (717) 760-7867

Email: jcomitale@riteaid.com

with an additional copy (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP

4 Times Square

New York, NY 10036

Attention: Paul T. Schnell

Marie L. Gibson

Facsimile: (212) 735-2000

Email: paul.schnell@skadden.com

marie.gibson@skadden.com

(b) if to Parent or the Merger Subs:

Albertsons Companies, Inc.

250 Parkcenter Boulevard

Boise, ID 83706

Attention: Robert A. Gordon

Facsimile: (208) 395-6575

Email: robert.gordon@albertsons.com

with an additional copy (which shall not constitute notice) to:

Schulte Roth & Zabel LLP

919 Third Avenue

New York, NY 10022

Attention: Stuart D. Freedman

Michael Gilligan

Facsimile: (212) 593-5955

Email: stuart.freedman@srz.com

michael.gilligan@srz.com

Any such notification shall be deemed delivered (i) upon receipt, if delivered personally, (ii) on the next Business Day, if sent by nationally recognized courier service for next Business Day delivery, or (iii) the Business Day received, if sent by facsimile, email or registered or certified mail (provided that any notice received by facsimile transmission, email or registered or certified mail at the addressee s location on any non-Business Day or any Business Day after 5:00 p.m. (addressee s local time) shall be deemed to have been received at 9:00 a.m. (addressee s local time) on the next Business Day).

Section 10.5 Certain Definitions. For purposes of this Agreement, the term:

(a) Acceptable Confidentiality Agreement means a confidentiality agreement on terms (including standstill restrictions; provided that such standstill restrictions need not restrict a Person from making an offer or proposal to the Company (including the Company Board) in respect of an

Acquisition Proposal) substantially no less restrictive to the Company s counterparty thereto than those contained in the Confidentiality Agreement as in effect immediately prior to the execution of this Agreement (except for such changes necessary in order for the Company to be able to comply with its obligations under this Agreement) and which does not restrict the Company from providing the access, information or data required to be provided to Parent pursuant to Section 7.1;

(b) Affiliate means, with respect to any Person, any other Person directly or indirectly, controlling, controlled by, or under common control with, such Person;

(c) Antitrust Law means the Sherman Antitrust Act of 1890, the Clayton Antitrust Act of 1914, the HSR Act, the Federal Trade Commission Act of 1914, and all other Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition;

(d) Business Day means any day other than a Saturday or Sunday or a day on which banks are required or authorized to close in the United States in the City of New York, New York;

(e) Clean Room Agreement means that certain Clean Team Agreement, dated as of November 17, 2017, by and between the Company, together with its subsidiaries and affiliates, and Apple, LLC, together with its subsidiaries and affiliates, including Cerberus Capital Management, L.P.;

(f) Code means the U.S. Internal Revenue Code of 1986, as amended from time to time, and any successor statute or statutes;

(g) Company Credit Agreement means the Amended and Restated Credit Agreement, dated as of June 27, 2001, as amended and restated as of January 13, 2015, among the Company, the lenders from time to time party thereto and Citicorp North America, Inc., as administrative agent and collateral agent, in each case, as amended, restated, amended and restated, supplemented or otherwise modified from time to time;

(h) Company Indentures means, collectively, (i) the Indenture dated as of August 1, 1993, between the Company and Morgan Guaranty Trust Company of New York, as trustee, as supplemented by the Supplemental Indenture dated as of February 3, 2000, related to the Company s 7.70% Notes due 2027; (ii) the Indenture dated as of December 21, 1998, between the Company and Harris Trust and Savings Bank, as trustee, as supplemented by the Supplemental Indenture dated as of February 3, 2000, related to the Company s 6.875% Notes due 2028; (iii) the Indenture dated as of February 27, 2012, among the Company, the subsidiary guarantors named therein and The Bank of New York Mellon Trust Company, N.A., as trustee, as supplemented by the First Supplemental Indenture dated as of May 15, 2012, related to the Company s 9.25% Senior Notes due 2020; (iv) the Indenture dated as of July 2, 2013, among the Company, the subsidiary guarantors named therein and The Bank of New York Mellon Trust Company, N.A., as trustee, related to the Company s 6.75% Senior Notes due 2021 and (v) the Indenture dated as of April 2, 2015, among the Company, the subsidiary guarantors named therein and The Bank of New York Mellon Trust Company, N.A., as trustee, related to the Company s 6.125% Senior Notes due 2023;

(i) Company Material Adverse Effect means any event, development, circumstance, change, effect, condition, or occurrence that, individually or in the aggregate, with all other events, developments, circumstances, changes, effects, conditions or occurrences, (i) has, or would reasonably be expected to have, a material adverse effect on or with respect to the business, assets, liabilities, results of operations or financial condition of the Company and its subsidiaries, taken as a whole or (ii) prevents, materially delays or materially impairs the ability of the Company to consummate the Mergers and the other transactions contemplated by this Agreement; provided, however, in the

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case of clause (i), any event, development, circumstance, change, effect, condition or occurrence to the extent arising out of or resulting from any of the following after the date hereof shall not be deemed, either alone or in combination, to constitute or be taken into account in determining whether there has been a Company Material Adverse Effect: (A) any change or development generally affecting the economy or the financial, debt, capital, credit or securities markets in the United States or elsewhere in the world, including as a result of changes or developments in prevailing interest or exchange rates or the disruption of any securities markets, (B) national or international political or social conditions, (C) the execution and delivery of this Agreement or the public announcement or pendency of the Mergers or other transactions contemplated hereby, including the impact thereof on relationships, contractual or otherwise, with customers, suppliers, distributors, or employees of the Company or its subsidiaries, (D) any change in any applicable Laws or applicable accounting regulations or principles, including GAAP, or interpretations thereof, (E) any hurricane, tornado, earthquake, flood, tsunami or other natural disaster or outbreak or escalation of hostilities or war (whether or not declared), military actions or any act of sabotage, terrorism or other international or national emergency, or other force majeure event or natural disaster or act of God or other comparable events, (F) any change in the price or trading volume of Company Common Stock or the credit rating of the Company, in and of itself, (G) any failure by the Company to meet (1) any published analyst estimates, expectations, projections or forecasts of the Company s revenue, earnings, cash flow, cash positions or other financial performance or results of operations for any period or (2) its internal or published projections, budgets, plans, forecasts, guidance, estimates, milestones of its revenues, earnings or other financial performance or results of operations, in and of itself (provided that the underlying cause of such failure may be considered), (H) any change or development in the industries in which the Company and its subsidiaries operate, (I) the identity of Parent or its subsidiaries, (J) any communication by Parent or its subsidiaries regarding the plans or intentions of Parent with respect to the conduct of the business of the Surviving Company or its subsidiaries or (K) any action taken by the Company, or which the Company causes to be taken by any of its subsidiaries, in each case which is expressly required or permitted by this Agreement (other than pursuant to clause (a) of Section 5.1) or at Parent s express written request; except (1) to the extent (and only to the extent) any such event, development, circumstance, change, effect, condition or occurrence described in clauses (A), (B), (D), (E) or (H) is disproportionately adverse to the business, assets, liabilities, results of operations or financial condition of the Company and its subsidiaries, taken as a whole, as compared to other participants in the industries in which the Company and its subsidiaries operate and (2) that clauses (F) and (G) shall not prevent or otherwise affect a determination that any events, developments, circumstances, changes, effects, conditions or occurrences underlying such changes or failures constitute or contribute to a Company Material Adverse Effect; provided, further, that the exceptions in clause (C) above shall not apply with respect to references to a Company Material Adverse Effect in those portions of the representations and warranties contained in Section 3.5(a) (and in Section 8.2(a) and Section 9.1(e)(i) to the extent related to such portions of such representation) to the extent the purposes of such representations and warranties is to address the consequences resulting from the execution, delivery and performance of this Agreement by the Company or the consummation of the Mergers and the other transactions contemplated by this Agreement;

(j) Company Owned Real Property means all real property and interests in real property owned in fee by the Company or any of its subsidiaries, together with all buildings, improvements and fixtures now or subsequently located thereon and all appurtenances thereto;

(k) Company Plan means (i) each employee benefit plan as defined in Section 3(3) of ERISA (whether or not subject to ERISA), (ii) each employment, consulting, severance, change in control, retention or similar plan, agreement, arrangement or policy and (iii) each other plan, agreement, arrangement or policy (written or oral) providing for compensation, bonuses, perquisites, profit-sharing, equity or equity-related rights, incentive or deferred compensation, paid time off, insurance (including any self-insured arrangements), health or medical benefits, employee assistance

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program, disability or sick leave benefits, workers compensation, supplemental unemployment benefits, severance benefits or post-employment or retirement benefits (including compensation, pension, health, medical or life insurance benefits), in each case maintained, sponsored or contributed to by the Company or any of its subsidiaries for the benefit of any Company Service Provider or with respect to which the Company or any of its subsidiaries has any direct or indirect liability;

(l) Company Real Property Lease means any lease, sublease, license, sublicense or other agreement under which the Company or any of its subsidiaries leases, licenses, uses or occupies, or has the right to use or occupy (whether as landlord or tenant), any real property or interest in real property;

(m) Company Senior Employee means an employee of the Company or its subsidiaries at the level of Executive Vice President or above;

(n) Company Service Provider means any current or former director, officer, employee or individual independent contractor of the Company or any of its subsidiaries;

(o) Company Stock Plans means the 2000 Omnibus Incentive Plan, the 2001 Stock Option Plan, the 2004 Omnibus Equity Plan, the 2006 Omnibus Equity Plan, the 2010 Omnibus Equity Plan, the 2012 Omnibus Equity Plan and the 2014 Omnibus Equity Plan (and applicable award agreements issued under such plans), as applicable, as well as any other plans or agreements pursuant to which the Company has granted equity awards (including equity awards granted or assumed by the Company in connection with any acquisitions prior to the Effective Time);

(p) Continuing Service Providers means all non-employee service providers of the Company or any subsidiary of the Company who, at the Effective Time, continue their service with Parent, the Company or any subsidiary of the Company;

(q) control (including the terms controlling , controlled , controlled by and under common control with) means th possession, directly or indirectly, of the power to direct or cause the direction of the management policies of a Person, whether through the ownership of voting securities, by contract or otherwise;

(r) Data means all information and data, whether in printed or electronic form and whether contained in a database or otherwise, that is used in or held for use in the operation of the respective businesses of the Company or Parent, as applicable, or their respective subsidiaries, or that is otherwise material to or necessary for the operation of the respective businesses of the Company or Parent, as applicable, or their respective subsidiaries;

(s) Data Room means each of the virtual data rooms supported by Merrill Communications LLC, and any clean room , in each case with respect to the transactions contemplated by this Agreement, collectively;

(t) ERISA means the Employee Retirement Income Security Act of 1974;

(u) ERISA Affiliate means any trade or business, whether or not incorporated, that together with the Company or Parent, as applicable, would be deemed to be a single employer for purposes of Section 4001 of ERISA or Sections 414(b), (c), (m), (n) or (o) of the Code;

(v) Excluded Information means and shall include (i) pro forma financial statements relating to the transactions contemplated by this Agreement (including the Merger and Debt Financing), (ii) projected financial statements for periods ending after the Closing Date and other forward looking

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information with respect to such periods, (iii) as adjusted capitalization information, (iv) adjustments to net income used to determine EBITDA or adjusted EBITDA (other than interest expense, tax expense, depreciation expense and amortization expense, each as calculated under GAAP), (v) any description of all or any component of the Debt Financing, including any such description to be included in any liquidity or capital resources disclosure or any description of notes , (vi) risk factors relating to all or any component of the Debt Financing, (vii) subsidiary financial statements or any other information of the type required by Rule 3-09, Rule 3-10 or Rule 3-16 of Regulation S-X promulgated by the SEC, (viii) Compensation Discussion and Analysis and any other information required by Item 402(b) of Regulation S-K, (ix) information relating to the Parent, (x) general market or industry information and other information customarily provided by a bank in connection with the preparation of marketing materials and (xi) information that the Company is not required to disclose pursuant to its annual, quarterly and current reports, from time to time, pursuant to the terms of the Exchange Act.

(w) FDA means the U.S. Food and Drug Administration;

(x) Financing Sources means any entities that have committed to provide or otherwise entered into agreements to provide the Permanent Financing, including the banks party to the Debt Commitment Letter and any joinder agreements or credit agreements (including the definitive agreements executed in connection with the Debt Commitment Letter) relating thereto, and the Affiliates and controlling persons of the foregoing, and their respective successors and assigns;

(y) Food Authorities means the FDA, the USDA and any state, local or foreign Governmental Entity responsible for regulating food products;

(z) GAAP means the U.S. generally accepted accounting principles set forth in the authoritative literature codified in the Financial Accounting Standards Board Accounting Standards Codification, in each case, as of the time of the relevant financial statements referred to herein;

(aa) Governmental Entity means any governmental, administrative, judicial or regulatory (including any stock exchange or other self-regulatory organization) authority, agency, commission, court, body, entity, official, tribunal, authority or other instrumentality, whether supranational, foreign or domestic, of one or more countries, nations, republics, federations or similar entities or any states, counties, parishes or municipalities, jurisdictions or other political subdivisions thereof;

(bb) Governmental Filings mean any consents, approvals, authorizations or Permits of, actions by, filings with or notifications to any Governmental Entity;

(cc) Healthcare Laws means any Law relating to the provision, dispensing, administration, advertising, promotion, storage, and/or payment for healthcare products (including prescription or over-the-counter drug products) or services, including, to the extent applicable: (i) any state or other licensure, permitting, credentialing, accreditation, authorization or certification requirement for Persons, including those limiting the scope of activities of Persons acting without such license, permit, credential, accreditation, authorization or certification, (ii) any billing, coding, coverage, compliance, documentation, reporting, or reimbursement Law applicable to the services provided by the Company or any of its subsidiaries, (iii) Laws governing the operation and administration of Medicare Parts A, B, C and D, Medicaid, Medicaid managed care, TRICARE, the Federal Employee Health Benefit Program and any other government-funded health care programs, (iv) any Law related to the claims made or advertising, promotional or marketing efforts undertaken by Company or any of its subsidiaries, including, but not limited to, with respect to prescription drugs or controlled substances, (v) 42 U.S.C. § 1320a-7(b), commonly referred to as the Federal Anti-Kickback Statute, or any state anti-kickback Law, (vi) 42 U.S.C. § 1320a-7a(a)(5), 42 C.F.R. § 1003.101,

commonly referred to as the Beneficiary Inducement Law, (vii) the HIPAA all-plan health care fraud prohibition, (viii) any Law governing the use, disclosure,

privacy or security of personal or health information, including the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, and the regulations promulgated pursuant thereto and any state privacy laws (HIPAA), (ix) 42 U.S.C. § 1395nn, 42 C.F.R. § 411.351 et seq., commonly referred to as the Stark Law, or any state Law pertaining to self-referrals, (x) 31 U.S.C. §§ 3729 et seq., commonly referred to as the False Claims Act , or any state Law false claims prohibition, (xi) 42 U.S.C. §§ 1320a-7, 7a and 7b, commonly referred to as the Federal Fraud Statutes, (xii) 31 U.S.C. § 3801 et seq., commonly referred to as the Federal Program Fraud Civil Remedies Act, and 18 U.S.C. § 1347, commonly referred to as the Federal Health Care Fraud Law, (xiii) any state Law provisions prohibiting insurance fraud, (xiv) any other Law relating to health care fraud, waste or abuse, (xv) any Laws administered by the FDA, including 21 U.S.C. § 301 et seq., known as the Federal Food, Drug, and Cosmetic Act and 42 U.S.C. § 262 et seq., known as the Public Health Service Act, (xvi) all Laws administered by the Drug Enforcement Administration including 21 U.S.C. § 801 et seq., commonly referred to as the Controlled Substances Act, and any state Laws governing controlled substances, (xvii) all Laws restricting the corporate practice of medicine or fee splitting, (xviii) the Affordable Care Act, (xix) Laws relating to the practice of pharmacy, the operation of pharmacies, the wholesale distribution, dispensing, labeling, packaging, repackaging, storage, recordkeeping, advertising, adulteration or compounding of drug products or controlled substances, (xx) Laws relating to pharmacy benefit management, third-party administration, utilization review, claim adjudication, and healthcare discount card, copayment assistance, or other patient assistance programs or services; (xxi) Laws relating to the sale of over-the-counter health products and services, including, but not limited to, medications, vitamins, nutritional supplements, and non-legend medical devices, (xxii) Laws relating to the provision or administration of, or payment for, health care products or services; (xxiii) Laws relating to in-person, remote, or electronic health management and coaching services, including, but not limited to, disease management, case management, chronic care management, weight management, addiction counseling, and medication therapy management, (xxiv) Laws relating to the provision of health care remotely or electronically, including, but not limited to, telemedicine Laws, (xxv) Laws relating to handling and disposal of hazardous waste, (xxvi) public health data collection and reporting Laws, including, but not limited to, those established by the U.S. Centers for Disease Control and Prevention; and (xxvii) any and all rules, regulations or guidance implementing or issued pursuant to any of the above;

(dd) Information Privacy and Security Laws means all Laws issued by any Governmental Entity concerning the privacy or security of Personal Information, and all regulations promulgated by any Governmental Entity thereunder, including, but not limited to, HIPAA, the Gramm-Leach-Bliley Act, the Fair Credit Reporting Act, the Fair and Accurate Credit Transaction Act, the Telephone Consumer Protection Act, Section 5 of the Federal Trade Commission Act as it applies to the receipt, access, use, disclosure, and security of Personal Information, the CAN-SPAM Act, the Children s Online Privacy Protection Act, PCI DSS, state data breach notification laws, state data security laws, state social security number protection laws, any healthcare Laws pertaining to privacy or data security and any applicable Laws concerning requirements for website and mobile application privacy policies and practices, or any outbound communications (including e-mail marketing, telemarketing and text messaging), tracking and marketing;

(ee) Insurance Law means all Laws applicable to the business of insurance or reinsurance or the regulation of insurance or reinsurance companies;

(ff) Intellectual Property means all worldwide intellectual and industrial property and proprietary rights of any kind, including all rights in (i) patents, (ii) copyrights and copyrighted works (including Software), (iii) trademarks, service marks, corporate, business and d/b/a names, logos, trade dress, domain names, social media identifiers and other indicators of source or origin and all associated goodwill, (iv) trade secrets, know-how, methods, processes and confidential information in any form or media and (v) registrations, applications, renewals, provisionals, continuations,

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continuations-in-part, divisionals, re-issues, re-examinations and foreign counterparts of any of the foregoing;

(gg) "IT Systems" means all electronic data processing, information, recordkeeping, communications, telecommunications, account management, inventory management and other computer systems (including all computer programs, software, networks, databases, firmware and hardware) and Internet websites;

(hh) "knowledge" or any similar phrase (i) with respect to the Company means the actual knowledge, after reasonable inquiry, of any of the individuals listed in Section 10.5(hh) of the Company Disclosure Schedule and (ii) with respect to Parent or the Merger Subs means the actual knowledge, after reasonable inquiry, of any of the individuals listed in Section 10.5(hh) of the Parent Disclosure Schedule;

(ii) "Law" means any federal, state, local, municipal, foreign, multi-national, trans-national or other law, statute, constitution, principle of common law, ordinance, code, decree, order, directive, judgment, rule, regulation, ruling or requirement of any Governmental Entity or any arbitrator or arbitration panel, whether civil, criminal, or administrative, including any Antitrust Law, any Insurance Law and any Healthcare Law;

(jj) "Marketing Period" means, subject to the Blackout Period (as defined in the Debt Commitment Letter as in effect on the date hereof), a period of 15 consecutive days beginning on the delivery by the Company to Parent of the Required Information. If the Company shall in good faith believe it has provided the Required Information, it may deliver to Parent a written notice to that effect (stating when it believes it completed such delivery), in which case the Marketing Period shall be deemed to have commenced on the date of such notice (or, if later, on the date specified in such notice as the date of delivery of the Required Information) unless Parent in good faith believes the Company has not completed the delivery of the Required Information and, within two (2) Business Days after the delivery of such notice by the Company, Parent delivers a written notice to the Company to that effect (stating with specificity which Required Financial Information the Company has not delivered), in which case the requirements of this sentence shall not be satisfied until the Company has provided all such Required Information specifically set forth in such notice.

(kk) "Merger Consideration" means the Stock Election Consideration or the Cash Election Consideration, as applicable.

(ll) "Parent Common Stock" means each share of Parent common stock, par value $0.01 per share;

(mm) "Parent Credit Agreements" means, collectively, (i) the Second Amended and Restated Asset-Based Revolving Credit Agreement, dated as of December 21, 2015, by and among Albertsons Companies, LLC and the other coborrowers, as borrowers, the guarantors from time to time party thereto, the lenders from time to time party thereto and Bank of America N.A., as administrative and collateral agent, as amended, and (ii) the Second Amended and Restated Term Loan Agreement, dated August 25, 2014, and effective January 30, 2015, by and among Albertson s LLC, Safeway Inc. (as successor by merger to Saturn Acquisition Merger Sub, Inc.) and the other co-borrowers, as borrowers, Albertson s Holdings LLC and the other guarantors from time to time party thereto, as guarantors, the lenders from time to time thereto, and Credit Suisse AG, Cayman Islands Branch, as administrative and collateral agent, as amended;

(nn) "Parent Indentures" means, collectively, (i) the Indenture, dated May 31, 2016, by and among Albertsons Companies, LLC, New Albertson s, Inc., Safeway Inc. and Albertson s LLC

(collectively, the Parent Issuers), certain subsidiaries of the Parent Issuers, as guarantors, and Wilmington Trust, National Association, as trustee with respect to the 6.625% Senior Notes due June 2024, as amended and supplemented, (ii) the Indenture, dated August 9, 2016, by and among the Parent Issuers, certain subsidiaries of the Parent Issuers, as guarantors, and Wilmington Trust, National Association, as trustee, with respect to the 5.750% Senior Notes due September 2025, as amended and supplemented, (iii) Indenture, dated September 10, 1997 between Safeway Inc., and the Bank of New York, as trustee, as amended and supplemented, with respect to the 5.00% Senior Notes due August 2019, the 3.95% Senior Notes due August 2020, the 4.75% Senior Notes due December 2021, the 7.45% Senior Debentures due September 2027, and the 7.25% Senior Debentures due February 2031, and (iv) Indenture, Dated May 1, 1992, between New Albertson s, Inc. (as successor to Albertson s, Inc.) and U.S. Bank Trust National Association (as successor to Morgan Guaranty Trust Company of New York), as trustee, as amended and supplemented, with respect to the 6.47% to 7.15% Medium-Term Notes due February 2018 to June 2028, the 7.75% Debentures due June 2026, the 7.45% Senior Debentures due August 2029, the 8.70% Senior Debentures due May 2030, and the 8.00% Senior Debentures due May 2031;

(oo) Parent Material Adverse Effect means any event, development, circumstance, change, effect, condition, or occurrence that, individually or in the aggregate, with all other events, developments, circumstances, changes, effects, conditions or occurrences, (i) has, or would reasonably be expected to have, a material adverse effect on or with respect to the business, assets, liabilities, results of operations or financial condition of Parent and its subsidiaries, taken as a whole, or (ii) prevents, materially delays or materially impairs the ability of Parent to consummate the Mergers and the other transactions contemplated by this Agreement; provided, however, in the case of clause (i), any event, development, circumstance, change, effect, condition or occurrence to the extent arising out of or resulting from any of the following after the date hereof shall not be deemed, either alone or in combination, to constitute or be taken into account in determining whether there has been a Parent Material Adverse Effect: (A) any change or development generally affecting the economy or the financial, debt, capital, credit or securities markets in the United States or elsewhere in the world, including as a result of changes or developments in prevailing interest or exchange rates or the disruption of any securities markets, (B) national or international political or social conditions, (C) the execution and delivery of this Agreement or the public announcement or pendency of the Mergers or other transactions contemplated hereby, including the impact thereof on relationships, contractual or otherwise, with customers, suppliers, distributors, or employees of Parent or its subsidiaries, (D) any change in any applicable Laws or applicable accounting regulations or principles, including GAAP, or interpretations thereof, (E) any hurricane, tornado, earthquake, flood, tsunami or other natural disaster or outbreak or escalation of hostilities or war (whether or not declared), military actions or any act of sabotage, terrorism or other international or national emergency, or other force majeure event or natural disaster or act of God or other comparable events, (F) any change in the price or trading volume of Parent Common Stock or the credit rating of Parent or its subsidiaries, in and of itself, (G) any failure by Parent to meet (1) any published analyst estimates, expectations, projections or forecasts of Parent s revenue, earnings, cash flow, cash positions or other financial performance or results of operations for any period or (2) its internal or published projections, budgets, plans, forecasts, guidance, estimates, milestones of its revenues, earnings or other financial performance or results of operations, in and of itself (provided that the underlying causes of such failure may be considered), (H) any change or development in the industries in which Parent and its subsidiaries operate, (I) the identity of the Company or its subsidiaries, (J) any communication by the Company or its subsidiaries regarding the plans or intentions of the Company with respect to the conduct of the business of the Surviving Company or its subsidiaries or (K) any action taken by Parent, or which Parent causes to be taken by any of its subsidiaries, in each case which is expressly required or permitted by this Agreement (other than pursuant to clause (a) of Section 6.1) or at the Company s express written request; except (1) to the extent (and only to the extent) any such event, development, circumstance, change, effect, condition or occurrence described in clauses (A), (B), (D), (E) or (H) is

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disproportionately adverse to the business, assets, liabilities, results of operations or financial condition of Parent and its subsidiaries, taken as a whole, as compared to other participants in the industries in which Parent and its subsidiaries operate and (2) that clauses (F) and (G) shall not prevent or otherwise affect a determination that any events, developments, circumstances, changes, effects, conditions or occurrences underlying such changes or failures constitute or contribute to a Parent Material Adverse Effect; provided, further, that the exceptions in clause (C) above shall not apply with respect to references to Parent Material Adverse Effect in those portions of the representations and warranties contained in Section 4.5(a) (and in Section 8.3(a) and Section 9.1(d) to the extent related to such portions of such representation) to the extent the purposes of such representations and warranties is to address the consequences resulting from the execution, delivery and performance of this Agreement by Parent or the consummation of the Mergers and the other transactions contemplated by this Agreement;

(pp) Parent Owned Real Property means all real property and interests in real property owned in fee by Parent or any of its subsidiaries, together with all buildings, improvements and fixtures now or subsequently located thereon and all appurtenances thereto;

(qq) Parent Real Property Lease means any lease, sublease, license, sublicense or other agreement under which Parent or any of its subsidiaries leases, licenses, uses or occupies, or has the right to use or occupy (whether as landlord or tenant), any real property or interest in real property;

(rr) Parent Restructuring means the transactions described in Section 10.5(rr) of the Parent Disclosure Schedule.

(ss) Parent Senior Employee means an employee of Parent or its subsidiaries at the level of Executive Vice President or above;

(tt) Parent Service Provider means any current or former director, officer, employee or individual independent contractor of Parent or any of its subsidiaries;

(uu) Person means an individual, corporation (including not-for-profit), Governmental Entity, general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, unincorporated organization or other entity of any kind or nature including any group (as such term is defined in Section 13(d)(3) of the Exchange Act);

(vv) Personal Information means any information, including Data, that (i) identifies or relates to a natural person including information that alone or in combination with other information held by the Company or any of its subsidiaries, or Parent or any of its subsidiaries, as applicable, can be used to identify, contact or precisely locate a natural person or can be linked to a natural person; (ii) any information that is governed, regulated or protected by one or more Information Privacy and Security Laws; (iii) any information that the Company or any of its subsidiaries, or Parent or any of its subsidiaries, as applicable, receives from or on behalf of a customer of Company or any of its subsidiaries, or Parent or any of its subsidiaries, as applicable; or (iv) any information that is covered by the PCI DSS;

(ww) Proceeding means any claim, action, suit, arbitration, proceeding, investigation, mediation, consent decree, audit or inquiry, whether civil, criminal, administrative or investigative and whether formal or informal;

(xx) Rights Plan means that certain Tax Benefits Preservation Plan, dated as of January 3, 2018, between the Company and Broadridge Corporate Issuer Solutions;

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(yy) Required Information means the financial information and other pertinent information regarding the Company and the Company subsidiaries as may reasonably be requested by Parent in order to satisfy the condition set forth in paragraph 11 of Exhibit D to the Debt Commitment Letter (as in effect to the date hereof) and that is both (i) customary to be included in marketing and disclosure material for senior secured high yield bond offerings and (ii) information regarding the Company and the Company s subsidiaries that is required to have been provided in the Company s annual, quarterly and current reports filed pursuant to the terms of the Exchange Act; provided, that Required Information shall not include any Excluded Information.

(zz) Software means any computer program, operating system, applications system, firmware or code, including all object code, source code, data files, rules, data collections, diagrams, protocols, specifications, interfaces, definitions or methodology related to same in any form or media;

(aaa) Stock Election Exchange Ratio means the combined Base Exchange Ratio and Additional Stock Election Exchange Ratio which, for the avoidance of doubt, is 0.1079;

(bbb) subsidiary or subsidiaries means, with respect to any Person, any other Person of which such first Person (either alone or through or together with any of its other subsidiaries), owns, directly or indirectly, (i) an amount of the voting interests sufficient to appoint or elect a majority of the board of directors or other persons performing similar functions or (ii) if there are no such voting interests, a majority of the equity interests therein;

(ccc) Treasury Regulations means the Treasury regulations promulgated under the Code, as the same may be hereafter amended from time to time or any successor or successors to such regulations;

(ddd) USDA means the U.S. Department of Agriculture;

(eee) WBA Asset Purchase Agreement means that certain Amended and Restated Asset Purchase Agreement, dated September 18, 2017, by and among Walgreens Boots Alliance, Inc., Walgreen Co. and the Company, as amended prior to the date hereof; and

(fff) Willful Breach means a material breach of, or failure to perform any of the covenants or other agreements contained in, this Agreement that is a consequence of an act or failure to act by the breaching or non-performing Party with actual knowledge, or knowledge that a Person acting reasonably under the circumstances should have, that such Party s act or failure to act would, or would be reasonably expected to, result in or constitute a breach of or failure of performance under this Agreement.

Section 10.6 Severability. If any term or other provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner to the end that the transactions contemplated hereby are consummated as originally contemplated to the fullest extent possible.

Section 10.7 Entire Agreement; Assignment. This Agreement (including the Exhibits hereto and the Company Disclosure Schedule and the Parent Disclosure Schedule), the Confidentiality Agreement and the Clean Room Agreement constitute the entire agreement among the Parties with respect to the

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subject matter hereof and supersede all prior and contemporaneous agreements and undertakings, both written and oral, among the Parties, or any of them, with respect to the subject matter hereof and thereof. This Agreement shall not be assigned by operation of law or otherwise without the prior written consent of each of the other Parties, and any assignment without such consent shall be null and void, provided, however, that Parent may assign any or all of its rights and obligations to any Debt Financing source as collateral in connection with a Debt Financing and any such Debt Financing source may exercise all of the rights and remedies of Parent hereunder in connection with the enforcement of any security or exercise of any remedies to the extent permitted under any definitive agreements with respect to the Debt Financing, in each case, without prior written consent of the Company.

Section 10.8 Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each Party, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement, other than with respect to (a) after the Effective Time, the provisions of Article II (which shall inure to the benefit of, and be enforceable by, holders of Company Common Stock, Company Stock Options, Company RSAs and Company RSUs, to the extent necessary to receive the consideration due to such persons thereunder); (b) after the Effective Time, the provisions of Section 7.10 (which shall inure to the benefit of, and be enforceable by, the Indemnified Parties); (c) the provisions of clauses (a), (b), (c) and (d) of Section 7.20 (which shall inure to the benefit of, and be enforceable by, Cerberus); and (d) prior to the Closing, the right of the Company to pursue claims for damages to such holders in the event of Parent s or the Merger Subs fraud or Willful Breach. The representations and warranties in this Agreement are the product of negotiations among the Parties and are for the sole benefit of the Parties. Any inaccuracies in such representations and warranties are subject to waiver by the Parties in accordance with Section 10.3 without notice or liability to any other Person. In some instances, the representations and warranties in this Agreement may represent an allocation among the Parties of risks associated with particular matters regardless of the knowledge of any of the Parties. Consequently, Persons other than the Parties may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date. Notwithstanding the foregoing, the Financing Sources are express third-party beneficiaries of, and shall be entitled to rely on and enforce, Section 10.2, this Section 10.8, Section 10.13, Section 10.14 and Section 10.15.

Section 10.9 Governing Law. This Agreement, and any Proceeding in any way arising out of or relating to this Agreement, the negotiation, execution or performance of this Agreement, the transactions contemplated hereby or the legal relationship of the Parties hereto (whether at law or in equity, and whether in contract or in tort or otherwise), shall be governed by, and construed in accordance with, the internal laws of the State of Delaware (without giving effect to choice of law principles thereof).

Section 10.10 Headings. The descriptive headings contained in this Agreement and the table of contents hereof are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 10.11 Counterparts. This Agreement may be executed and delivered (including by facsimile transmission, email in portable documentation format (.pdf) form, or other electronic transmission) in one or more counterparts, and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

Section 10.12 Specific Performance. The Parties agree that irreparable damage for which monetary damages, even if available, would not be an adequate remedy, would occur in the event that the Parties do not perform the provisions of this Agreement (including failing to take such actions as

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are required of it hereunder in order to consummate this Agreement) in accordance with its specified terms or otherwise breach such provisions. The Parties acknowledge and agree that the Parties shall be entitled to an injunction, specific performance and other equitable relief to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity. Each of the Parties agrees that prior to the valid termination of this Agreement in accordance with Article IX, it will not oppose the granting of an injunction, specific performance and other equitable relief as provided herein on the basis that (a) either Party has an adequate remedy at law or (b) an award of specific performance is not an appropriate remedy for any reason at law or equity. Any Party seeking an injunction or injunctions to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to provide, furnish or post any bond or other security in connection with any such order or injunction, and each Party hereby irrevocably waives any right it may have to require the provision, furnishing or posting of any such bond or other security. Notwithstanding anything to the contrary in this Agreement, it is explicitly agreed that the right of the Company to seek specific performance, injunctive relief or other equitable remedies in connection with enforcing the obligation to cause the Debt Financing to be funded, including by demanding Parent and/or Merger Sub enforce its rights against the parties to the Debt Commitment Letter, in order to consummate the Closing shall be subject to the requirements that (A) all the conditions in Article VIII have been satisfied (and continue to be satisfied) or waived (other than those conditions that by their terms are to be satisfied at the Closing but subject to the satisfaction or waiver of those conditions at Closing) at the time when the Closing would have occurred (not taking into account the failure of the Financing to be funded) or been required to occur pursuant to Section 1.2 and (B) all of the conditions to the consummation of the Debt Financing provided for by the Debt Commitment Letters have been satisfied or waived (other than those conditions that by their terms are to be satisfied at the Closing or at the time of funding). Until such time as this Agreement is validly terminated in accordance with Article IX, nothing in this Agreement shall prohibit the Company from its right to obtain specific performance, injunctive relief or other equitable remedies subject to the limitations in this Section 10.12.

Section 10.13 Jurisdiction. Each of the Parties irrevocably (a) consents to submit itself to the exclusive jurisdiction of the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (unless the Delaware Court of Chancery shall decline to accept jurisdiction over a particular matter, in which case, in any Delaware state or federal court within the State of Delaware), in connection with any matter based upon or arising out of this Agreement or any of the transactions contemplated by this Agreement or the actions of Parent, the Merger Subs or the Company in the negotiation, administration, performance and enforcement hereof and thereof, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, (c) agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the courts of the State of Delaware, as described above, and (d) consents to service being made through the notice procedures set forth in Section 10.4. Each of the Company, Parent and the Merger Subs hereby agrees that service of any process, summons, notice or document by U.S. registered mail to the respective addresses set forth in Section 10.4 shall be effective service of process for any suit or proceeding in connection with this Agreement or the transactions contemplated hereby. Each Party hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any Proceeding with respect to this Agreement, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason other than the failure to serve process in accordance with this Section 10.13, that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise), and to the fullest extent permitted by applicable Law, that the Proceeding in any such court is brought in an inconvenient forum, that the venue of such Proceeding is improper, or that this Agreement, or the

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subject matter hereof or thereof, may not be enforced in or by such courts and further irrevocably waives, to the fullest extent permitted by applicable Law, the benefit of any defense that would hinder, fetter or delay the levy, execution or collection of any amount to which the Party is entitled pursuant to the final judgment of any court having jurisdiction. Each Party agrees that a final judgment in any such Proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment. Without in any way limiting other provision relating to the Financing Sources and notwithstanding anything herein to the contrary, each of the Parties agrees that it will not bring or support or permit any of its controlled Affiliates to bring or support any action, cause of action, claim or third-party claim of any kind or description, whether in Law or in equity, whether in contract or in tort or otherwise, against the Financing Sources in any way relating to this Agreement or any of the transactions contemplated by this Agreement, including any dispute arising out of or relating in any way to the Debt Commitment Letter or the performance thereof, in any forum other than the Supreme Court of the State of New York, County of New York, or, if under applicable Law jurisdiction is vested in the federal courts, the U.S. District Court for the Southern District of New York (and the appellate courts thereof), and each Party further agrees that the adjudication of any such action, claim or third-party claim shall be governed by and in accordance with the internal laws of the State of New York.

Section 10.14 WAIVER OF JURY TRIAL. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT (INCLUDING THOSE CONTEMPLATED BY THE LAST SENTENCE OF Section 10.13) OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THE ACTIONS OF ANY PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF OR THEREOF.

Section 10.15 No Recourse. This Agreement may only be enforced by a Party against another Party, and any claims or causes of action that may be based upon, arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement, may only be made by a Party against another Party, and no past, present or future director, officer or employee of any Party shall have any liability to any Party for any obligations or liabilities of a Party or for any claim (whether in tort, contract or otherwise) based on, in respect of, or by reason of, the transactions contemplated hereby. No Financing Source shall have any liability or obligation to Parent or the Company with respect to this Agreement or with respect to any claim or cause of action that may arise out of or relate to this Agreement, or the negotiation, execution or performance of this Agreement. Without limiting the rights of any Party against another Party hereunder, in no event shall any Party or any of its Affiliates, and each Party agrees not to and to cause its Affiliates not to, seek to enforce this Agreement against, make any claims for breach against, or seek to recover monetary damages from any Affiliate or stockholder of another Party, or any director, officer or employee of another Party or of any Affiliates of another Party.

Section 10.16 Interpretation. When reference is made in this Agreement to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated. Whenever the words include, includes or including are used in this Agreement, they shall be deemed to be followed by the words without limitation. The words hereof, herein, hereby, hereunder and hereinafter and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, unless the context otherwise requires. Unless the context otherwise requires, the word or shall not be exclusive. References to dollars or $ are to United States of America dollars. Any capitalized terms used in any schedule or exhibit but not otherwise defined therein shall have the meaning given to them as set forth in this Agreement. Any reference in this Agreement to gender shall include all genders and the neuter. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party

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drafting or causing any instrument to be drafted. Any agreement, instrument, statute, rule or regulation defined or referred to herein means such agreement, instrument, statute, rule or regulation as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver of consent and (in the case of statutes, rules or regulations) by succession or comparable successor statutes and references to all attachments thereto and instruments incorporated therein; provided that, for purposes of any representations and warranties contained in this Agreement that are made as of a specific date or dates, references to any statute, rule or regulation shall be deemed to refer to such statute, rule or regulation, as amended (and, in the case of statutes, any rules and regulations promulgated under such statutes), in each case, as of such date. Neither the specification of any dollar amount in any representation or warranty contained in this Agreement nor the inclusion of any specific item in any schedule is intended to imply that such amount, or higher or lower amounts, or the item so included or other items, are or are not material, and no Party shall use the fact of setting forth of any such amount or the inclusion of any such item in any dispute or controversy between the Parties as to whether any obligation, item or matter not described herein or included in any schedule is or is not material for purposes of this Agreement. Neither the specification of any item or matter in any representation or warranty contained in this Agreement nor the inclusion of any specific item in schedule is intended to imply that such item or matter, or other items or matters, are or are not in the ordinary course of business, and no Party shall use the fact of the setting forth or the inclusion of any specific item or matter in any dispute or controversy between the Parties as to whether any obligation, item or matter not described herein or included in any schedule is or is not in the ordinary course of business for purposes of this Agreement.

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IN WITNESS WHEREOF, Parent, the Merger Subs and the Company have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

COMPANY:

RITE AID CORPORATION

By: /s/ James J. Comitale
Name: James J. Comitale
Title: Senior Vice President, General Counsel & Secretary

[*Signature Page to Merger Agreement*]

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PARENT:

ALBERTSONS COMPANIES, INC.

By: /s/ Robert G. Miller
Name: Robert G. Miller
Title: Chairman and Chief Executive Officer

MERGER SUB:

RANCH ACQUISITION CORP.

By: /s/ Robert G. Miller
Name: Robert G. Miller
Title: Chairman and Chief Executive Officer

MERGER SUB II:

RANCH ACQUISITION II LLC

By: ALBERTSONS COMPANIES, INC., ITS MANAGING MEMBER

By: /s/ Robert G. Miller
Name: Robert G. Miller
Title: Chairman and Chief Executive Officer

[*Signature Page to Merger Agreement*]

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Annex B

Opinion of Citigroup Global Markets Inc.

February 17, 2018

The Board of Directors

Rite Aid Corporation

30 Hunter Lane

Camp Hill, Pennsylvania 17011

The Board of Directors:

You have requested our opinion as to the fairness, from a financial point of view, to holders of the common stock of Rite Aid Corporation (Rite Aid), other than as specified below, of (i) the Base Exchange Ratio (defined below) plus the Additional Cash Consideration (defined below) or (ii) the Stock Election Exchange Ratio (defined below), as applicable, provided for pursuant to the terms and subject to the conditions set forth in an Agreement and Plan of Merger (the Merger Agreement) proposed to be entered into among Rite Aid, Albertsons Companies, Inc. (Albertsons), Ranch Acquisition II LLC, a wholly owned direct subsidiary of Albertsons (Merger Sub II), and Ranch Acquisition Corp., a wholly owned direct subsidiary of Merger Sub II (Merger Sub and, together with Merger Sub II, Merger Subs). The Merger Agreement provides for, among other things, the merger of Merger Sub with and into Rite Aid (the Merger), with Rite Aid as the surviving entity and a wholly owned subsidiary of Merger Sub II, and immediately following the Merger, the merger of Rite Aid with and into Merger Sub II (the Subsequent Merger and, together with the Merger as an integrated transaction, the Mergers), with Merger Sub II surviving the Subsequent Merger as a wholly owned direct subsidiary of Albertsons. As more fully described in the Merger Agreement, pursuant to the Merger, each outstanding share of the common stock, par value $1.00 per share, of Rite Aid (Rite Aid Common Stock) will be converted into the right to receive, subject to certain allocation and election procedures as to which we express no opinion, (A) 0.1000 (the Base Exchange Ratio) of a share of the common stock, par value $0.01 per share, of Albertsons (Albertsons Common Stock) plus either (B)(i) in the event that no election is made or at the election of the holder thereof, $0.1832 in cash (the Additional Cash Consideration and, such election or no election, the Cash Election) or (ii) at the election of the holder thereof, 0.0079 of a share of Albertsons Common Stock (such election, the Stock Election) which, combined with the Base Exchange Ratio, will be 0.1079 of a share of Albertsons Common Stock (such combined exchange ratio, the Stock Election Exchange Ratio). The terms and conditions of the Mergers are more fully set forth in the Merger Agreement.

In arriving at our opinion, we reviewed a draft, dated February 15, 2018, of the Merger Agreement and held discussions with certain senior officers, directors and other representatives of Rite Aid and certain senior officers and other representatives of Albertsons concerning the businesses, operations and prospects of Rite Aid and Albertsons. We reviewed certain publicly available and other business and financial information, including certain financial forecasts and other information and data relating to Rite Aid provided to or discussed with us by the management of Rite Aid and certain financial forecasts and other information and data relating to Albertsons provided to or discussed with us by the management of Albertsons and as extrapolated by the management of Rite Aid. We also reviewed certain information and data relating to the potential strategic implications and financial and operational benefits (including the amount, timing and achievability thereof) expected by the managements of Rite Aid and Albertsons to result from the Mergers. We reviewed the financial terms of the Mergers as set forth in the Merger Agreement in

relation to, among other things: the financial condition and certain historical and projected financial and operating data of Rite Aid and Albertsons; and the capitalization of Rite Aid and Albertsons. We analyzed certain financial, stock market and other publicly available information relating to the businesses of certain other companies whose operations we considered relevant in evaluating those of Rite Aid and Albertsons. We also reviewed, for informational reference, certain sensitivities to the financial forecasts and other information and data relating to Rite Aid and Albertsons referred to above, which sensitivities reflected higher and lower potential future financial performance for Rite Aid and lower potential future financial

performance for Albertsons, as provided to or discussed with us by the management of Rite Aid (such sensitivities, collectively, the Rite Aid/Albertsons sensitivities) and certain potential pro forma financial effects of the Mergers relative to Rite Aid on a standalone basis utilizing the financial forecasts and other information and data (other than the Rite Aid/Albertsons sensitivities) referred to above. In addition to the foregoing, we conducted such other analyses and examinations and considered such other information and financial, economic and market criteria as we deemed appropriate in arriving at our opinion. The issuance of our opinion has been authorized by our fairness opinion committee.

In rendering our opinion, we have assumed and relied, without independent verification, upon the accuracy and completeness of all financial and other information and data publicly available or provided to or otherwise reviewed by or discussed with us and upon the assurances of the managements and other representatives of Rite Aid and Albertsons that they are not aware of any relevant information that has been omitted or that remains undisclosed to us. As you are aware, based on the assessments of the management of Rite Aid and at your direction, we have utilized and relied upon, for purposes of our opinion, the financial forecasts and other information and data relating to Albertsons referred to above without giving effect to the Rite Aid/Albertsons sensitivities. With respect to the financial forecasts and other information and data relating to Rite Aid and Albertsons (including, without limitation, extrapolations therefrom and as to tax attributes of Rite Aid and Albertsons) that we have been directed to utilize and rely upon for purposes of our opinion, we have been advised by the managements of Rite Aid and Albertsons, as the case may be, and we have assumed, with your consent, that such financial forecasts and other information and data were reasonably prepared on bases reflecting the best currently available estimates and judgments of the respective managements of Rite Aid and Albertsons as to, and are a reasonable basis upon which to evaluate, the future financial performance of Rite Aid and Albertsons, the pro forma financial effects of the Mergers and the other matters covered thereby. We express no opinion as to any financial forecasts and other information or data (or underlying assumptions on which any such financial forecasts and other information or data are based) provided to or otherwise reviewed by or discussed with us.

We have relied, at your direction, upon the assessments of the managements of Rite Aid and Albertsons, as the case may be, as to, among other things, (i) matters relating to the pending sale by Rite Aid to Walgreens Boots Alliance, Inc. (WBA) of certain assets of Rite Aid (the Rite Aid-WBA Transaction), including the timing and likelihood of all closings and Rite Aid s receipt of the full amount of the net proceeds contemplated, and matters relating to certain prior sale and acquisition transactions of Albertsons, including, as applicable, the assets, liabilities and financial and other terms involved, the timing and likelihood of closing and Albertsons ability to realize the full amount of expected synergies, (ii) the potential impact on Rite Aid and Albertsons of certain market, competitive, cyclical, seasonal and other trends and developments in and prospects for, and governmental, regulatory and legislative matters relating to or otherwise affecting, the traditional food retail, pharmacy retail, pharmacy services and mass retail industries, including with respect to the pricing and availability of food products and other commodities, which are subject to significant volatility and, if different than as assumed by the managements of Rite Aid and Albertsons, could have a meaningful impact on our analyses and opinion, (iii) existing and future contracts and relationships, agreements and arrangements

with, and the ability to attract, retain and/or replace, key employees, suppliers, vendors, third-party payors, partners and other commercial relationships of Rite Aid and Albertsons, (iv) matters relating to Albertsons pension and benefit plans, including with respect to related liabilities and expenses, the expected return on plan assets and the required amounts and timing for funding of such pension and benefit plans, (v) matters relating to certain internal corporate restructurings to be undertaken by, and the capitalization of, Albertsons, and certain equity award and other securities issuances of Rite Aid and Albertsons contemplated to be effected prior to consummation of the Mergers, and (vi) certain corporate governance matters (including stockholder agreements, obligations or other

arrangements) relating to the pro forma combined company and the ability to integrate the operations of Rite Aid and Albertsons. We have assumed, with your consent, that there will be no developments with respect to any such matters that would have an adverse effect on Rite Aid, Albertsons or the Mergers (including the contemplated benefits thereof) or that otherwise would be meaningful in any respect to our analyses or opinion.

We have not made or been provided with an independent evaluation or appraisal of the assets or liabilities (contingent, accrued, derivative, off-balance sheet or otherwise) of Rite Aid, Albertsons or any other entity nor have we made any physical inspection of the properties or assets of Rite Aid, Albertsons or any other entity. We have not evaluated the solvency or fair value of Rite Aid, Albertsons or any other entity under any state, federal or other laws relating to bankruptcy, insolvency or similar matters. We express no view or opinion as to the potential impact on Rite Aid, Albertsons or any other entity of any pending or potential litigation, claims or governmental, regulatory or other proceedings, enforcement actions or investigations. We have assumed, with your consent, that the Mergers will be consummated in accordance with the terms of the Merger Agreement and in compliance with all applicable laws, documents and other requirements, without waiver, modification or amendment of any material term, condition or agreement, and that, in the course of obtaining the necessary governmental, regulatory or third-party approvals, consents, releases, waivers and agreements for the Mergers, no delay, limitation, restriction, condition or other action, including any divestiture requirements, amendments or modifications, will be imposed or exist that would have an adverse effect on Rite Aid, Albertsons or the Mergers (including the contemplated benefits thereof) or that otherwise would be meaningful in any respect to our analyses or opinion. We also have assumed, with your consent, that the Mergers, taken together, will qualify as a reorganization within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended, for U.S. federal income tax purposes. We are not expressing any view or opinion as to the actual value of Albertsons Common Stock or other securities when issued in connection with the Merger or the prices at which Albertsons Common Stock, Rite Aid Common Stock or any other securities will trade or otherwise be transferable at any time, including following the announcement or consummation of the Mergers. Representatives of Rite Aid have advised us, and we further have assumed, that the final terms of the Merger Agreement will not vary materially from those set forth in the draft reviewed by us. We are not expressing any view or opinion with respect to accounting, tax, regulatory, legal or similar matters, including, without limitation, tax consequences resulting from the Mergers or otherwise, or changes in, or the impact of, health care or tax laws, regulations and governmental and legislative policies on Rite Aid, Albertsons or the Mergers (including the contemplated benefits thereof), and we have relied, with your consent, upon the assessments of representatives of Rite Aid as to such matters.

Our opinion, as set forth herein, relates to the relative values of Rite Aid and Albertsons. We have evaluated the Base Exchange Ratio and Additional Cash Consideration, at your direction, assuming all holders of shares of Rite Aid Common Stock made a Cash Election in respect of all such shares and that such Base Exchange Ratio and Additional Cash Consideration collectively are reflective, in the event solely of a Cash Election, of the fully diluted pro forma equity ownership in the combined company upon consummation of the Merger of former holders of Rite Aid Common Stock. We have evaluated the Stock Election Exchange Ratio, at your direction, assuming all holders of shares of Rite Aid Common Stock made a Stock Election in respect of all such shares and that the Stock Election

Exchange Ratio is reflective, in the event solely of a Stock Election, of the fully diluted pro forma equity ownership in the combined company upon consummation of the Merger of former holders of Rite Aid Common Stock.

Our opinion addresses only the fairness, from a financial point of view and as of the date hereof, of the (i) Base Exchange Ratio plus the Additional Cash Consideration or (ii) Stock Election Exchange Ratio, as the case may be, to the extent expressly specified herein, without taking into account any premium or discount for control,

voting, liquidity or otherwise and without regard to individual circumstances of specific holders with respect to any rights or aspects which may distinguish such holders or the securities of Rite Aid or Albertsons held by such holders. Our opinion does not in any way address any other consideration to be received in connection with the Mergers or proportionate allocation or relative fairness. Our opinion does not address any other terms, aspects or implications of the Mergers, including, without limitation, the form or structure of the Mergers or any registration rights, lock-up or standstill agreement or other agreement, arrangement or understanding to be entered into in connection with or contemplated by the Mergers or otherwise. In connection with our engagement, we were not requested to, and we did not, undertake a third-party solicitation process on behalf of Rite Aid with respect to the acquisition of all or a part of Rite Aid. We express no view as to, and our opinion does not address, the underlying business decision of Rite Aid to effect or enter into the Mergers, the relative merits of the Mergers as compared to any alternative business strategies that might exist for Rite Aid or the effect of any other transaction which Rite Aid might engage in or consider. We also express no view as to, and our opinion does not address, the fairness (financial or otherwise) of the amount or nature or any other aspect of any compensation or other consideration to any officers, directors or employees of any parties to the Mergers, or any class of such persons, relative to the Base Exchange Ratio and Additional Cash Consideration or Stock Election Exchange Ratio, as the case may be, or otherwise. Our opinion is necessarily based upon information available, and financial, stock market and other conditions and circumstances existing and disclosed, to us as of the date hereof. Although subsequent developments may affect our opinion, we have no obligation to update, revise or reaffirm our opinion. As you are aware, the credit, financial and stock markets, and the industries in which Rite Aid and Albertsons operate, have experienced and continue to experience volatility and we express no view or opinion as to any potential effects of such volatility on Rite Aid, Albertsons or the Mergers (including the contemplated benefits thereof).

Citigroup Global Markets Inc. has acted as financial advisor to Rite Aid in connection with the proposed Mergers and will receive a fee for such services, the principal portion of which is contingent upon consummation of the Mergers. We also will receive a fee in connection with the delivery of this opinion. In addition, Rite Aid has agreed to reimburse our expenses and to indemnify us against certain liabilities arising out of our engagement. As you are aware, we and our affiliates in the past have provided, currently are providing and in the future may provide investment banking, commercial banking and other similar financial services to Rite Aid and certain of its affiliates unrelated to the proposed Mergers, for which services we and our affiliates have received and expect to receive compensation, including, during the past two years, having acted or acting as (i) financial advisor to Rite Aid in connection with the Rite Aid-WBA Transaction and certain related transactions, including the previously terminated merger transaction involving Rite Aid and WBA and related divestitures, and (ii) administrative agent and/or co-lead arranger or joint bookrunning manager for, and as a lender under, certain credit facilities of Rite Aid. As you also are aware, we and our affiliates in the past have provided, currently are providing and in the future may provide investment banking, commercial banking and other similar financial services to Albertsons, Cerberus Capital Management, L.P. (Cerberus), the principal stockholder of Albertsons, and certain of their respective affiliates and/or portfolio companies, as the case may be, for which services we and our affiliates have received and expect to receive compensation, including, during the past two years, having acted or acting as (i) in the case of Albertsons,

(a) co-financial advisor to an affiliate of Albertsons in connection with an acquisition transaction (not consummated), (b) joint lead bookrunning manager for Albertsons withdrawn initial public offering and as lead bookrunning manager or initial purchaser for certain debt offerings of Albertsons and/or certain of its affiliates, and (c) joint lead arranger, joint bookrunning manager, administrative agent and/or co-syndication agent for, and as a lender and/or letter of credit issuer under, certain credit facilities of Albertsons and/or certain of its affiliates, and (ii) in the case of Cerberus, (a) financial advisor to Cerberus and/or certain of its portfolio companies in connection with valuation matters and certain disposition or acquisition transactions, (b) joint or lead bookrunning manager in connection with certain debt and equity

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offerings of certain portfolio companies of Cerberus, and (c) arranger or lead arranger in connection with, and as a lender under, certain credit facilities of Cerberus and/or certain of its portfolio companies. In the ordinary course of business, we and our affiliates may actively trade or hold the securities of Rite Aid and its affiliates and/or the securities of certain affiliates and/or portfolio companies of Cerberus for our own account or for the account of our customers and, accordingly, may at any time hold a long or short position in such securities. In addition, we and our affiliates (including Citigroup Inc. and its affiliates) may maintain relationships with Rite Aid, Albertsons, Cerberus and their respective affiliates and/or portfolio companies, as the case may be.

Our advisory services and the opinion expressed herein are provided for the information of the Board of Directors of Rite Aid (in its capacity as such) in its evaluation of the proposed Mergers. Our opinion is not intended to be and does not constitute a recommendation to any securityholder as to any election made by such securityholder or how such securityholder should vote or act on any matters relating to the proposed Mergers or otherwise.

Based upon and subject to the foregoing, our experience as investment bankers, our work as described above and other factors we deemed relevant, we are of the opinion that, as of the date hereof, (i) the Base Exchange Ratio plus the Additional Cash Consideration or (ii) the Stock Election Exchange Ratio, as applicable, is fair, from a financial point of view, to holders of Rite Aid Common Stock (other than, to the extent applicable, Albertsons, Merger Subs and their respective affiliates).

Very truly yours,

CITIGROUP GLOBAL MARKETS INC.

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Annex C

AMENDED & RESTATED

CERTIFICATE OF INCORPORATION

OF

ALBERTSONS COMPANIES, INC.

Albertsons Companies, Inc., a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

1. The name of the Corporation is Albertsons Companies, Inc. and the Corporation was originally incorporated under the same name. The original Certificate of Incorporation of Albertsons Companies, Inc. was filed June 23, 2015.

2. This Amended & Restated Certificate of Incorporation amends and restates the provisions of the Certificate of Incorporation of the Corporation.

3. This Amended & Restated Certificate of Incorporation has been duly adopted by the Board of Directors and stockholders of the Corporation in accordance with Sections 242 and 245 of the General Corporation Law of the State of Delaware.

4. The text of the Certificate of Incorporation of the Corporation is hereby amended and restated in its entirety to read as follows:

ARTICLE I

The name of the Corporation is Albertsons Companies, Inc. (the Corporation).

ARTICLE II

The address of the registered office of the Corporation in the State of Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19801, New Castle County. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may now or hereafter be organized under the General Corporation Law of the State of Delaware (the GCL).

ARTICLE IV

The total number of shares of all classes of stock which the Corporation shall have authority to issue is one billion thirty million (1,030,000,000), consisting of (a) one billion (1,000,000,000) shares of common stock, par value one cent ($0.01) per share (the Common Stock), and (b) thirty million (30,000,000) shares of preferred stock, par value one cent ($0.01) per share (the Preferred Stock). The Board of Directors is hereby expressly authorized, by resolution or resolutions, to provide, out of the unissued shares of Preferred Stock, for one or more series of Preferred Stock and, with respect to each such series, to fix, without further stockholder approval, the designation, powers, preferences and relative, participating, optional or other special rights, including voting powers and rights, and the qualifications, limitations or restrictions thereof, of each series of Preferred Stock pursuant to Section 151 of the GCL.

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ARTICLE V

Except as otherwise provided by the GCL or this Amended & Restated Certificate of Incorporation, the business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. The total number of directors consisting the Board of Directors shall be not less than 7 directors nor more than 15 directors, the exact number of directors to be determined from time to time exclusively by resolution adopted by the Board of Directors or in the manner provided herein. The authorized number of directors may be increased or decreased by the affirmative vote of not less than two-thirds (2/3) of the then-outstanding shares of capital stock of the Corporation or by resolution of the Board of Directors. At each annual meeting of stockholders of the Corporation, all directors shall be elected for a one (1) year term and shall hold office until the next annual meeting of stockholders and until their successors shall be elected and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office.

Vacancies on the Board of Directors by reason of death, resignation, retirement, disqualification, removal from office, or otherwise, and newly created directorships resulting from any increase in the authorized number of directors, shall be filled solely by a majority of the directors then in office, although less than a quorum, or by a sole remaining director, and shall not be filled by the stockholders. A director elected to fill a vacancy or a newly created directorship shall hold office until the next annual meeting of stockholders and until his or her successor shall be elected and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office.

ARTICLE VI

Subject to the special rights of one or more series of Preferred Stock to elect directors, any director or the entire Board of Directors may only be removed from office, either with or without cause, by the affirmative vote of at least two-thirds (2/3) of the total voting power of the outstanding shares of the capital stock of the Corporation then entitled to vote generally in an election of directors, voting together as a single class.

ARTICLE VII

Elections of directors at an annual or special meeting of stockholders need not be by written ballot unless the Bylaws of the Corporation shall otherwise provide.

ARTICLE VIII

A. Special meetings of the stockholders of the Corporation for any purpose or purposes (i) may be called at any time by the Board of Directors, and (ii) shall be called by the Secretary upon the written request of stockholders owning at least twenty-five percent (25%) in amount of the entire capital stock of the Corporation issued and outstanding, and entitled to vote at the special meeting.

B. No action required or permitted by the GCL to be taken at a stockholders meeting may be taken by the written consent of stockholders in lieu of a meeting.

ARTICLE IX

The officers of the Corporation shall be chosen in such a manner, shall hold their offices for such terms and shall carry out such duties as are determined by the Board of Directors, subject to the right of the Board of Directors to remove any officer or officers at any time with or without cause.

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ARTICLE X

A. The Corporation shall indemnify to the full extent authorized or permitted by law (as now or hereafter in effect) any person made, or threatened to be made, a defendant or witness to any action, suit or proceeding (whether civil or criminal or otherwise) by reason of the fact that such person is or was a director or officer of the Corporation or by reason of the fact that such director or officer, at the request of the Corporation, is or was serving any other corporation, partnership, joint venture, employee benefit plan or other enterprise, in any capacity. Nothing contained herein shall affect any rights to indemnification to which employees other than directors or officers may be entitled by law. No amendment or repeal of this Section A of Article X shall apply to or have any effect on any right to indemnification provided hereunder with respect to any acts or omissions occurring prior to such amendment or repeal. The rights to indemnification provided under this Section A of Article X shall extent to the testator or intestate of the person to whom such rights are granted.

B. To the fullest extent permitted by law, no director of the Corporation shall be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. No amendment to or repeal of this Section B of this Article X shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

C. In furtherance and not in limitation of the powers conferred by statute:

(i) the Corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise against any liability asserted against such person and incurred by such person in any such capacity, or arising out of such person s status as such, whether or not the Corporation would have the power to indemnify such person against such liability under the provisions of law; and

(ii) the Corporation may create a trust fund, grant a security interest and/or use other means (including, without limitation, letters of credit, surety bonds and/or other similar arrangements), as well as enter into contracts providing indemnification to the full extent authorized or permitted by law and including as part thereof provisions with respect to any or all of the foregoing to ensure the payment of such amounts as may become necessary to effect indemnification as provided therein, or elsewhere.

ARTICLE XI

No contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any other corporation, partnership, association, or other organization in which one or more of its directors or officers are directors or officers, or have a financial interest, shall be void or voidable solely for this reason, or solely because the director or officer is present at or participates in the meeting of the Board of Directors or a committee thereof which authorizes the contract or transaction, or solely because his or their votes are counted for such purpose, if:

A. The material facts as to his interest and as to the contract or transaction are disclosed or are known to the Board of Directors or the committee, and the Board or committee in good faith authorizes the contract or transaction by a vote sufficient for such purpose without counting the vote of the interested director or directors; or

B. The material facts as to his interest and as to the contract or transaction are disclosed or are known to the stockholders entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of

the stockholders; or

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C. The contract or transaction is fair as to the Corporation as of the time it is authorized, approved or ratified, by the Board of Directors, a committee thereof, or the stockholders.

Interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or of a committee which authorizes the contract or transaction.

ARTICLE XII

In furtherance and not in limitation of the powers conferred by statute, the Board of Directors is expressly empowered to adopt, amend or repeal the Bylaws of the Corporation. Any adoption, amendment or repeal of the Bylaws by the Board of Directors shall require the approval of a majority of the entire Board of Directors. The stockholders shall also have power to adopt, amend or repeal the Bylaws; *provided*, *however*, that, in addition to any vote of the holders of any class or series of stock of the Corporation required by law, by this Amended & Restated Certificate of Incorporation or the Bylaws, the affirmative vote of the holders of at least two-thirds (2/3) of the voting power of all of the then outstanding shares of the capital stock of the Corporation entitled to vote thereon, voting together as a single class, shall be required to adopt, amend or repeal any provision of the Bylaws. Notwithstanding anything in the preceding sentences, in no event shall (a) any amendment or repeal of any Bylaw provision requiring a supermajority vote of the stockholders to take action under such provision be made without the affirmative vote of the same supermajority of the stockholders, and (b) any rights to indemnification or advancement of expenses conferred on directors or officers by the Bylaws be amended or repealed other than prospectively with respect to actions taken on or after the date of such amendment or repeal.

ARTICLE XIII

The Corporation reserves the right to repeal, alter, amend, or rescind any provision contained in this Amended & Restated Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred on stockholders herein are granted subject to this reservation.

ARTICLE XIV

Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware shall, to the fullest extent permitted by law, be the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim for breach of a fiduciary duty owed by any director, officer, employee or agent of the Corporation to the Corporation or the Corporation s stockholders, (c) any action asserting a claim arising pursuant to any provision of the GCL, the Amended & Restated Certificate of Incorporation or the Bylaws or (d) any action asserting a claim governed by the internal affairs doctrine.

ARTICLE XV

The Corporation elects not to be governed by Section 203 of the GCL, Business Combinations With Interested Stockholders , as permitted under and pursuant to subsection (b)(1) of Section 203 of the DGCL.

[*Remainder of page intentionally left blank*]

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IN WITNESS WHEREOF, this Amended & Restated Certificate of Incorporation has been signed by , its authorized officer, this day of , 2018.

Name:
Title:

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Annex D

AMENDED & RESTATED

BYLAWS

OF

ALBERTSONS COMPANIES, INC.

ARTICLE I

DEFINITIONS

As used in these Amended & Restated Bylaws of the Corporation, the terms set forth below shall have the meanings indicated, as follows:

Board of Directors or Board shall mean the board of directors of the Corporation.

Bylaws shall mean these Amended & Restated Bylaws of the Corporation, as the same may be amended and/or restated from time to time.

Certificate of Incorporation shall mean the Certificate of Incorporation of the Corporation, as the same may be amended and/or restated from time to time.

Common Stock shall mean the common stock, par value $0.01 per share, of the Corporation.

Corporation shall mean Albertsons Companies, Inc., a Delaware corporation.

Delaware Court shall mean the Court of Chancery of the State of Delaware.

DGCL shall mean the General Corporation Law of the State of Delaware, as amended from time to time.

Electronic Transmission shall mean any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced on paper form by such a recipient through an automatic process.

Exchange Act shall mean the Securities Exchange Act of 1934, as amended.

Proposing Stockholder shall mean any stockholder of record.

Secretary of State shall mean the Secretary of State of the State of Delaware.

ARTICLE II

OFFICES

Section 2.01 Offices. The address of the registered office of the Corporation in the State of Delaware shall be as set forth in the Certificate of Incorporation.

The Corporation may also have offices at such other places both within and without the State of Delaware as the Board of Directors may from time to time determine or the business of the Corporation may require.

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ARTICLE III

MEETINGS OF STOCKHOLDERS

Section 3.01 Place of Meeting. Meetings of stockholders shall be held at any place within or outside the State of Delaware designated by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the DGCL. In the absence of any such designation, stockholders meetings shall be held at the principal executive office of the Corporation.

Section 3.02 Annual Meeting.

(a) The annual meeting of stockholders for the election of directors and for the transaction of such other business as shall have been properly brought before the meeting shall be held on such date and at such time and place, if any, as may be fixed by the Board of Directors and stated in the notice of the meeting. The Board of Directors may postpone, reschedule or cancel any previously scheduled annual meeting of stockholders. At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. To be properly brought before an annual meeting, business (other than the nomination of a person for election of a director, which is governed by Section 4.01 of these Bylaws) must be (i) specified in the notice of meeting (or any supplement thereto) given by or at the direction of the Board of Directors, including any committee thereof, (ii) otherwise properly brought before the meeting by or at the direction of the Board of Directors, including any committee thereof, or (iii) otherwise properly brought before the meeting by a Proposing Stockholder who (A) was a stockholder of record (and, with respect to any beneficial owner, if different, on whose behalf such business is proposed, only if such beneficial owner was the beneficial owner of shares of the Corporation) both at the time of giving the notice provided for in this Section 3.02 and at the time of the meeting, (B) is entitled to vote at the meeting and (C) complied with all of the notice procedures set forth in this Section 3.02 as to such business. Except for proposals made in accordance with Rule 14a-8 under the Exchange Act, and included in the notice of meeting given by or at the direction of the Board of Directors, the foregoing clause (iii) shall be the exclusive means for a Proposing Stockholder to propose business (other than the nomination of a person for election of a director, which is governed by Section 4.01 of these Bylaws) to be brought before an annual meeting of the stockholders. Proposing Stockholders seeking to nominate persons for election to the Board of Directors must comply with the notice procedures set forth in Section 4.01 of these Bylaws, and this Section 3.02 shall not be applicable to nominations except as expressly provided in Section 4.01 of these Bylaws.

(b) Without qualification, for business to be properly brought before an annual meeting by a Proposing Stockholder, such proposed business must constitute a proper matter for stockholder action and the Proposing Stockholder must (i) provide Timely Notice (as defined below) thereof in writing and in proper form to the Secretary of the Corporation and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Section 3.02. To be timely, a Proposing Stockholder s notice must be delivered to or mailed and received at the principal executive offices of the Corporation not less than 90 days nor more than 120 days prior to the first anniversary of the preceding year s annual meeting (which date shall, for purposes of the Corporation s first annual meeting of stockholders after its shares of Common Stock are first publicly traded, be deemed to have occurred 120 days after the end of the last fiscal year concluded prior to the date on which shares of Common Stock are first publicly traded); *provided, however*, that in the event that the date of the annual meeting is more than 30 days before or more than 60 days after such anniversary date, notice by the Proposing Stockholder to be timely must be so delivered not earlier than the 120th day prior to such annual meeting and not later than the 90th day prior to such annual meeting or, if later, the 10th day following the day on which public disclosure of the date of such annual meeting was made (such

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notice within such time periods, Timely Notice). In no event shall any adjournment or postponement of an annual meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of Timely Notice as described above.

(c) To be in proper form for purposes of this Section 3.02, a Proposing Stockholder s notice to the Secretary pursuant to this Section 3.02 shall be required to set forth:

(i) As to the Proposing Stockholder providing the notice and each other Proposing Person (as defined below), (A) the name and address of the Proposing Stockholder providing the notice, as they appear on the Corporation s books, and each other Proposing Person and (B) the class or series and number of shares of the Corporation that are, directly or indirectly, owned of record or beneficially owned (as defined in Rule 13d-3 under the Exchange Act) by the Proposing Stockholder providing the notice and/or any other Proposing Persons, except that such Proposing Stockholder and/or such other Proposing Persons shall be deemed to beneficially own any shares of any class or series of the Corporation as to which such Proposing Stockholder and/or such other Proposing Person(s) has a right to acquire beneficial ownership at any time in the future;

(ii) As to the Proposing Stockholder providing the notice (or, if different, the beneficial owner on whose behalf such business is proposed) and each other Proposing Person, (A) any derivative, swap or other transaction or series of transactions engaged in, directly or indirectly, by such Proposing Stockholder or beneficial owner, as applicable, and/or any other Proposing Person, the purpose or effect of which is to give such Proposing Stockholder or beneficial owner, as applicable, and/or such other Proposing Person economic risk similar to ownership of shares of any class or series of the Corporation, including due to the fact that the value of such derivative, swap or other transaction is determined by reference to the price, value or volatility of any shares of any class or series of the Corporation, or which derivative, swap or other transaction provides, directly or indirectly, the opportunity to profit from any increase in the price or value of shares of any class or series of the Corporation (Synthetic Equity Interests), which such Synthetic Equity Interests shall be disclosed without regard to whether (x) such derivative, swap or other transaction conveys any voting rights in such shares to such Proposing Stockholder or beneficial owner, as applicable, and/or such other Proposing Person, (y) the derivative, swap or other transaction is required to be, or is capable of being, settled through delivery of such shares or (z) such Proposing Stockholder or beneficial owner, as applicable, and/or such other Proposing Person may have entered into other transactions that hedge or mitigate the economic effect of such derivative, swap or other transaction, (B) any proxy (other than a revocable proxy given in response to a public proxy solicitation made pursuant to, and in accordance with, the Exchange Act), agreement, arrangement, understanding or relationship pursuant to which such Proposing Stockholder or beneficial owner, as applicable, and/or any other Proposing Person has or shares a right to vote any shares of any class or series of the Corporation, (C) any agreement, arrangement, understanding or relationship, including any repurchase or similar so-called stock borrowing agreement or arrangement, engaged in, directly or indirectly, by such Proposing Stockholder or beneficial owner, as applicable, and/or any other Proposing Person, the purpose or effect of which is to mitigate loss to, reduce the economic risk (of ownership or otherwise) of shares of any class or series of the Corporation by, manage the risk of share price changes for, or increase or decrease the voting power of, such Proposing Stockholder or beneficial owner, as applicable, and/or such other Proposing Person with respect to the shares of any class or series of the Corporation, or which provides, directly or indirectly, the opportunity to profit from any decrease in the price or value of the shares of any class or series of the Corporation (Short Interests), (D)(x) if such Proposing Stockholder or beneficial owner, as applicable, and/or any other Proposing Person is not a natural person, the identity of the natural person or persons associated with such Proposing Stockholder or beneficial owner, as applicable, and/or such other Proposing Person responsible for the formulation of and decision to propose the business to be brought before the meeting (such person or persons, the Responsible Person), the manner in which such Responsible Person was selected, any fiduciary

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duties owed by such Responsible Person to the equity holders or other beneficiaries of such Proposing Stockholder and/or beneficial owner, as applicable, and/or such other Proposing Person, the qualifications and background of such Responsible Person and any material interests or relationships of such Responsible Person that are not shared generally by the other stockholders of the Corporation and that reasonably could have influenced the decision of such Proposing Stockholder and/or beneficial owner, as applicable, and/or such other Proposing Person to propose such business to be brought before the meeting, and (y) if such Proposing Stockholder or beneficial owner, as applicable, and/or any other Proposing Person is a natural person, the qualifications and background of such natural person and any material interests or relationships of such natural person that are not shared generally by the other stockholders of the Corporation and that reasonably could have influenced the decision of such Proposing Stockholder and/or beneficial owner, as applicable, and/or such other Proposing Person to propose such business to be brought before the meeting, (E) any significant equity interests or any Synthetic Equity Interests or Short Interests in any principal competitor of the Corporation held by such Proposing Stockholder and/or beneficial owner, as applicable, and/or any other Proposing Persons, (F) any direct or indirect interest of such Proposing Stockholder and/or beneficial owner, as applicable, and/or any other Proposing Person in any contract with the Corporation, any affiliate of the Corporation (including any employment agreement, collective bargaining agreement or consulting agreement), or any principal competitor of the Corporation, (G) any pending or threatened litigation in which such Proposing Stockholder and/or beneficial owner, as applicable, and/or any other Proposing Person is a party or material participant involving the Corporation or any of its officers or directors, or any affiliate of the Corporation, (H) any material transaction occurring during the prior 12 months between such Proposing Stockholder and/or beneficial owner, as applicable, and/or any other Proposing Person, on the one hand, and the Corporation, any affiliate of the Corporation or any principal competitor of the Corporation, on the other hand, (I) any other information relating to such Proposing Stockholder and/or beneficial owner, as applicable, and/or any other Proposing Person that would be required to be disclosed in a proxy statement or other filing required to be made in connection with solicitations of proxies by such Proposing Stockholder or beneficial owner, as applicable, and/or such other Proposing Person in support of the business proposed to be brought before the meeting pursuant to Section 14 of the Exchange Act and the rules and regulations thereunder, (J) a representation that the Proposing Stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such business and (K) a representation whether the Proposing Stockholder and/or beneficial owner, if any, and/or any other Proposing Person intends or is part of a group that intends (a) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation s outstanding capital stock required to approve or adopt the proposal and/or (b) otherwise to solicit proxies from stockholders in support of such proposal (the disclosures to be made pursuant to the foregoing clauses (A) through (K) are referred to as Disclosable Interests); and

(iii) As to each matter the Proposing Stockholder proposes to bring before the annual meeting, (A) a brief description of the business desired to be brought before the annual meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and, in the event that such business includes a proposal to amend these Bylaws, the language of the proposed amendment), the reasons for conducting such business at the annual meeting and any material interest in such business of the Proposing Stockholder providing the notice and/or any other Proposing Person and (B) a reasonably detailed description of all agreements, arrangements and understandings between or among the Proposing Stockholder providing the notice, any other Proposing Person and/or any other persons or entities (including their names) in connection with the proposal of such business by such Proposing Stockholder.

For purposes of this Section 3.02, the term Proposing Person shall mean (i) the Proposing Stockholder providing the notice of business proposed to be brought before an annual meeting, (ii) the

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beneficial owner or owners, if different, on whose behalf the business proposed to be brought before the annual meeting is made, (iii) any affiliate or associate (as such terms are defined in Rule 12b-2 under the Exchange Act) of such beneficial owner and (iv) any other person with whom such Proposing Stockholder or beneficial owner (or any of their respective affiliates or associates) is Acting in Concert (as defined below).

A person shall be deemed to be Acting in Concert with another person for purposes of these Bylaws if such person knowingly acts (whether or not pursuant to an express agreement, arrangement or understanding) in concert with, or towards a common goal relating to the management, governance or control of the Corporation in parallel with, such other person where (A) each person is conscious of the other person s conduct or intent and this awareness is an element in their decision-making processes and (B) at least one additional factor suggests that such persons intend to act in concert or in parallel, which such additional factors may include, without limitation, exchanging information (whether publicly or privately), attending meetings, conducting discussions or making or soliciting invitations to act in concert or in parallel; *provided*, that a person shall not be deemed to be Acting in Concert with any other person solely as a result of the solicitation or receipt of revocable proxies from such other person in connection with a public proxy solicitation pursuant to, and in accordance with, the Exchange Act. A person which is Acting in Concert with another person shall be deemed to be Acting in Concert with any third party who is also acting in concert with such other person.

(d) A Proposing Stockholder providing notice of business proposed to be brought before an annual meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 3.02 shall be true and correct as of the record date for notice of the meeting and as of the date that is ten business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to or mailed and received by the Secretary at the principal executive offices of the Corporation not later than five business days after the record date for notice of the meeting (in the case of the update and supplement required to be made as of the record date for notice of the meeting), and not later than eight business days prior to the date for the meeting or any adjournment or postponement thereof (in the case of the update and supplement required to be made as of ten business days prior to the meeting or any adjournment or postponement thereof).

(e) Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at an annual meeting except in accordance with the procedures set forth in this Section 3.02 (including the requirement in the case of business to be brought before the meeting by a Proposing Stockholder that such Proposing Stockholder update and supplement the notice of proposed business set forth in clause (d) above). The person presiding over the annual meeting shall, if the facts warrant, determine that the business was not properly brought before the meeting in accordance with the provisions of this Section 3.02, and if he or she should so determine, he or she shall so declare to the meeting, and any such business not properly brought before the meeting shall not be transacted. Notwithstanding the foregoing provisions of this Section 3.02, unless otherwise required by law, if the Proposing Stockholder (or a qualified representative of the Proposing Stockholder) does not appear at the annual meeting of stockholders of the Corporation to present the proposed business, such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 3.02, to be considered a qualified representative of the Proposing Stockholder, a person must be a duly authorized officer, manager or partner of such Proposing Stockholder or must be authorized by a writing executed by such Proposing Stockholder or an Electronic Transmission delivered by such Proposing Stockholder to act for such Proposing Stockholder as proxy at the meeting of stockholders and such person must produce such writing or Electronic Transmission, or a reliable reproduction of the writing or Electronic Transmission, at the meeting of stockholders.

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(f) In addition to the requirements of this Section 3.02 with respect to any business proposed to be brought before an annual meeting, each Proposing Person shall comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to any such business. This Section 3.02 shall not be deemed to affect the rights of stockholders to request inclusion of proposals in the Corporation s proxy statement pursuant to Rule 14a-8 under the Exchange Act.

(g) For purposes of these Bylaws, public disclosure shall mean disclosure in a press release reported by a national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Sections 13, 14 or 15(d) of the Exchange Act and the rules and regulations thereunder.

Section 3.03 Quorum; Adjournments. A majority in voting power of the shares of capital stock of the Corporation issued and outstanding and entitled to vote at the meeting of stockholders, the holders of which are present in person, present by means of remote communication in a manner, if any, authorized by the Board of Directors in its sole discretion or represented by proxy, shall constitute a quorum for the transaction of business except as otherwise provided by law, by the Certificate of Incorporation or by these Bylaws. A quorum, once established, shall not be broken by the withdrawal of enough votes to leave less than a quorum. If, however, such quorum shall not be present or represented at any meeting of the stockholders, the person presiding at the meeting or, if directed to be voted on by the person presiding at the meeting, the stockholders present or represented by proxy at the meeting and entitled to vote thereon, although less than a quorum, may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present or represented. At such adjourned meeting at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the original meeting. If the adjournment is for more than 30 days, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting. If after the adjournment a new record date for determination of stockholders entitled to vote is required for the adjourned meeting, the Board of Directors shall fix the record date for determining stockholders entitled to notice of such adjourned meeting, and a notice of the adjourned meeting shall be given to each stockholder of record as of the record date so fixed for notice of such adjourned meeting.

Section 3.04 Voting. Except as otherwise provided by the Certificate of Incorporation or applicable law, each stockholder shall have one vote for each share of stock having voting power, registered in such stockholder s name on the books of the Corporation on the record date set by the Board of Directors for determining the stockholders entitled to vote at a meeting of stockholders as provided in Section 7.04 hereof. When a quorum is present at any meeting, a majority of the votes cast by the shares present or represented by proxy at the meeting and entitled to vote on the subject matter shall decide any questions brought before such meeting, unless the question is one upon which by express provisions of applicable law, regulation applicable to the Corporation or its securities, the rules or regulations of any stock exchange applicable to the Corporation or the Certificate of Incorporation or these Bylaws, a different vote is required, in which case such express provision shall govern and control the decision of such question. Except as otherwise provided by these Bylaws, at any meeting for the election of directors at which a quorum is present, each director of the Corporation shall be elected by the vote of a majority of the votes cast with respect to that director s election by the shares present or represented by proxy at the meeting and entitled to vote on the election of directors. Notwithstanding the foregoing sentence, if, as of the tenth (10th) day preceding the date the Corporation first mails its notice of meeting for such meeting of stockholders, the number of nominees exceeds the number of directors to be elected (a Contested Election), the directors shall be elected by the vote of a plurality of the votes cast. In a Contested Election, stockholders shall be given the choice to cast for or withhold votes for the election of directors, and shall not have the ability to cast any other vote with respect to such election of directors. For purposes of this Section, a majority of the

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votes cast means that the number of votes cast for a proposal or a candidate for director must exceed the number of votes cast against that proposal or candidate for director (with abstentions and broker non-votes (i.e., shares held by a bank, broker or other nominee which are present or represented by proxy at the meeting, but with respect to which such bank, broker or nominee is not empowered to vote) not counted as votes cast either for or against such proposal or candidate for director).

Section 3.05 Proxies. Each stockholder having the right to vote at a meeting of stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such stockholder by proxy in a manner permitted by applicable law. No such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

Section 3.06 Special Meetings. Unless otherwise provided by the Certificate of Incorporation, special meetings of the stockholders, for any purpose or purposes, (i) may be called at any time by the Board of Directors, and (ii) shall be called by the Secretary upon the written request of stockholders owning at least 25% in amount of the entire capital stock of the Corporation issued and outstanding, and entitled to vote at the special meeting. Such request shall set forth (i) if the purpose of the meeting relates to business other than the election or appointment of directors, all information as is required to be included in a notice delivered to the Corporation pursuant to Section 3.02(c) hereof (and, in such circumstance, the requirements of Section 3.02(d) hereof shall also apply) and (ii) if the purpose of the meeting includes the appointment or election of one or more members of the Board of Directors, all information as would be required to be included in a notice delivered to the Corporation pursuant to Section 4.01(d) hereof (and, in such circumstance, the requirements of Section 4.01(e) hereof shall also apply). The Board of Directors may bring business before a special meeting of stockholders called by the Secretary upon the request of the Stockholders. Business transacted at any special meeting of stockholders shall be limited to the purposes stated in the notice. The Board of Directors may postpone, reschedule or cancel any previously scheduled special meeting of stockholders, whether called by them or otherwise.

Section 3.07 Notice to Stockholders.

(a) Whenever stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which notice shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which stockholders and proxy holders may be deemed to be present in person and vote at such meeting, the record date for determining stockholders entitled to vote at the meeting (if such date is different from the record date for stockholders entitled to notice of the meeting) and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Except as otherwise provided by law, such written notice of any meeting shall be given to each stockholder entitled to vote at such meeting as of the record date for determining the stockholders entitled to notice of the meeting, not less than ten nor more than 60 days before the date of the meeting. If mailed, notice is deemed given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder s address as it appears on the records of the Corporation.

(b) Except as otherwise prohibited by the DGCL and without limiting the foregoing, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these Bylaws shall be effective if given by a form of Electronic Transmission consented to by the stockholder to whom the notice is given. Any such consent shall be revocable by the stockholder by written notice to the Corporation. Any such consent shall be deemed revoked if (i) the Corporation is unable to deliver by Electronic Transmission two consecutive notices given by the Corporation in accordance with such consent and (ii) such inability becomes known to the Secretary or

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an Assistant Secretary of the Corporation or to the transfer agent of the Corporation, or other person responsible for the giving of notice; provided, however, the inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action. Any such notice shall be deemed given (i) if by facsimile telecommunication, when directed to a number at which the stockholder has consented to receive notice; (ii) if by electronic mail, when directed to an electronic mail address at which the stockholder has consented to receive notice; (iii) if by a posting on an electronic network together with separate notice to the stockholder of such specific posting, upon the later of (A) such posting and (B) the giving of such separate notice; and (iv) if by any other form of Electronic Transmission, when directed to the stockholder.

(c) Except as otherwise prohibited under the DGCL and without limiting the manner by which notice otherwise may be given to stockholders, any notice to stockholders given by the Corporation under any provision of the DGCL, the Certificate of Incorporation or these Bylaws may be given by a single written notice to stockholders who share an address if consented to by the stockholders at that address to whom such notice is given. Such consent shall have been deemed to have been given if a stockholder fails to object in writing to the Corporation within 60 days of having been given written notice by the Corporation of its intention to send the single notice as set forth in this Section 3.07(c). Any such consent shall be revocable by the stockholders by written notice to the Corporation.

Section 3.08 List of Stockholders. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten days before every meeting of stockholders, a complete list of the stockholders entitled to vote at the meeting (provided, however, if the record date for determining the stockholders entitled to vote is less than ten days before the date of the meeting, the list shall reflect the stockholders entitled to vote as of the tenth day before the meeting date), arranged in alphabetical order, and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of at least ten days prior to the meeting, (i) on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or (ii) during ordinary business hours, at the principal place of business of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic network, and the information required to access such list shall be provided with the notice of the meeting. Except as otherwise provided by law, such list shall be the only evidence as to who are the stockholders entitled to examine the list of stockholders required by this Section 3.08 or to vote in person or by proxy at any meeting of the stockholders. The Corporation shall not be required to include electronic mail addresses or other electronic contact information on such list.

Section 3.09 Conduct of Meetings.

(a) Meetings of stockholders shall be presided over by the Chairperson of the Board of Directors, if any, or in the Chairperson s absence by the Chief Executive Officer, or in the Chief Executive Officer s absence, by the President, or in the President s absence by a Vice President, or in the absence of all of the foregoing persons by a person designated by the Board of Directors. The Secretary shall act as secretary of the meeting, but in the Secretary s absence the person presiding over the meeting may appoint any person to act as secretary of the meeting.

(b) The Board of Directors may adopt by resolution such rules, regulations and procedures for the conduct of any meeting of stockholders of the Corporation as it shall deem appropriate

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including, without limitation, such guidelines and procedures as it may deem appropriate regarding the presence and participation by means of remote communication of stockholders and proxy holders not physically present at a meeting. Except to the extent inconsistent with such rules, regulations and procedures as adopted by the Board of Directors, the person presiding over any meeting of stockholders shall have the right and authority to convene and (for any or no reason) to recess and/or adjourn the meeting, to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such person, are appropriate for the proper conduct of the meeting. Such rules, regulations or procedures, whether adopted by the Board of Directors or prescribed by the person presiding over the meeting, may include, without limitation, the following: (i) the establishment of an agenda or order of business for the meeting; (ii) rules and procedures for maintaining order at the meeting and the safety of those present; (iii) limitations on attendance at or participation in the meeting to stockholders of record of the Corporation, their duly authorized and constituted proxies or such other persons as shall be determined; (iv) restrictions on entry to the meeting after the time fixed for the commencement thereof; and (v) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the Board of Directors or the person presiding over the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

(c) The person presiding over the meeting shall announce at the meeting when the polls for each matter to be voted upon at the meeting will be opened and closed. After the polls close, no ballots, proxies or votes or any revocations or changes thereto may be accepted.

(d) In advance of any meeting of stockholders, the Board of Directors, the Chairperson of the Board, the Chief Executive Officer or the President shall appoint one or more inspectors of election to act at the meeting and make a written report thereof. One or more other persons may be designated as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is present, ready and willing to act at a meeting of stockholders, the person presiding over the meeting shall appoint one or more inspectors to act at the meeting. Unless otherwise required by law, inspectors may be officers, employees or agents of the Corporation. Each inspector, before entering upon the discharge of such inspector s duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of such inspector s ability. The inspector shall have the duties prescribed by law and, when the vote is completed, shall make a certificate of the result of the vote taken and of such other facts as may be required by law. Every vote taken by ballots shall be counted by a duly appointed inspector or duly appointed inspectors.

ARTICLE IV

DIRECTORS

Section 4.01 Election of Directors.

(a) The total number of directors constituting the Board of Directors shall be as fixed in, or be determined in the manner provided by, the Certificate of Incorporation. At each annual meeting of stockholders of the Corporation, all directors shall be elected for a one (1) year term and shall hold office until the next annual meeting of stockholders and until their successors shall be elected and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office. Election of directors need not be by written ballot. The directors need not be stockholders.

With respect to nominations by Proposing Stockholders, only persons who are nominated in accordance with the following procedures shall be eligible for election as directors. Nominations of persons for election to the Board of Directors at an annual meeting or at a special meeting (but only if

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the Board, or pursuant to Section 3.06 of these Bylaws, the stockholders, have first determined that directors are to be elected at such special meeting) may be made at such meeting (i) specified in the notice of meeting given by or at the direction of the Board of Directors, including any committee thereof, (ii) brought before the meeting by or at the direction of the Board of Directors, including any committee thereof, or (iii) by any Proposing Stockholder who (A) was a stockholder of record (and, with respect to any beneficial owner, if different, on whose behalf such nomination is proposed to be made, only if such beneficial owner was the beneficial owner of shares of the Corporation) both at the time of giving the notice provided for in this Section 4.01 and at the time of the meeting, (B) is entitled to vote at the meeting and (C) complied with the notice procedures set forth in this Section 4.01 as to such nomination. This Section 4.01 shall be the exclusive means for a Proposing Stockholder to propose any nomination of a person or persons for election to the Board to be considered by the stockholders at an annual meeting or special meeting.

Without qualification, for nominations to be made at an annual meeting by a Proposing Stockholder, the Proposing Stockholder must (i) provide Timely Notice (as defined in Section 3.02 of these Bylaws) thereof in writing and in proper form to the Secretary of the Corporation and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Section 4.01. Without qualification, if the Board has first determined that directors are to be elected at such special meeting (or if a special meeting is called pursuant to Section 3.06 hereof and relates to the election or appointment of directors), then for nominations to be made at a special meeting by a Proposing Stockholder, the Proposing Stockholder must (i) provide timely notice thereof in writing and in proper form to the Secretary of the Corporation at the principal executive offices of the Corporation and (ii) provide any updates or supplements to such notice at the times and in the forms required by this Section 4.01. To be timely, a Proposing Stockholder s notice for nominations to be made at a special meeting by a Proposing Stockholder must be delivered to or mailed and received at the principal executive offices of the Corporation not earlier than the 120th day prior to such special meeting and not later than the 90th day prior to such special meeting or, if later, the 10th day following the day on which public disclosure (as defined in Section 3.02 of these Bylaws) of the date of such special meeting was first made. In no event shall any adjournment or postponement of an annual meeting or special meeting or the announcement thereof commence a new time period (or extend any time period) for the giving of a stockholder s notice as described above.

To be in proper form for purposes of this Section 4.01, a Proposing Stockholder s notice to the Secretary pursuant to this Section 4.01 shall be required to set forth:

(i) As to the Proposing Stockholder providing the notice and each other Proposing Person (as defined below), (A) the name and address of the Proposing Stockholder providing the notice, as they appear on the Corporation s books, and of the other Proposing Persons, (B) a representation that the Proposing Stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to propose such nomination, (C) a representation whether the Proposing Stockholder or the beneficial owner, if any, and/or any other Proposing Person intends or is part of a group that intends (a) to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation s outstanding capital stock required to elect the nominee and/or (b) otherwise to solicit proxies from stockholders in support of such nomination, and (D) any Disclosable Interests (as defined in Section 3.02 of these Bylaws) of the Proposing Stockholder providing the notice (or, if different, the beneficial owner on whose behalf such notice is given) and/or each other Proposing Person;

(ii) As to each person whom the Proposing Stockholder proposes to nominate for election as a director, (A) all information with respect to such proposed nominee that would be required to be set forth in a Proposing Stockholder s notice pursuant to this Section 4.01 if such proposed nominee were a Proposing Person, (B) all information relating to such proposed nominee that is

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required to be disclosed in a proxy statement or other filings required to be made in connection with solicitations of proxies for election of directors in a contested election pursuant to Section 14 under the Exchange Act and the rules and regulations thereunder (including such proposed nominee s written consent to being named in the proxy statement as a nominee and to serving as a director if elected) and (C) a description of all direct and indirect compensation and other material monetary agreements, arrangements and understandings during the past three years, and any other material relationships, between or among the Proposing Stockholder providing the notice (or, if different, the beneficial owner on whose behalf such notice is given) and/or any Proposing Person, on the one hand, and each proposed nominee, his or her respective affiliates and associates and any other persons with whom such proposed nominee (or any of his or her respective affiliates and associates) is Acting in Concert (as defined in Section 3.02 of these Bylaws), on the other hand, including, without limitation, all information that would be required to be disclosed pursuant to Item 404 under Regulation S-K if such Proposing Stockholder or beneficial owner, as applicable, and/or such Proposing Person were the registrant for purposes of such rule and the proposed nominee were a director or executive officer of such registrant; and

(iii) The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director of the Corporation or that could be material to a reasonable stockholder s understanding of the independence or lack of independence of such proposed nominee.

For purposes of this Section 4.01, the term Proposing Person shall mean (i) the Proposing Stockholder providing the notice of the nomination proposed to be made at the annual or special meeting, (ii) the beneficial owner or owners, if different, on whose behalf the nomination proposed to be made at the annual or special meeting is made, (iii) any affiliate or associate of such beneficial owner (as such terms are defined in Rule 12b-2 under the Exchange Act) and (iv) any other person with whom such Proposing Stockholder or such beneficial owner (or any of their respective affiliates or associates) is Acting in Concert.

A Proposing Stockholder providing notice of any nomination proposed to be made at an annual or special meeting shall further update and supplement such notice, if necessary, so that the information provided or required to be provided in such notice pursuant to this Section 4.01 shall be true and correct as of the record date for the annual or special meeting and as of the date that is ten business days prior to the meeting or any adjournment or postponement thereof, and such update and supplement shall be delivered to or mailed and received by the Secretary at the principal executive offices of the Corporation not later than five business days after the record date for the meeting (in the case of the update and supplement required to be made as of the record date), and not later than eight business days prior to the date for the meeting or any adjournment or postponement thereof (in the case of the update and supplement required to be made as of ten business days prior to the meeting or any adjournment or postponement thereof).

Notwithstanding anything in these Bylaws to the contrary, no person nominated by a Proposing Stockholder shall be eligible for election as a director of the Corporation unless nominated in accordance with the procedures set forth in this Section 4.01. The person presiding over the annual or special meeting shall, if the facts warrant, determine that a nomination was not properly made in accordance with the provisions of this Section 4.01 (including the requirement to update and supplement a Proposing Stockholder s notice of any nomination set forth in clause (e) above), and if he or she should so determine, he or she shall so declare such determination to the meeting, and the defective nomination shall be disregarded. Notwithstanding the foregoing provisions of this Section 4.01, unless otherwise required by law, if the Proposing Stockholder (or a qualified representative of the Proposing Stockholder) does not appear at the annual or special meeting of

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stockholders of the Corporation to present a nomination, such nomination shall be disregarded, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of this Section 4.01, to be considered a qualified representative of the Proposing Stockholder, a person must be a duly authorized officer, manager or partner of such Proposing Stockholder or must be authorized by a writing executed by such Proposing Stockholder or an Electronic Transmission delivered by such Proposing Stockholder to act for such Proposing Stockholder as proxy at the meeting of stockholders and such person must produce such writing or Electronic Transmission, or a reliable reproduction of the writing or Electronic Transmission, at the meeting of stockholders.

This Section 4.01 is expressly intended to apply to any nomination by a Proposing Stockholder proposed to be brought before an annual or special meeting. In addition to the requirements of this Section 4.01 with respect to any nomination by a Proposing Stockholder proposed to be made at an annual or special meeting, each Proposing Person shall comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to any such nominations. Nothing in this Section 4.01 shall be deemed to affect any rights of the holders of any series of preferred stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

Section 4.02 Vacancies. Vacancies on the Board of Directors by reason of death, resignation, retirement, disqualification, removal from office, or otherwise, and newly created directorships resulting from any increase in the authorized number of directors, shall be filled as provided in the Certificate of Incorporation. A director elected to fill a vacancy or a newly created directorship shall hold office until the next annual meeting of stockholders and until his or her successor shall be elected and shall qualify, subject, however, to prior death, resignation, retirement, disqualification or removal from office.

Section 4.03 Removal. Any director or the entire Board of Directors may be removed from office in the manner provided in the Certificate of Incorporation.

Section 4.04 General Powers. Except as otherwise provided by law or the Certificate of Incorporation, the business and affairs of the Corporation shall be managed by or under the direction of its Board of Directors.

Section 4.05 Place of Meeting. The Board may hold its meetings at such place or places within or without the State of Delaware as it may from time to time determine.

Section 4.06 Regular Meetings. Regular meetings of the Board of Directors may be held without notice at such time and place as shall from time to time be determined by the Board.

Section 4.07 Special Meetings. Special meetings of the Board of Directors may be called by the Chairperson of the Board of Directors. Special meetings also shall be called by the Secretary on the written request of any two directors unless the Board consists of only one director, in which case special meetings shall be called by the Secretary on the written request of the sole director. Notice of the time, date and place of such meeting shall be given, orally or in writing, by the person or persons calling or requesting the meeting to all directors at least four days before the meeting if the notice is mailed, or at least 24 hours before the meeting if such notice is given by telephone, hand delivery, overnight express courier, facsimile, electronic mail or other Electronic Transmission. Unless otherwise indicated in the notice, any and all business may be transacted at a special meeting, provided that notice of the special meeting shall state the purpose or purposes of the special meeting. The notice shall be deemed given:

(i) in the case of hand delivery or notice by telephone, when received by the director to whom notice is to be given or by any person accepting such notice on behalf of such director,

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(ii) in the case of delivery by mail, upon deposit in the United States mail, postage prepaid, directed to the director to whom notice is being given at such director s address as it appears on the records of the Corporation,

(iii) in the case of delivery by overnight express courier, on the first business day after such notice is dispatched, and

(iv) in the case of delivery via facsimile, electronic mail or other Electronic Transmission, when sent to the director to whom notice is to be given at such director s facsimile number or electronic mail address, as the case may be, as shown on the Corporation s records.

Section 4.08 Quorum; Adjournments. At all meetings of the Board of Directors a majority of the authorized number of directors shall be necessary and sufficient to constitute a quorum for the transaction of business, and the vote of a majority of the directors present at any meeting at which there is a quorum, shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute, by the Certificate of Incorporation or by these Bylaws. If a quorum shall not be present at any meeting of the Board of Directors the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present. If only one director is authorized, such sole director shall constitute a quorum.

Section 4.09 Unanimous Action in Lieu of a Meeting. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board or committee, as the case may be, consent thereto in writing, or by Electronic Transmission, and the writing or writings or Electronic Transmission or transmissions are filed with the minutes of proceedings of the Board or committee, respectively. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 4.10 Conference Call Meetings. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, members of the Board of Directors, or any committee designated by the Board of Directors, may participate in a meeting of the Board of Directors, or any committee, by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, and such participation in a meeting shall constitute presence in person at such meeting.

Section 4.11 Committees. The Board of Directors may designate one or more committees, each such committee to consist of one or more of the directors of the Corporation. The Board may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Any such committee, to the extent provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to approving or adopting, or recommending to the stockholders, any action or matter (other than the election or removal of directors) expressly required by the DGCL to be submitted to stockholders for approval or adopting, amending or repealing these Bylaws.

Each committee shall keep regular minutes of its meetings and report the same to the Board of Directors when required.

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Section 4.12 Compensation. Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, the Board of Directors shall have the authority to fix the compensation of directors, including the granting of equity interests (which may include profits interests and Synthetic Equity Interests) of the Corporation to the directors. The directors may be paid their expenses, if any, of attendance at each meeting of the Board of Directors and may be paid a fixed sum for attendance at each meeting of the Board of Directors or a stated salary as director. No such payment shall preclude any director from serving the Corporation in any other capacity and receiving compensation therefor. Members of special or standing committees may be allowed like compensation for attending committee meetings or a stated salary as a committee member. The terms of any compensation (including the granting of equity interests of the Corporation) paid to directors shall be as determined by the Board of Directors.

ARTICLE V

OFFICERS

Section 5.01 Generally. The Board of Directors shall from time to time elect or appoint such officers as it shall deem necessary or appropriate to the management and operation of the Corporation, including, without limitation, a President (which may be the Chief Executive Officer (CEO)), a Secretary and a Treasurer (which may be the Chief Financial Officer). The Board of Directors or the CEO shall have the power and authority to appoint as officers one or more Executive Vice Presidents, Senior Vice Presidents, Vice Presidents, a Chief Operating Officer, a Chief Administrative Officer and a Chief Marketing Officer. The officers of the Corporation shall exercise such powers and perform such duties as are specified in these Bylaws, in a resolution of the Board of Directors or, in the case of an officer appointed by the CEO, as specified by the CEO. Any person may hold two or more offices simultaneously, and no officer need be a stockholder of the Corporation.

In addition to the authority of the CEO to appoint officers as set forth above, if so provided by resolution of the Board, any officer may be delegated the authority to appoint one or more officers or assistant officers, which appointed officers or assistant officers shall have the duties and powers specified in the resolution of the Board or as determined by such officer.

Section 5.02 Compensation. The officers of the Corporation shall be entitled to such salaries, compensation or reimbursement as shall be fixed or allowed from time to time by the Board of Directors or any duly authorized committee thereof. In fixing the salaries, compensation and reimbursement of the officers of the Company other than the CEO, the Board of Directors may, among other things, take into account the recommendation of the CEO.

Section 5.03 Term; Removal. Each officer shall hold office until such officer s successor is elected or appointed and qualified or until such officer s earlier resignation or removal. Any officer may be removed at any time, with or without cause, by the Board of Directors. Any officer appointed by the CEO may be removed at any time by the CEO. If the office of any officer or officers becomes vacant for any reason, the vacancy shall be filled by the Board of Directors or by the CEO.

Section 5.04 Duties.

(a) Chairperson of the Board. The Chairperson of the Board shall, if present, preside at all meetings of the stockholders and of the Board. The Chairperson of the Board shall also perform such other duties and may exercise such other powers as may be assigned by these Bylaws or prescribed by the Board from time to time. If there is no President, the Chairperson of the Board shall in addition be the CEO and shall have the powers and duties prescribed in paragraph (c) of this Section 5.04.

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(b) President, Chief Executive Officer. The President shall be the CEO of the Corporation. The CEO shall be the principal executive officer of the Corporation and shall have such other title or titles designated by the Board. Subject to the control of the Board, the CEO shall in general manage, supervise and control all of the business and affairs of the Corporation. He or she shall have authority to conduct all ordinary business on behalf of the Corporation and may execute and deliver on behalf of the Corporation any contract, conveyance or similar document; and in general shall perform all duties incident to the office of the CEO of a corporation and such other duties as may be prescribed by the Board or these Bylaws from time to time. The President shall perform such other duties and shall have such other powers as the Board or the CEO (if the President is not the CEO) may from time to time prescribe.

(c) Treasurer. The Treasurer (who shall have any other title or titles designated by the Board or the CEO, including without limitation, in the Board s or the CEO s discretion, Chief Financial Officer) shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys, and other valuable effects in the name and to the credit of the Corporation, in such depositories as may be designated by the Board. He or she shall disburse the funds of the corporation as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the Board, at its regular meetings, or when the Board so requires, an account of all his or her transactions as Treasurer and of the financial condition of the Corporation. If required by the Board, he or she shall give the Corporation a bond, in such sum and with such surety or sureties as shall be satisfactory to the Board, for the faithful performance of the duties of his or her office and for the restoration to the Corporation, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the Corporation. The Treasurer in general shall perform all duties incident to the office of the Treasurer of a corporation and such other duties as may be prescribed by the Board, the CEO or these Bylaws from time to time.

(d) Secretary. The Secretary shall: (1) attend and keep the minutes of the stockholders meetings and of the Board s meetings in one or more books provided for that purpose, and perform like duties for the standing committees of the Board when required by the Board; (2) see that all notices are duly given in accordance with the provisions of these Bylaws or as otherwise required by law or the provisions of the Certificate of Incorporation; (3) be custodian of the corporate records and of the seal of the Corporation and see that the seal of the Corporation is affixed to all documents, the execution of which on behalf of the Corporation under its seal is duly authorized; (4) maintain, or cause an agent designated by the Board to maintain, a record of the Corporation s stockholders in a form that permits the preparation of a list of the names and addresses of all stockholders in alphabetical order by class of shares, showing the number and class of shares held by each; (5) have general charge of the stock transfer books of the Corporation or responsibility for supervision, on behalf of the Corporation, of any agent to which stock transfer responsibility has been delegated by the Board; (6) have responsibility for the custody, maintenance and preservation of those corporate records which the Corporation is required by the DGCL or otherwise to create, maintain or preserve; and (7) in general perform all duties incident to the office of Secretary of a corporation and such other duties as may be assigned by the Board, the CEO or these Bylaws from time to time.

(e) Deputy Officers. The Board may create one or more deputy officers whose duties shall be, among any other designated thereto by the Board, to perform the duties of the officer to which such office has been deputized in the event of the unavailability, death or inability or refusal of such officer to act. Deputy officers may hold such titles as designated therefor by the Board; however, any office designated with the prefix Vice or Deputy shall be, unless otherwise specified by resolution of the Board, automatically a deputy officer to the office with the title of which the prefix term is conjoined. Deputy officers shall have such other duties as prescribed by the Board or the CEO from time to time.

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(f) Assistant Officers. The Board may appoint one or more officers who shall be assistants to principal officers of the Corporation, or their deputies, and who shall have such duties as shall be delegated to such assistant officers by the Board or such principal officers, including the authority to perform such functions of those principal officers in the place of and with full authority of such principal officers as shall be designated by the Board or (if so authorized) by such principal officers. The Board may by resolution authorize appointment of assistant officers by those principal officers to which such appointed officers will serve as assistants.

ARTICLE VI

INDEMNIFICATION

Section 6.01 Indemnification.

(a) The Corporation shall indemnify and hold harmless to the full extent permitted by law (as now or hereafter in effect) any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation, or, while serving as a director, officer, employee or agent of the Corporation, is or was serving at the request of the Corporation, any other corporation, partnership, joint venture, trust or other enterprise in any capacity, against expenses (including attorneys fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful. Notwithstanding this Section 6.01(a) or the provisions of Section 6.01(b) hereof, except as otherwise provided in Section 6.01(f) hereof, the Corporation shall be required to indemnify a covered person in connection with a proceeding (or part thereof) commenced by such covered person only if the commencement of such proceeding (or part thereof) by the covered person was authorized in the specific case by the Board of Directors of the Corporation.

(b) The Corporation shall indemnify and hold harmless to the full extent permitted by law (as now or hereafter in effect) any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee or agent of the Corporation, or, while serving as a director, officer, employee or agent of the Corporation, is or was serving at the request of the Corporation another corporation, partnership, joint venture, trust or other enterprise in any capacity against expenses (including attorneys fees) actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Corporation and except that no such indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation unless and only to the extent that the Delaware Court or the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such Delaware Court or such other court shall deem proper.

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(c) To the extent that a present or former director, officer, employee or agent of the Corporation shall be successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraphs (a) and (b), or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including attorneys fees) actually and reasonably incurred by him or her in connection therewith.

(d) Any indemnification under paragraphs (a) and (b) (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the present or former director, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in paragraphs (a) and (b). Such determination shall be made, with respect to a person who is a director, officer, employee or agent at the time of such determination, (1) by a majority vote of the directors who are not parties to such action, suit or proceeding, even though less than a quorum, or (2) by a committee of such directors designated by majority vote of such directors, even though less than a quorum, or (3) if there are no such directors, or if such directors so direct, by independent legal counsel in a written opinion, or (4) by the stockholders.

(e) Expenses incurred by an officer or director in defending a civil or criminal action, suit or proceeding shall be paid by the Corporation to the fullest extent permitted by law in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of such director or officer to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Corporation as authorized in this Section 6.01. Such expenses incurred by former directors and officers or other employees and agents may be so paid upon such terms and conditions, if any, as the Corporation deems appropriate.

(f) The indemnification and advancement of expenses provided by, or granted pursuant to, the other paragraphs of this Section 6.01 shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any Bylaw, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office. The provisions of this Section 6.01 shall not be deemed to preclude the indemnification of (or advancement of expenses to) any person who is not specified in Section 6.01(a) or Section 6.01(b) but whom the Corporation has the power or obligation to indemnity under the provisions of the DGCL, or otherwise.

(g) If a claim for indemnification (following the final disposition of a proceeding) or advancement of expenses under this Section 6.01 is not paid in full within 90 days after a written claim therefor has been received by the Corporation, the claimant may file suit to recover the unpaid amount of such claim and, if successful in whole or in part, shall be entitled to be paid the expense of prosecuting such claim to the fullest extent permitted by law. In any such action the Corporation shall have the burden of proving that the claimant was not entitled to the requested indemnification or advancement of expenses under applicable law.

(g) The Board of Directors may authorize, by a vote of a majority of a quorum of the Board of Directors, the Corporation to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation another corporation, partnership, joint venture, trust or other enterprise in any capacity against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of this Section 6.01.

(h) The Board of Directors may authorize the Corporation to enter into a contract with any person who is or was a director, officer, employee or agent of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation,

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partnership, joint venture, trust or other enterprise providing for indemnification rights equivalent to or, if the Board of Directors so determines, greater than those provided in Section 6.01.

(i) For the purposes of this Section 6.01, references to the Corporation shall include, in addition to the resulting corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, employees or agents, so that any person who is or was a director, officer, employee or agent of such constituent corporation, or is or was serving at the request of such constituent corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall stand in the same position under the provisions of this Section 6.01 with respect to the resulting or surviving corporation as he or she would have with respect to such constituent corporation if its separate existence had continued.

(j) For purposes of this Section 6.01, references to other enterprises shall include employee benefit plans; references to fines shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to serving at the request of the Corporation shall include service as a director, officer, employee or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee or agent with respect to an employee benefit plan, its participants or beneficiaries; and a person who acted in good faith and in a manner he or she reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner not opposed to the best interest of the Corporation as referred to in this section.

(k) The indemnification and advancement of expenses provided by, or granted pursuant to, this Section 6.01 shall, unless otherwise provided when authorized or ratified, continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such a person.

(l) The Corporation s obligation, if any, to indemnify or to advance expenses to any person who was or is serving at its request another corporation, partnership, joint venture, trust or other enterprise in any capacity shall be reduced by any amount such person may collect as indemnification or advancement of expenses from such other corporation, partnership, joint venture, trust or other enterprise.

(m) Any repeal or modification of the foregoing provisions of this Section 6.01 shall not adversely affect any right or protection hereunder of any person in respect of any proceeding (regardless of when such proceeding is first threatened, commenced or completed) arising out of, or related to, any act or omission occurring prior to the time of such repeal or modification.

ARTICLE VII

CERTIFICATES OF STOCK

Section 7.01 Certificates. The shares of the Corporation shall be represented by certificates, provided that the Board of Directors may provide by resolution or resolutions that some or all of any or all classes or series of the Corporation s stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Every holder of stock represented by certificates shall be entitled to have a certificate signed by, or in the name of the Corporation by, the Chairperson of the Board of Directors, or the President or a Vice President, and by the Secretary or an Assistant Secretary, or the Treasurer or an Assistant Treasurer of the Corporation, representing the number of shares registered in certificate form. Any or all of the

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signatures on the certificate may be a facsimile. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if he or she were such officer, transfer agent, or registrar at the date of issue.

Section 7.02 Transfer. The issue, transfer, conversion and registration of stock certificates or uncertificated shares shall be governed by such other regulations as the Board of Directors may establish.

Section 7.03 Lost, Stolen or Destroyed Certificates. The Corporation may issue a new certificate of stock or uncertificated shares in the place of any certificate previously issued by it, alleged to have been lost, stolen or destroyed, and the Corporation may require the owner of the lost, stolen or destroyed certificate, or such owner s legal representative, to agree to indemnify the Corporation and/or to give the Corporation a bond sufficient to indemnify it, against any claim that may be made against it on account of the alleged loss, theft or destruction of any such certificate or the issuance of such new certificate or uncertificated shares.

Section 7.04 Fixing the Record Date.

(a) In order that the Corporation may determine the stockholders entitled to notice of any meeting of stockholders or any adjournment thereof, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, unless otherwise required by law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If the Board of Directors so fixes a date, such date shall also be the record date for determining the stockholders entitled to vote at such meeting unless the Board of Directors determines, at the time it fixes such record date, that a later date on or before the date of the meeting shall be the date for making such determination. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held. A determination of stockholders of record entitled to notice of or to vote at a meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for determination of stockholders entitled to vote at the adjourned meeting, and in such case shall also fix as the record date for stockholders entitled to notice of such adjourned meeting the same or an earlier date as that fixed for determination of stockholders entitled to vote in accordance herewith at the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of stock or for the purpose of any other lawful action, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall not be more than sixty (60) days prior to such action. If no such record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

(c) If no record date for determining stockholders entitled to express consent to corporate action in writing without a meeting is fixed by the Board of Directors, (i) when no prior action of the Board of Directors is required by law, the record date for such purpose shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the

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corporation in accordance with applicable law, and (ii) if prior action by the Board of Directors is required by law, the record date for such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

Section 7.05 Registered Stockholders. The Corporation shall be entitled to treat the holder of record of any share or shares of stock as the holder in fact thereof and accordingly shall not be bound to recognize any equitable or other claim or interest in such share on the part of any other person, whether or not it shall have express or other notice thereof, save as expressly provided by the laws of the State of Delaware.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.01 Dividends. Dividends upon the capital stock of the Corporation, subject to the provisions of the Certificate of Incorporation, if any, may be declared by the Board of Directors at any regular or special meeting, pursuant to law. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation.

Before payment of any dividend there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the directors from time to time, in their absolute discretion, think proper as a reserve fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purpose as the directors shall think conducive to the interests of the Corporation, and the directors may abolish any such reserve.

Section 8.02 Checks. All checks or demands for money and notes of the Corporation shall be signed by such officer or officers as the Board of Directors may from time to time designate.

Section 8.03 Fiscal Year. The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

Section 8.04 Seal. The Board of Directors may provide for a corporate seal, which shall have the name of the Corporation inscribed thereon and shall otherwise be in such form as may be approved from time to time by the Board of Directors. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

Section 8.05 Waiver of Notice. Whenever any notice is required to be given under applicable law or the Certificate of Incorporation or these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to said notice, or a waiver by Electronic Transmission by the person entitled to notice, whether before or after the time stated therein, shall be deemed equivalent thereto. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the stockholders, directors or members of a committee of directors need be specified in any written waiver of notice or any waiver by Electronic Transmission, unless so required by the Certificate of Incorporation. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

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ARTICLE IX

AMENDMENTS

Section 9.01 Amendments. These Bylaws may be amended or repealed, in whole or in part, or new Bylaws may be adopted by the Board or by the stockholders as expressly provided in the Certificate of Incorporation.

ARTICLE X

EXCLUSIVE FORUM

Section 10.01 Exclusive Forum. Unless the Corporation consents in writing to the selection of an alternative forum, the Delaware Court shall, to the fullest extent permitted by law, be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation, (ii) any action asserting a claim of breach of a fiduciary duty owed by any director or officer of the Corporation to the Corporation or the Corporation s stockholders, (iii) any action asserting a claim arising pursuant to any provision of the DGCL or these Bylaws or the Certificate of Incorporation or (iv) any action governed by the internal affairs doctrine. Any person or entity purchasing or otherwise acquiring any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 10.01.

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Annex E

REGISTRATION RIGHTS AGREEMENT

by and among

ALBERTSONS COMPANIES, INC.

and

the other parties hereto

Dated as of [ ], 2018

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REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (the Agreement) is dated as of [ ], 2018 and is by and among Albertsons Companies, Inc. (the Company), Cerberus, Colony Financial, Kimco, Klaff, Lubert-Adler, Schottenstein and the Individual Stockholders (each as defined below).

BACKGROUND

WHEREAS, the Company desires to grant registration rights to Cerberus, Colony Financial, Kimco, Klaff, Lubert-Adler, Schottenstein and the Individual Stockholders on the terms and conditions set out in this Agreement.

NOW, THEREFORE, the parties agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Certain Definitions . As used in this Agreement:

Affiliate has the meaning ascribed thereto in Rule 12b-2 promulgated under the Exchange Act, as in effect on the date hereof.

Agreement has the meaning set forth in the preamble.

Board means the board of directors of the Company.

Business Day means a day other than a Saturday, Sunday, federal or New York State holiday or other day on which commercial banks in New York City are authorized or required by law to close.

Cerberus means the entities listed on the signature pages hereto under the heading Cerberus.

Cerberus Entities means the entities comprising Cerberus, their respective Affiliates and the successors and permitted assigns of the entities and their respective Affiliates.

Colony Financial means the entities listed on the signature pages hereto under the heading Colony Financial.

Colony Financial Entities means the entities comprising Colony Financial, their respective Affiliates and the successors and permitted assigns of the entities and their respective Affiliates.

Company has the meaning set forth in the preamble, including any of its successors by merger, acquisition, reorganization, conversion or otherwise.

Company Lock-Up means those certain Lock-Up Agreements, dated the date hereof, by and among the Company and the respective Holders listed thereto.

Common Stock means the shares of common stock, par value $0.01 per share, of the Company, and any other capital stock of the Company into which such common stock is reclassified or reconstituted.

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Demand Holders means the Cerberus Entities, the Colony Financial Entities, the Kimco Entities, the Klaff Entities, the Lubert-Adler Entities and the Schottenstein Entities.

Exchange Act means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder, as the same may be amended from time to time.

FINRA means Financial Industry Regulatory Authority, Inc. or any successor thereto.

Governmental Authority means any nation or government, any state or other political subdivision thereof, and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

Holder means each member of Cerberus, Colony Financial, Kimco, Klaff, Lubert-Adler, Schottenstein and each Individual Stockholder that is a holder of Registrable Securities or securities exercisable, exchangeable or convertible into Registrable Securities or any Transferee of such Person to whom registration rights are assigned pursuant to Section 4.2.

Indemnified Party and Indemnified Parties have the meanings set forth in Section 3.1.

Individual Stockholder means those stockholders of the Company who are identified as Individual Stockholders on Schedule A hereto or any Transferee of such Person to whom registration rights are assigned pursuant to Section 4.2.

Kimco means the entities listed on the signature pages hereto under the heading Kimco.

Kimco Entities means the entities comprising Kimco, their respective Affiliates and the successors and permitted assigns of the entities and their respective Affiliates.

Klaff means the entities listed on the signature pages hereto under the heading Klaff.

Klaff Entities means the entities comprising Klaff, their respective Affiliates and the successors and permitted assigns of the entities and their respective Affiliates.

Law means any statute, law, regulation, ordinance, rule, injunction, order, decree, governmental approval, directive, requirement, or other governmental restriction or any similar form of decision of, or determination by, or any interpretation or administration of any of the foregoing by, any Governmental Authority.

Lock-Up means any agreement pursuant to which a Holder agrees to limitations relating to the transfer of any Registrable Securities, including any agreement entered into with the Company, including pursuant to Section 2.12 hereof, or with any underwriters in connection with any underwritten offering.

Lock-Up Period means, with respect to any Lock-Up, the period during which the restrictions of such Lock-Up are in effect.

Lubert-Adler means the entities listed on the signature pages hereto under the heading Lubert-Adler.

Lubert-Adler Entities means the entities comprising Lubert-Adler, their respective Affiliates and the successors and permitted assigns of the entities and their respective Affiliates.

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Person means an individual, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, a cooperative, an unincorporated organization, or other form of business organization, whether or not regarded as a legal entity under applicable Law, or any Governmental Authority or any department, agency or political subdivision thereof.

Pre-Merger Common Stock means all of the share of Company Common Stock outstanding as of the date immediately preceding the date of this Agreement.

Registrable Securities means all shares of Common Stock acquired on or prior to the date hereof, and any securities into which such Common Stock may be converted or exchanged pursuant to any merger, consolidation, sale of all or any part of its assets, corporate conversion or other extraordinary transaction of the Company held by a Holder (including any such securities received by a Holder upon the conversion or exchange of, or pursuant to a transaction with respect to, such Common Stock or other securities). As to any Registrable Securities, such Securities will cease to be Registrable Securities when:

(a) a registration statement covering such Registrable Securities has been declared effective and such Registrable Securities have been disposed of pursuant to such effective registration statement;

(b) such Registrable Securities shall have been sold pursuant to Rule 144 or 145 (or any similar provision then in effect) under the Securities Act;

(c) such Registrable Securities are eligible to be resold without regard to the volume or public information requirements of Rule 144 and the resale of such Registrable Securities is not prohibited by the Company Lock-Up; or

(d) such Registrable Securities cease to be outstanding.

Registration Expenses means any and all expenses incurred in connection with the Company s performance of or compliance with this Agreement, including:

(a) all SEC, stock exchange, or FINRA registration and filing fees;

(b) all fees and expenses of complying with securities or blue sky Laws (including fees and disbursements of one counsel for the underwriters in connection with blue sky qualifications of the Registrable Securities);

(c) all printing, messenger and delivery expenses;

(d) all fees and expenses incurred in connection with the listing of the Registrable Securities on any securities exchange or FINRA;

(e) the fees and disbursements of counsel for the Company and of its independent public accountants, including the expenses of any special audits and/or cold comfort letters required by or incident to such performance and compliance;

(f) any fees and disbursements of counsel (including the fees and disbursements of one outside counsel for all Holders, but except as set forth in (b) above, not including any counsel fees of any underwriters) incurred in connection with any registration statement or registered offering covering Registrable Securities held by the Holders;

(g) the costs and expenses of the Company relating to analyst and investor presentations or any road show undertaken in connection with the registration and/or marketing of the Registrable Securities; and

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(h) any other fees and disbursements customarily paid by the issuers of securities, but not including (i) any other expenses of the Holders, except as set forth in (f) above, or (ii) any underwriting discounts and commissions and transfer taxes, if any.

Schottenstein means the entities listed on the signature pages hereto under the heading Schottenstein.

Schottenstein Entities means the entities comprising Schottenstein, their respective Affiliates and the successors and permitted assigns of the entities and their respective Affiliates.

SEC means the U.S. Securities and Exchange Commission or any successor agency.

Securities Act means the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder, as the same may be amended from time to time.

Transfer (including its correlative meanings, Transferor , Transferee and Transferred) shall mean, with respect to an security, directly or indirectly, to sell, contract to sell, give, assign, hypothecate, pledge, encumber, grant a security interest in, offer, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend or otherwise transfer or dispose of any economic, voting or other rights in or to such security. When used as a noun, Transfer shall have such correlative meaning as the context may require.

Section 1.2 Other Definitional Provisions; Interpretation.

(a) The words hereof, herein, and hereunder and words of similar import when used in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, and references in this Agreement to a designated Article or Section refer to an Article or Section of this Agreement unless otherwise specified.

(b) The headings in this Agreement are included for convenience of reference only and do not limit or otherwise affect the meaning or interpretation of this Agreement.

(c) The meanings given to terms defined herein are equally applicable to both the singular and plural forms of such terms.

ARTICLE II

REGISTRATION RIGHTS

Section 2.1 Right to Demand a Non-Shelf Registered Offering. Following the six month anniversary of this Agreement, and so long as the Company is not eligible to use Form S-3, upon the demand of one or more Demand Holders (subject to any applicable Lock-Up Period), the Company will facilitate in the manner described in this Agreement a non-shelf registered offering of the Registrable Securities requested by such Demand Holders to be included in such offering. Any demanded non-shelf registered offering may, at the Company s option, include (i) shares to be sold by the Company for its own account, (ii) shares owned by officers or directors of the Company or other Holders who have contractual rights to be included therein, and (iii) shares to be sold by Holders that exercise their related piggyback rights on a timely basis in accordance with Section 2.2. Notwithstanding the foregoing, Demand Holders may not demand a non-shelf registered offering unless (i) (a) the amount of Registrable Securities requested to be sold by the demanding Holders in such offering is equal to at least six and a quarter percent (6.25%) of the total amount of Pre-Merger Common Stock, or (b) such request includes all of the remaining Registrable Securities held by such

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Demand Holders, and (ii) the Holders of a majority of the outstanding Registrable Securities consent in writing to such demand for a non-shelf registered offering. Any demanded non-shelf registered offering shall be conducted as a marketed, underwritten offering and not as a block-trade or overnight transaction.

Section 2.2 Right to Piggyback on a Non-Shelf Registered Offering. In connection with any registered offering of Common Stock covered by a non-shelf registration statement (whether pursuant to the exercise of demand rights or at the initiative of the Company), any non-demanding Holders may exercise piggyback rights to have included in such offering Registrable Securities held by them (subject to any applicable Lock-Up). The Company will facilitate in the manner described in this Agreement any such non-shelf registered offering. For the avoidance of doubt, if one or more Demand Holders exercise the demand set forth in Section 2.1, each Holder (including such Demand Holders) shall have the right to sell shares in the offering on a pro rata basis with pro rata being determined by dividing the number of Registrable Securities held or beneficially owned by a Holder (including such Demand Holder) as of the date of this Agreement by the number of Registrable Securities held or beneficially owned by all Holders as of such date.

Section 2.3 Right to Demand and be Included in a Shelf Registration. Without limiting any obligation under a Lock-Up, upon the demand of one or more Demand Holders, made at any time and from time to time when the Company is eligible to utilize Form S-3 or a successor form to sell the Registrable Securities on a delayed or continuous basis in accordance with Rule 415 under the Securities Act, the Company will facilitate in the manner described in this Agreement a shelf registration of Registrable Securities held by the Holders. Any shelf registration filed by the Company covering shares (whether pursuant to a Demand Holder s demand or the initiative of the Company) will cover Registrable Securities held by each of the Holders up to the highest common percentage of their Registrable Securities, which highest common percentage will be agreed upon by the Demand Holders taking into account any advice of any potential underwriters, after consultation with the Company, to limit the number shares included in such shelf registration. Any such shelf registration statement will cover only such number of Registrable Securities of each Holder that is permitted to be sold under any Lock-Ups applicable to such Holder.

Section 2.4 Demand and Piggyback Rights for Shelf Takedowns. Upon the demand of one or more of the Demand Holders made at any time and from time to time, the Company will facilitate in the manner described in this Agreement a takedown of shares off of an effective shelf registration statement. In connection with any underwritten shelf takedown (whether pursuant to the exercise of such demand rights or at the initiative of the Company), the Holders may exercise piggyback rights to have included in such takedown shares held by them that are registered on such shelf. Notwithstanding the foregoing, Demand Holders may not demand a shelf takedown for an underwritten offering (including block-trades and overnight transactions) unless (i) the amount of Registrable Securities requested to be sold by the demanding Demand Holders in such transaction is equal to at least six and one quarter percent (6.25%) of the total amount of Pre-Merger Common Stock, in the case of the first two offerings (and any non-shelf registration pursuant to Section 2.1 shall count as the first such offering), or in the case of the third underwritten offering and thereafter, the amount of Registrable Securities requested to be sold by the demanding Holders in such offering is equal to at least four percent (4%) of the total amount of Pre-Merger Common Stock or (ii) such request includes all of the remaining Registrable Securities included in such shelf registration statement held by such demanding Holders.

Section 2.5 Right to Reload a Shelf. Upon the written request of a Demand Holder, the Company will file and seek the effectiveness of a post-effective amendment to an existing shelf in order to register up to the number of Registrable Securities previously taken down off of such shelf by such Holder and not yet reloaded onto such shelf. The Demand Holders and the Company will consult and

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coordinate with each other in order to accomplish such replenishments from time to time in a sensible manner. Any such shelf registration statement will cover only such number of Registrable Securities of each Holder that is permitted to be sold under any Lock-Ups applicable to such Holder.

Section 2.6 Limitations on Demand and Piggyback Rights.

(a) Notwithstanding anything in this Agreement to the contrary, the first two demands, whether a non-shelf offering or an underwritten takedown, must be for underwritten, marketed, registered offerings only.

(b) Any demand for the filing of a registration statement or for a registered offering or takedown will be subject to the constraints of any applicable Lock-Ups, and such demand must be deferred until such constraints no longer apply. If a demand has been made for a non-shelf registered offering or for an underwritten takedown, no further demands may be made so long as the related offering is still being pursued. Each Demand Holder shall be permitted a maximum of an aggregate of three demands for underwritten offerings pursuant to Section 2.1 or Section 2.4. Notwithstanding anything in this Agreement to the contrary, each Holder will cease to have any demand registration rights pursuant to this Agreement once such Holder, together with its Affiliates (not including a portfolio company), ceases to beneficially own (as such term is defined under the Exchange Act) five percent (5%) or more of the outstanding Common Stock.

(c) Notwithstanding anything in this Agreement to the contrary, the Company shall not be required to effect more than one demand registration in any 30-day period (with such 30-day period commencing on the closing date of any underwritten offering pursuant to a preceding demand registration).

(d) Notwithstanding anything in this Agreement to the contrary, the Holders will not have piggyback or other registration rights with respect to registered primary offerings by the Company (i) covered by a Form S-4 or a Form S-8 registration statement or a successor form, (ii) where the shares of Common Stock are not being sold for cash or (iii) where the offering is a bona fide offering of securities other than shares of Common Stock, even if such securities are convertible into or exchangeable or exercisable for shares of Common Stock.

(e) The Company may postpone the filing or the effectiveness of a demand registration, including an underwritten shelf takedown, if, based on the good faith judgment of the Company, upon consultation with outside counsel, such filing, the effectiveness of a demand registration, or the consummation of an underwritten shelf takedown, as the case may be, would (i) reasonably be expected to materially impede, delay, interfere with or otherwise have a material adverse effect on any material acquisition of assets (other than in the ordinary course of business), merger, consolidation, tender offer, financing or any other material business transaction by the Company or any of its subsidiaries or (ii) require disclosure of information that has not been, and is otherwise not required to be, disclosed to the public, the premature disclosure of which the Company, after consultation with outside counsel to the Company, believes would be detrimental the Company, *provided* that the Company shall not be permitted to impose any such blackout period more than two times in any 12-month period and *provided further* that any such delay shall not be more than an aggregate of 120 days in any 12-month period.

Section 2.7 Notifications Regarding Registration Statements. In order for one or more Holders to exercise their right to demand that a registration statement be filed, they must so notify the Company in writing indicating the number of Registrable Securities sought to be registered, the proposed plan of distribution and the requested filing date of the registration statement or pricing date of any requested underwritten offering. The Company will keep the Holders reasonably apprised of any registration of Common Stock, whether pursuant to a Holder demand or otherwise, with respect to

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which a piggyback opportunity is available. Pending any required public disclosure and subject to applicable legal requirements, the parties will maintain the confidentiality of these discussions.

Section 2.8 [Intentionally Left Blank]

Section 2.9 Notifications From the Company.

(a) If the Company at any time proposes or is required to register any Common Stock under the Securities Act on its behalf or on behalf of any of its stockholders, including pursuant to an underwritten shelf takedown, whether or not on behalf of Demand Holders exercising a demand under this Agreement, on a form and in a manner that would permit registration of the Registrable Securities, the Company shall give each Holder written notice of its intent to do so not less than 15 days prior to the contemplated filing date for the relevant registration statement or prospectus supplement (provided that, in the case of a block trade or overnight transaction pursuant to an existing shelf registration statement, the Company shall notify each Holder as soon as reasonably possible and no later than two days prior to such filing date.

(b) Any Holder wishing to exercise its piggyback rights must notify the Company of the number of Registrable Securities it wishes to include in such offering. Such notice must be given as soon as practicable, but in no event later than 5:00 pm, New York City time, on (i) if applicable, the fifth trading day prior to the date on which the preliminary prospectus or prospectus supplement intended to be used in connection with marketing efforts for the relevant offering is expected to be finalized, and (ii) in all cases, the fifth trading day prior to the date on which the pricing of the relevant takedown occurs; *provided* that in the case of a block-trade or an overnight transaction, such written requests for inclusion must be received within one day after the date such Company notice is provided.

(c) Pending any required public disclosure and subject to applicable legal requirements, the parties will maintain appropriate confidentiality of their discussions regarding a prospective underwritten takedown.

Section 2.10 Plan of Distribution, Underwriters and Counsel.

(a) Non-Shelf Registered Offerings. Each underwritten offering through a non-shelf registration statement or through an underwritten marketed shelf takedown will have at least two active joint book-runners, one selected by the Holder or Holders, and the other chosen by the Company, in each case, reasonably acceptable to the other party. Such Holder or Holders will also be entitled to select one counsel for the selling Holders (which may be the same as counsel for the Company).

(b) Shelf Registration Statements. To the extent that any Registrable Securities are permitted to be sold under any applicable Lock-Up only in underwritten offerings, the shelf registration statement, or a prospectus supplement relating to such shelf registration statement, may permit sales only in underwritten offerings. To the extent that any Registrable Securities are not required by any applicable Lock-Ups to be sold in an underwritten offering, such shelf registration statement, or a prospectus supplement relating to such shelf registration statement, shall include a plan of distribution that provides as much flexibility as is reasonably possible, including with respect to resales by transferee Holders.

(c) Block-Trade or Overnight Transactions. To the extent that an Registrable Securities are permitted to be sold in a block-trade or overnight transaction, the relevant Demand Holder or Holders may select the underwriter and determine the plan of distribution.

Section 2.11 Cutbacks. If the managing underwriters advise the Company and the selling Holders that, in their opinion, the number of shares of Common Stock requested to be included in an

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underwritten offering exceeds the amount that can be sold in such offering without adversely affecting the distribution (including the price) of the shares of Common Stock being offered, such offering will include only the number of shares of Common Stock that the underwriters advise can be sold in such offering.

(a) In the case of an offering pursuant to a demand from one or more Demand Holders, the Registrable Securities to be included in such offering will be reduced by (i) only including the total number of Registrable Securities of the Holders in such offering as can be included with each such Holder entitled to include its pro rata share (determined in accordance with Section 2.2), (ii) second, to the extent that all Registrable Securities being sold for the account of the Holders can be included, then if the Company elects to sell shares in the offering, only including the total number of shares to be offered by the Company as can be included (in addition to all such Registrable Securities being sold for the account of the Holders) and (iii) third, if all shares being sold for the account of the Holders and the Company can be included, any other shares held by stockholders other than the Holders entitled to be included therein.

(b) In the case of an offering not pursuant to a demand from one or more Demand Holders, the Registrable Securities to be included in such offering will be reduced by (i) first only including any shares of Common Stock being sold for the account of the Company, (ii) second, to the extent that all shares of Common Stock being sold for the account of the Company can be included, then only including the total number of Registrable Securities of the Holders in such offering as can be included (in addition to any such shares of Common Stock being sold for the account of the Company) with each such Holder entitled to include its pro rata share (determined in accordance with Section 2.2) and (iii) third, if all shares of Common Stock being sold for the account of the Company and the Holders can be included, any other shares of Common Stock held by stockholders other than the Holders entitled to be included therein.

Section 2.12 Lock-Ups.

(a) In connection with any demanded underwritten offering of shares of Common Stock pursuant to this Agreement, the Company, and its directors and executive officers will agree (whether or not such party is participating in the offering) to be bound by the Lock-Up restrictions (i) set forth in the underwriting agreement, with respect to the Company, and (ii) agreed to with the underwriters in such offering, with respect to the directors and executive officers of the Company (which shall be up to 90 days in connection with the first two underwritten demand offerings, and up to 45 days in connection with the third underwritten demand and thereafter, in each case, from the pricing date of such offering). The Lock-Ups for Company directors and executive officers shall contain customary carve-outs, including, but not limited to, sales pursuant to Rule 10b5-1 plans entered into before any notice of such underwritten offering, sales in connection with the payment of taxes and sales of Common Stock underlying expiring options or similar securities within six months of the date of such Lock-Up. In the event a Form 4 needs to be filed as a result of such transaction, notice shall be provided to the managing underwriters.

(b) In connection with any primary underwritten offering of shares of Common Stock at the initiation of the Company or a secondary offering pursuant to this Agreement, each Holder will enter into a customary lock-up agreement with the underwriters of any such offering, which lock-up agreements shall not be materially more restrictive than the lock-up agreements entered into by the Company directors and executive officers in such offering and, in any event, under which the lock-up period shall not exceed (i) 90 days in the case of a marketed underwritten offering in connection with or prior to the second offering pursuant to a demand from one or more Demand Holders, (ii) 45 days otherwise.

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(c) In connection with any secondary underwritten offering of shares of Common Stock other than pursuant to this Agreement, each Holder that beneficially owns (as such term is defined under the Exchange Act) five percent (5%) or more of the outstanding Common Stock will enter into a customary lock-up agreement with the underwriters of any such offering, which lock-up agreements shall not be materially more restrictive than the lock-up agreements entered into by the Company directors and executive officers in such offering and, in any event, under which the lock-up period shall not exceed 30 days.

Section 2.13 Expenses. All Registration Expenses incurred in connection with any registration statement or registered offering covering Registrable Securities held by Holders will be borne by the Company, including the reasonable and documented fees and expenses of one counsel for all participating Holders in an underwritten offering. However, underwriters , brokers and dealers discounts and commissions applicable to Registrable Securities sold for the account of a Holder will be borne by such Holder. Notwithstanding anything to the contrary in this Section 2.13, if a Demand Holder withdraws its demand, the Company shall not be required to pay the Registration Expenses unless such withdrawal counts as one of the three available demands.

Section 2.14 Facilitating Registrations and Offerings.

(a) If the Company becomes obligated under this Agreement to facilitate a registration and offering of Registrable Securities on behalf of Holders, the Company will fulfill its specific obligations as described in this Section 2.14.

(b) In connection with each registration statement that is demanded by Holders or as to which piggyback rights otherwise apply, the Company will use its reasonable best efforts to:

(i) prepare and file with the SEC a registration statement covering the applicable Registrable Securities, file amendments thereto as warranted, seek the effectiveness thereof, and file with the SEC prospectuses and prospectus supplements as may be required, all in consultation with the Holders and as reasonably necessary in order to permit the offer and sale of such Registrable Securities in accordance with the applicable plan of distribution;

(ii) within a reasonable time prior to the filing of any registration statement, any prospectus, any amendment (other than Exchange Act filings incorporated by reference and unrelated to the offering) to a registration statement, amendment or supplement to a prospectus or any free writing prospectus, provide copies of such documents to the selling Holders and to the underwriter or underwriters of an underwritten offering, if applicable, and to their respective counsel; reasonably consider such reasonable changes in any such documents prior to or after the filing thereof as the counsel to the Holders or the underwriter or the underwriters may request; and make such of the representatives of the Company as shall be reasonably requested by counsel for the selling Holders or any underwriter available for discussion of such documents;

(iii) within a reasonable time prior to the filing of any document which is to be incorporated by reference into a registration statement or a prospectus (other than Exchange Act filings incorporated by reference and unrelated to the offering), provide copies of such document to counsel for the Holders and underwriters; reasonably consider such reasonable changes in such document prior to or after the filing thereof as counsel for such Holders or such underwriter shall request; and make such of the representatives of the Company as shall be reasonably requested by such counsel available for discussion of such document;

(iv) use reasonable best efforts to cause each registration statement and the related prospectus and any amendment or supplement thereto, as of the effective date of

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such registration statement, amendment or supplement and during the distribution of the registered shares (x) to comply in all material respects with the requirements of the Securities Act and the rules and regulations of the SEC and (y) not to contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading;

(v) notify each Holder promptly, and, if requested by such Holder, confirm such advice in writing, (A) when a registration statement has become effective and when any post-effective amendments and supplements thereto become effective if such registration statement or post-effective amendment is not automatically effective upon filing pursuant to Rule 462 of the Securities Act, (B) of the issuance by the SEC or any state securities authority of any stop order, injunction or other order or requirement suspending the effectiveness of a registration statement or the initiation of any proceedings for that purpose, (C) if, between the effective date of a registration statement and the closing of any sale of securities covered thereby pursuant to any agreement to which the Company is a party, the representations and warranties of the Company contained in such agreement cease to be true and correct in all material respects or if the Company receives any notification with respect to the suspension of the qualification of the securities for sale in any jurisdiction or the initiation of any proceeding for such purpose, and (D) of the happening of any event during the period a registration statement is effective as a result of which such registration statement or the related Prospectus contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading;

(vi) furnish counsel for each underwriter, if any, and one counsel for the Holders copies of any correspondence with the SEC or any state securities authority relating to the registration statement or prospectus;

(vii) otherwise use all reasonable efforts to comply with all applicable rules and regulations of the SEC, including making available to its security holders an earnings statement covering at least 12 months which shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder (or any similar provision then in force); and

(viii) use reasonable best efforts to obtain the withdrawal of any order suspending the effectiveness of a registration statement at the earliest possible time.

(c) In connection with any non-shelf registered offering or shelf takedown that is demanded by Holders or as to which piggyback rights otherwise apply, the Company will:

(i) reasonably cooperate with the selling Holders and the sole underwriter or managing underwriter of an underwritten offering, if any, to facilitate the timely preparation and delivery of certificates representing the shares to be sold, if any, and not bearing any restrictive legends; and enable such shares to be in such denominations (consistent with the provisions of the governing documents thereof) and registered in such names as the selling Holders or the sole underwriter or managing underwriter of an underwritten offering of shares, if any, may reasonably request at least five days prior to any sale of such shares;

(ii) furnish to each Holder and to each underwriter, if any, participating in the relevant offering, without charge, as many copies of the applicable prospectus, including each preliminary prospectus, and any amendment or supplement thereto and such other documents as such Holder or underwriter may reasonably request in order to facilitate the public sale or other disposition of the shares of Common Stock; the Company hereby consents to the use of the prospectus, including each preliminary prospectus, by each such Holder and underwriter in connection with the offering and sale of the shares of Common Stock covered by the prospectus or the preliminary prospectus;

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(iii) use reasonable best efforts to register or qualify the shares of Common Stock being offered and sold, no later than the time the applicable registration statement becomes effective, under all applicable state securities or blue sky laws of such jurisdictions as each underwriter, if any, or any Holder holding Registrable Securities covered by a registration statement, shall reasonably request; use reasonable best efforts to keep each such registration or qualification effective during the period such registration statement is required to be kept effective; and do any and all other acts and things which may be reasonably necessary or advisable to enable each such underwriter, if any, and each such Holder to consummate the disposition in each such jurisdiction of such Registrable Securities owned by such Holder; provided, however, that in each case under this paragraph (iii), the Company shall not be obligated to qualify as a foreign corporation or as a dealer in securities in any jurisdiction in which it is not so qualified or to consent to be subject to general service of process (other than service of process in connection with such registration or qualification or any sale of shares in connection therewith) in any such jurisdiction;

(iv) cause all shares of Common Stock being sold to be qualified for inclusion in or listed on the New York Stock Exchange or the primary securities exchange on which shares issued by the Company are then so qualified;

(v) reasonably cooperate and assist in any filings required to be made with FINRA and in the performance of any due diligence investigation by any underwriter in an underwritten offering;

(vi) use reasonable best efforts to facilitate the distribution and sale of any Registrable Securities to be offered pursuant to this Agreement, including without limitation by making road show presentations, holding meetings with potential investors and taking such other actions as shall be reasonably requested by the Holders or the lead managing underwriter of an underwritten offering; and

(vii) enter into customary agreements (including, in the case of an underwritten offering, underwriting agreements in customary form, and including provisions with respect to indemnification and contribution in customary form and consistent with the provisions relating to indemnification and contribution contained herein) and take all other customary and appropriate actions in order to expedite or facilitate the disposition of such shares and in connection therewith:

(A) make such representations and warranties to the selling Holders and the underwriters, if any, in form, substance and scope as are customarily made by issuers to underwriters in similar underwritten offerings;

(B) obtain opinions of counsel to the Company and updates thereof (which counsel and opinions (in form, scope and substance) shall be reasonably satisfactory to the lead managing underwriter, if any) addressed to the underwriters, if any, covering the matters customarily covered in opinions requested in sales of securities or underwritten offerings and such other matters as may be reasonably requested by such underwriters;

(C) obtain cold comfort letters and updates thereto from the Company s independent certified public accountants addressed to the underwriters, if any, which letters shall be customary in form and shall cover matters of the type customarily covered in cold comfort letters to underwriters in connection with primary underwritten offerings; and

(D) to the extent requested and customary for the relevant transaction, enter into a securities sales agreement with the Holders providing for, among other

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things, the appointment of an agent for the selling Holders for the purpose of soliciting purchases of shares, which agreement shall be customary in form, substance and scope and shall contain customary representations, warranties and covenants.

The above shall be done at such times as customarily occur in similar registered offerings or shelf takedowns.

(d) In connection with each registration and offering of shares to be sold by Holders, the Company will, in accordance with customary practice, make available for inspection by one representative of the Demand Holders and underwriters and any counsel or accountant retained by the Demand Holders or underwriters all relevant financial and other records, pertinent corporate documents and properties of the Company and cause appropriate officers, managers and employees of the Company to supply all information reasonably requested by any such representative, underwriter, counsel or accountant in connection with their due diligence exercise.

(e) Each Holder that holds shares covered by any registration statement will furnish to the Company such information regarding itself as is required to be included in the registration statement, the ownership of shares by such Holder and the proposed distribution by such Holder of such shares as the Company may from time to time reasonably request in writing.

ARTICLE III

INDEMNIFICATION

Section 3.1 Indemnification by the Company. In the event of any registration of any Registrable Securities of the Company under the Securities Act pursuant to Article II, the Company hereby indemnifies and agrees to hold harmless, to the fullest extent permitted by Law, each Holder who sells Registrable Securities covered by such registration statement, each Affiliate of such Holder and their respective directors and officers or general and limited partners or members (and the directors, officers, employees, members, Affiliates and controlling Persons of any of the foregoing), each other Person who participates as an underwriter in the offering or sale of such Registrable Securities and each other Person, if any, who controls such Holder or any such underwriter within the meaning of the Securities Act (each, and Indemnified Party and collectively, the Indemnified Parties), against any and all losses, claims, damages or liabilities, joint or several, and reasonable and documented expenses to which such Indemnified Party may become subject under the Securities Act, common law or otherwise, insofar as such losses, claims, damages or liabilities (or actions or proceedings in respect thereof, whether or not such Indemnified Party is a party thereto) arise out of or are based upon: (a) any untrue statement or alleged untrue statement of any material fact contained in any registration statement under which such Registrable Securities were registered under the Securities Act, any preliminary, final or summary prospectus contained therein, or any amendment or supplement thereto, or any document incorporated by reference therein, or any other such disclosure document (including reports and other documents filed under the Exchange Act and any document incorporated by reference therein) or related document or report; or (b) any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, in the case of a prospectus, in the light of the circumstances when they were made, and the Company will reimburse such Indemnified Party for any legal or other expenses reasonably incurred by it in connection with investigating or defending any such loss, claim, liability, action or proceeding; *provided* that the Company will not be liable to any Indemnified Party in any such case to the extent that any such loss, claim, damage, liability (or action or proceeding in respect thereof) or expense arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission made in such registration statement, in any such preliminary, final or summary prospectus, or any amendment or supplement thereto in reliance upon

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and in conformity with written information with respect to such Indemnified Party furnished to the Company by such Indemnified Party expressly for use in the preparation thereof. Such indemnity will remain in full force and effect regardless of any investigation made by or on behalf of such Holder or any Indemnified Party and will survive the Transfer of such Registrable Securities by such Holder or any termination of this Agreement.

Section 3.2 Indemnification by the Holders and Underwriters. The Company may require, as a condition to including any Registrable Securities in any registration statement filed in accordance with Article II, that the Company shall have received an undertaking reasonably satisfactory to it from the Holder of such Registrable Securities or any prospective underwriter to indemnify and hold harmless (in the same manner and to the same extent as set forth in Section 3.1) the Company, all other Holders or any prospective underwriter, as the case may be, and any of their respective Affiliates, directors, officers and controlling Persons, with respect to any untrue statement in or omission from such registration statement, any preliminary, final or summary prospectus contained therein, or any amendment or supplement, if such untrue statement or omission was made in reliance upon and in conformity with written information with respect to such Holder or underwriter furnished to the Company by such Holder or underwriter expressly for use in the preparation of such registration statement, preliminary, final or summary prospectus or amendment or supplement, or a document incorporated by reference into any of the foregoing. Such indemnity will remain in full force and effect regardless of any investigation made by or on behalf of the Company or any of the Holders, or any of their respective Affiliates, directors, officers or controlling Persons and will survive the Transfer of such Registrable Securities by such Holder. In no event shall the liability of any selling Holder of Registrable Securities hereunder be greater in amount than the dollar amount of the proceeds actually received by such Holder upon the sale of the Registrable Securities giving rise to such indemnification obligation.

Section 3.3 Notices of Claims, Etc. Promptly after receipt by an Indemnified Party hereunder of written notice of the commencement of any action or proceeding with respect to which a claim for indemnification may be made pursuant to this Article III, such Indemnified Party will, if a claim in respect thereof is to be made against an indemnifying party, give written notice to the latter of the commencement of such action; *provided* that the failure of the Indemnified Party to give notice as provided herein will not relieve the indemnifying party of its obligations under Section 3.1 or 3.2, except to the extent that the indemnifying party is actually prejudiced by such failure to give notice. In case any such action is brought against an Indemnified Party, unless in such Indemnified Party s reasonable judgment a conflict of interest between such indemnified and indemnifying parties may exist in respect of such claim, the indemnifying party will be entitled to participate in and to assume the defense thereof, jointly with any other indemnifying party similarly notified to the extent that it may wish, with counsel selected by such indemnifying party, and after notice from the indemnifying party to such Indemnified Party of its election so to assume the defense thereof, the indemnifying party will not be liable to such Indemnified Party for any legal or other expenses subsequently incurred by the latter in connection with the defense thereof other than reasonable costs of investigation. If, in such Indemnified Party s reasonable judgment, having common counsel would result in a conflict of interest between the interests of such indemnified and indemnifying parties, then such Indemnified Party may employ separate counsel reasonably acceptable to the indemnifying party to represent or defend such Indemnified Party in such action, it being understood, however, that the indemnifying party will not be liable for the reasonable fees and expenses of more than one separate firm of attorneys at any time for all such Indemnified Parties (and not more than one separate firm of local counsel at any time for all such Indemnified Parties) in such action. No indemnifying party will consent to entry of any judgment or enter into any settlement which does not include as an unconditional term thereof the giving by the claimant or plaintiff to such Indemnified Party of a release from all liability in respect of such claim or litigation.

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Section 3.4 Contribution. If the indemnification provided for hereunder from the indemnifying party is unavailable to an Indemnified Party hereunder in respect of any losses, claims, damages, liabilities or expenses referred to herein for reasons other than those described in the proviso in the first sentence of Section 3.1, then the indemnifying party, in lieu of indemnifying such Indemnified Party, shall contribute to the amount paid or payable by such Indemnified Party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative fault of the indemnifying party and Indemnified Parties in connection with the actions which resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations. The relative fault of such indemnifying party and Indemnified Parties shall be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, has been made by, or relates to information supplied by, such indemnifying party or Indemnified Parties, and the parties relative intent, knowledge, access to information and opportunity to correct or prevent such action. The amount paid or payable by a party under this Section 3.4 as a result of the losses, claims, damages, liabilities and expenses referred to above shall be deemed to include any legal or other fees or expenses reasonably incurred by such party in connection with any investigation or proceeding. In no event shall the liability of any selling Holder of Registrable Securities hereunder be greater in amount than the dollar amount of the proceeds actually received by such Holder upon the sale of the Registrable Securities giving rise to such contribution obligation.

The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 3.4 were determined by *pro rata* allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. No Person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation.

Section 3.5 Non-Exclusivity. The obligations of the parties under this Article III will be in addition to any liability which any party may otherwise have to any other party.

ARTICLE IV

OTHER

Section 4.1 Notices. Any notice, request, instruction or other document to be given hereunder by any party hereto to another party hereto shall be in writing and shall be deemed given (a) when delivered personally, (b) five (5) Business Days after being sent by certified or registered mail, postage prepaid, return receipt requested, (c) one (1) Business Day after being sent by Federal Express or other nationally recognized overnight courier, or (d) if transmitted by facsimile, if confirmed within 24 hours thereafter by a signed original sent in the manner provided in clause (a), (b) or (c) to parties at the following addresses (or at such other address for a party as shall be specified by prior written notice from such party):

if to the Company:

Albertsons Companies, Inc.

250 Parkcenter Blvd.

Boise, ID 83706

Attention: Robert A. Gordon, Esq.

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if to Cerberus:

c/o Cerberus Capital Management, L.P.

875 Third Avenue, 11th Floor

New York, NY 10022

Attention: Lenard Tessler

Mark A. Neporent, Esq.

Lisa A. Gray, Esq.

with an additional copy (not constituting notice) to:

Schulte Roth & Zabel LLP

919 Third Avenue

New York, NY 10022

Attention: Stuart D. Freedman, Esq.

Michael E. Gilligan, Esq.

Antonio L. Diaz-Albertini, Esq.

if to Colony Financial:

c/o Colony NorthStar, Inc.

2450 Broadway, 6th Floor

Santa Monica, CA 90404

Attention: Director / Legal Assistant

and:

c/o Colony NorthStar, Inc.

712 Fifth Avenue

35th Floor

New York, NY 10019

Attention: David Schwarz

with an additional copy (not constituting notice) to:

Willkie Farr & Gallagher LLP

787 Seventh Avenue

New York, NY 10019

Attention: Adam Turteltaub

if to Kimco:

c/o Kimco Realty Corporation

3333 New Hyde Park Road, Suite 100

New Hyde Park, NY 10042

Attention: Raymond Edwards and Bruce Rubenstein

with an additional copy (not constituting notice) to:

Fried, Frank, Harris, Shriver & Jacobson LLP

One New York Plaza

New York, New York 10004

Attention: Philip Richter and Steven G. Scheinfeld, Esq.

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if to Klaff:

Klaff Realty, L.P.

35 E. Wacker Drive

Suite 2900

Chicago, IL 60601

Attention: Hersch M. Klaff

with an additional copy (not constituting notice) to:

Fox, Swibel, Levin & Carroll, LLP

200 W. Madison Street, Suite 3000

Chicago, IL 60603

Attention: Laurie A. Levin

if to Lubert-Adler:

Lubert-Adler Partners

The Cira Centre

2929 Arch Street

Philadelphia, PA 19104

Attention: Gerald A. Ronon

with an additional copy (not constituting notice) to:

Kirkland & Ellis LLP

300 North LaSalle

Chicago, IL 60654

Attention: Richard J. Campbell

if to Schottenstein:

Jubilee Limited Partnership

4300 E. Fifth Ave.

Columbus, OH 43219

Attention: Ben Kraner

Tod H. Friedman, Esq.

if to any Individual Stockholder:

c/o Albertsons Companies, Inc.

250 Parkcenter Blvd.

Boise, ID 83706

Attention: Robert A. Gordon, Esq.

Section 4.2 Assignment. Neither the Company nor any Holder shall assign all or any part of this Agreement without the prior written consent of the Company; *provided*, *however*, that any Holder may assign its respective rights and obligations under this Agreement in whole or in part to any of its respective Affiliates (in each case under this Section 4.2, not including a portfolio company), or through an in-kind distribution to its direct or indirect equityholders without the consent of any other party (unless such in-kind distribution would be prohibited under any applicable Lock-Up); *provided*, *further*, that no Holder shall transfer any Registrable Securities to its Affiliates or through such an in-kind distribution unless such transferees assume the respective rights and obligations of such Holder under this Agreement, including the obligation to deliver Lock-Ups pursuant to Section 2.12. Except as otherwise provided herein, this Agreement will inure to the benefit of and be binding on the parties

hereto and their respective successors and permitted assigns. Any such transfer of registration rights will be effective upon receipt by the Company of (i) written notice from such Holder stating the name and address of any transferee and identifying the number of shares with respect to which rights under this Agreement are being transferred and the nature of the rights so transferred, and (ii) a written agreement from such transferee to be bound by the terms of this Agreement.

Section 4.3 Amendments; Waiver. This Agreement may be amended, supplemented or otherwise modified, or any provision waived, only by a written instrument executed by the Company and the Holders holding a majority of the Registrable Securities subject to this Agreement; *provided* that no such amendment, supplement or other modification or waiver shall adversely affect the economic interests of any Holder hereunder, or increase the obligations of any Holder, disproportionately to other Holders without the written consent of such Holder. For the avoidance of doubt, no consent pursuant to this Section 4.3 shall be required in connection with any amendment or revision to Schedule A unless such amendment or revision is to remove a Holder from such schedule at a time when such Holder would otherwise be entitled to registration rights herein. No waiver by any party of any of the provisions hereof will be effective unless explicitly set forth in writing and executed by the party so waiving. Except as provided in the preceding sentence, no action taken pursuant to this Agreement, including without limitation, any investigation by or on behalf of any party, will be deemed to constitute a waiver by the party taking such action of compliance with any covenants or agreements contained herein. The waiver by any party hereto of a breach of any provision of this Agreement will not operate or be construed as a waiver of any subsequent breach.

Section 4.4 Term. In the event that (i) a given Holder ceases to beneficially own (as such term is defined under the Exchange Act) five percent (5%) or more of the outstanding Common Stock, (ii) such Holder ceases to hold any Registrable Securities and (iii) such Holder is not a party to any agreement with the Company restricting such Holder from selling any Registrable Securities other than pursuant to an underwritten offering, then all of such Holder s rights and obligations under this Agreement shall expire and such Holder will cease to be a Holder for all purposes hereunder without any further action of the Company or any other party hereto.

Section 4.5 Third Parties. This Agreement does not create any rights, claims or benefits inuring to any person that is not a party hereto nor create or establish any third party beneficiary hereto.

Section 4.6 Rule 144. Without limiting the limitations on sales pursuant to the Company Lock-Up or any Lock-Up with an Underwriter pursuant to an offering of Common Stock, for so long as the Company is subject to the requirements of Section 13, 14 or 15(d) of the Exchange Act, the Company covenants that it will file any reports required to be filed by it under the Securities Act and the Exchange Act (or, if the Company is subject to the requirements of Section 13, 14 or 15(d) of the Exchange Act but is not required to file such reports, it will, upon the request of any Holder, make publicly available such information), and it will take such further action as any Holder may reasonably request so as to enable such Holder to sell shares without registration under the Securities Act within the limitation of the exemptions provided by (a) Rule 144 under the Securities Act, as such Rule may be amended from time to time, or (b) any similar rule or regulation hereafter adopted by the SEC, in each case, only to the extent such sales would be permitted under all applicable Lock-Ups. Upon the request of any Holder, the Company will deliver to such Holder a written statement as to whether it has complied with such requirements.

Section 4.7 In-Kind Distributions. If any Holder seeks to effectuate an in-kind distribution of all or part of its shares to its direct or indirect equityholders, the Company will, only to the extent such in-kind distribution would be permitted under all applicable Lock-Ups, cooperate with such Holder and the Company s transfer agent to facilitate such in-kind distribution in the manner reasonably requested

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by such Holder, as well as any resales by such transferees under a shelf registration statement covering such distributed shares.

Section 4.8 [Intentionally Left Blank]

Section 4.9 Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York.

Section 4.10 CONSENT TO JURISDICTION. **EACH OF THE PARTIES HERETO CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED WITHIN THE STATE OF NEW YORK AND IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS RELATING TO THIS AGREEMENT SHALL BE LITIGATED IN SUCH COURTS. EACH OF THE PARTIES HERETO ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS RESPECTIVE PROPERTIES, GENERALLY AND UNCONDITIONALLY, THE EXCLUSIVE JURISDICTION OF THE AFORESAID COURTS AND WAIVES ANY DEFENSE OF FORUM NON CONVENIENS, AND IRREVOCABLY AGREES TO BE BOUND BY ANY FINAL AND NONAPPEALABLE JUDGMENT RENDERED THEREBY IN CONNECTION WITH THIS AGREEMENT. EACH OF THE PARTIES HERETO FURTHER IRREVOCABLY CONSENTS TO THE SERVICE OF PROCESS OUT OF ANY OF THE AFOREMENTIONED COURTS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES THEREOF VIA OVERNIGHT COURIER, TO SUCH PARTY AT THE ADDRESS SPECIFIED IN THIS AGREEMENT, SUCH SERVICE TO BECOME EFFECTIVE FOURTEEN CALENDAR DAYS AFTER SUCH MAILING. NOTHING HEREIN SHALL IN ANY WAY BE DEEMED TO LIMIT THE ABILITY OF EITHER PARTY HERETO TO SERVE ANY SUCH LEGAL PROCESS, SUMMONS, NOTICES AND DOCUMENTS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW OR TO OBTAIN JURISDICTION OVER OR TO BRING ACTIONS, SUITS OR PROCEEDINGS AGAINST THE OTHER PARTY HERETO IN SUCH OTHER JURISDICTIONS, AND IN SUCH MANNER, AS MAY BE PERMITTED BY ANY APPLICABLE LAW.**

Section 4.11 MUTUAL WAIVER OF JURY TRIAL. **THE PARTIES HERETO WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO ENFORCE OR DEFEND ANY RIGHTS OR REMEDIES UNDER THIS AGREEMENT.**

Section 4.12 Specific Performance. Each of the parties hereto acknowledges and agrees that in the event of any breach of this Agreement by any of them, the non-breaching party would be irreparably harmed and could not be made whole by monetary damages. Each party accordingly agrees to waive the defense in any action for specific performance that a remedy at law would be adequate and that the parties, in addition to any other remedy to which they may be entitled at law or in equity, shall be entitled to compel specific performance of this Agreement.

Section 4.13 Entire Agreement. This Agreement sets forth the entire understanding of the parties hereto with respect to the subject matter hereof. There are no agreements, representations, warranties, covenants or undertakings with respect to the subject matter hereof other than those expressly set forth herein. This Agreement supersedes all other prior agreements and understandings between the parties with respect to such subject matter.

Section 4.14 Severability. If one or more of the provisions, paragraphs, words, clauses, phrases or sentences contained herein, or the application thereof in any circumstances, is held invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such provision, paragraph, word, clause, phrase or sentence in every other respect and of the remaining provisions, paragraphs, words, clauses, phrases or sentences hereof shall not be in any way impaired, it being intended that all rights, powers and privileges of the parties hereto shall be

enforceable to the fullest extent permitted by Law.

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Section 4.15 Counterparts. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which together will be deemed to be one and the same instrument.

Section 4.16 Effectiveness. This Agreement shall become effective, as to any Holder, as of the date signed by the Company and countersigned by such Holder.

[*Remainder of Page Intentionally Left Blank*]

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IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first written above.

COMPANY:

ALBERTSONS COMPANIES, INC.

By:
Name:
Title:

[Signature Page to Registration Rights Agreement]

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CERBERUS:

CERBERUS ICEBERG LLC

By:
Name:
Title:

CERBERUS CAPITAL MANAGEMENT, L.P.

By:
Name:
Title:

[Signature Page to Registration Rights Agreement]

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SCHOTTENSTEIN:

JUBILEE ABS HOLDING LLC

By:
Name:
Title:

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KLAFF:

KLA A MARKETS, LLC

By:
Name:
Title:

K-SATURN, LLC

By:
Name:
Title:

A-S KLAFF EQUITY, LLC

By:
Name:
Title:

KLAFF-W LLC

By:
Name:
Title:

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LUBERT-ADLER:

L-A V ABS LLC

By:
Name:
Title:

LUBERT-ADLER REAL ESTATE FUND V, LP

By:
Name:
Title:

LUBERT-ADLER REAL ESTATE PARALLEL FUND V, LP

By:
Name:
Title:

LUBERT-ADLER REAL ESTATE FUND VI, LP

By:
Name:
Title:

LUBERT-ADLER REAL ESTATE FUND VI-A, LP

By:
Name:
Title:

LUBERT-ADLER REAL ESTATE FUND VI-B, LP

By:
Name:
Title:

L-A SATURN ACQUISITION, LP

By:
Name:
Title:

L-A ASSET MANAGEMENT SERVICES, LLC

By:
Name:
Title:

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KIMCO:

KIM-SFW LLC

By:
Name:
Title:

KRSX MERGE LLC

By:
Name:
Title:

KRS ABS LLC

By:
Name:
Title:

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COLONY FINANCIAL:

COLFIN SAFE HOLDINGS, LLC

By:
Name:
Title:

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Annex F

Standstill Agreement

This Standstill Agreement (the "Agreement") is made as of February 18, 2018, by and among Rite Aid Corporation, a Delaware corporation (the "Company"), Albertsons Companies, Inc., a Delaware corporation ("Parent"), and Cerberus Capital Management, L.P. ("Investor").

Reference is hereby made to that certain Agreement and Plan of Merger, dated as of February 18, 2018 (the "Merger Agreement"), entered into by and among the Company, Parent, Ranch Acquisition II LLC, a Delaware limited liability company and a wholly-owned direct subsidiary of Parent, and Ranch Acquisition Corp., a Delaware corporation and a wholly-owned direct subsidiary of Merger Sub II. Capitalized terms used but not herein defined shall have the meanings ascribed to them in the Merger Agreement.

Section 1. Standstill.

1.1 In consideration of the covenants of Parent set forth in Section 7.20(a), (b), (c) and (d) of the Merger Agreement, except to the extent expressly permitted by the Merger Agreement, Investor agrees that during the Standstill Period (as defined below), neither it nor any of its controlled Affiliates shall, directly or indirectly:

(a) purchase or cause to be purchased or otherwise acquire or agree to acquire beneficial ownership (including, but not limited to, any voting right or beneficial ownership as defined in Rule 13d-3 under the Exchange Act) of any shares of Parent Common Stock or other securities issued by Parent, or any option, forward contract, swap or any other securities convertible into or exchangeable for Parent Common Stock or any rights or options to acquire any such ownership; provided that, notwithstanding the foregoing, Investor and its controlled Affiliates may acquire beneficial ownership (as defined in Rule 13d-3 under the Exchange Act) of Parent Common Stock provided that such beneficial ownership does not result in ownership of 30% or more of the issued and outstanding shares of Parent Common Stock in the aggregate following such transaction (assuming any stock buy back transaction announced but not yet consummated by the Company has been consummated as of the time of such acquisition);

(b) make any public statement or public disclosure regarding any intent, purpose, plan or proposal with respect by Investor or any of its controlled Affiliates to (i) the composition of the Parent Board, Parent s management (including, without limitation, any change in management of Parent), the policies or affairs of Parent, (ii) any merger, consolidation, acquisition of control, business combination, tender or exchange offer, purchase, sale or transfer of Parent or its subsidiaries, businesses, assets or securities, dissolution, liquidation, reorganization, change in capital structure, recapitalization, dividend, share repurchase or other extraordinary transaction (each transaction in this clause (ii), an "Extraordinary Transaction"), or make any private statement or private disclosure regarding any such intent, purpose, plan or proposal that would require Parent to make any public disclosure relating to any such intent, purpose, plan or proposal;

(c) engage in any solicitation of proxies to vote (as such terms are used in Regulation 14 of the Exchange Act) or consents to vote (whether or not any such solicitation relates to the election or removal of directors), or initiate, propose, encourage or otherwise solicit stockholders of Parent for the approval of any stockholder proposals with respect to Parent;

(d) enter into any arrangements, understanding or agreements (whether written or oral) with, or advise, finance, assist or knowingly encourage, any other person in connection with any of the

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foregoing, or make any investment in or enter into any arrangement with any other person that engages, or offers or proposes to engage, in any of the foregoing; or

(e) take any action challenging the validity or enforceability of this Section 1 or this Agreement, or request Parent or the Board of Directors of Parent (the Parent Board), as applicable, to amend or waive any provision of this Section 1.

1.2 For purposes of this Agreement, the term Standstill Period shall mean the period commencing at the Effective Time and terminating upon the earliest to occur of (a) thirty (30) days following the date that Investor does not have any of its designees on the Parent Board (it being understood that this clause shall be immediately triggered by the delivery by all Investor designees on the Parent Board of notices of immediately effective resignations from the Parent Board, (b) the date on which Investor no longer has the right to appoint (and has not appointed) at least one director to the Parent Board and (c) the date on which Parent materially breaches or takes any action challenging the validity or enforceability of Section 7.20(a), (b), (c) or (d) of the Merger Agreement.

1.3 The terms of this Agreement shall not limit, restrict or impair Investor s or its Affiliates ability to directly or indirectly (a) propose, commit on, participate in and/or make a loan or other debt financing to Parent or any of its subsidiaries, (b) propose, commit on, participate in and/or provide debt financing to a prospective buyer regarding Parent or any of its subsidiaries or assets in a negotiated transaction with Parent, finance a third party s effort to make a loan or other debt financing to Parent or any of its subsidiaries in a negotiated transaction with Parent or any of its subsidiaries, (c) participate in any process approved, conducted or initiated by Parent pursuant to which any of the businesses or assets of Parent or any of its subsidiaries are proposed to be sold or otherwise disposed of, in each case in accordance with the parameters of such process, (d) submit a proposal to the Parent Board of Directors relating to the acquisition of all or substantially all of Parent and its subsidiaries if Parent has entered into a definitive agreement with respect to the sale of all or substantially all of Parent and its subsidiaries or (e) purchase debt of Parent or its subsidiaries in secondary market transactions; provided that in the case of clauses (a), (b), and (e), references to debt shall be limited to no more than 30% of any debt financing or offering. The term debt as used in this paragraph shall include, without limitation, institutional debt (bank or otherwise), commercial paper, notes, debentures, bonds, other evidences of indebtedness, and debt securities, but shall not include any debt convertible or exchangeable for equity.

1.4 For the avoidance of doubt, and notwithstanding anything herein to the contrary, nothing in this Section 1 or elsewhere in this Agreement shall be deemed to in any way restrict, limit or prevent (a) the Investor or its Affiliates from communicating, on a confidential basis, with its attorneys, accountants or financial advisors; (b) the Investor or its Affiliates from (i) bringing litigation to enforce the provisions of this Agreement or the Merger Agreement or (ii) making counterclaims with respect to any proceeding initiated by, or on behalf of, Parent against Investor with respect to this Agreement or the Merger Agreement; (c) Investor or its Affiliates from selling or tendering any shares of the Company or Parent, or (d) prevent any designee of Investor on the Parent Board for taking any action consistent with such designee s fiduciary duties under applicable law in connection with such role.

1.5 From and after the date of this Agreement and until the Effective Time, neither Investor nor any of its controlled Affiliates shall directly or indirectly, purchase or cause to be purchased or otherwise acquire or agree to acquire beneficial ownership (including, but not limited to, any voting right or beneficial ownership as defined in Rule 13d-3 under the Exchange Act) of any shares of Parent Common Stock or Company Common Stock or other securities or debt issued by Parent or Company, or any option, forward contract, swap or any other securities convertible into or exchangeable for Parent Common Stock or Company Common Stock or any rights or options to acquire any such ownership; provided that, notwithstanding the foregoing, Investor and its controlled Affiliates may

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acquire beneficial ownership (as defined in Rule 13d-3 under the Exchange Act) of Parent Common Stock or Company Common Stock provided that such beneficial ownership does not result in ownership of 30% or more of the issued and outstanding shares of Parent Common Stock at Effective Time (assuming for the purpose of such calculation that the Effective Time occurred immediately after such acquisition).

1.6 As used in this Agreement, the terms Affiliate shall have the respective meanings set forth in Rule 12b-2 promulgated by the SEC under the Exchange Act and shall include all persons or entities that at any time during the term of this Agreement become Affiliates of any person or entity referred to in this Agreement. Reference to controlled affiliates of Cerberus include, without limitation, Cerberus Iceberg LLC.

Section 2. Confidentiality.

2.1 Nothing in this Agreement shall prohibit any party hereto from (i) making any statement or disclosure required under the federal securities laws or other applicable laws or the rules of the New York Stock Exchange; provided, however, that such party shall to the extent feasible and permitted provide written notice to the other parties hereto reasonably in advance making any such statement or disclosure required by the federal securities laws or other applicable laws or the rules of the New York Stock Exchange that would otherwise be prohibited by the provisions of this Section 2, and reasonably consider any comments of such other parties; (ii) communicating, on a confidential basis, with attorneys, accountants, or financial advisors or as otherwise required by law; (iii) communicating privately with their investors or potential investors in a manner that (A) is consistent with ordinary course communications with their investors or potential investors, (B) instructs the recipient that the communications are to be maintained in confidence and are not permitted to be disseminated publicly and (C) does not otherwise violate any applicable laws; and (iv) taking any action necessary to comply with any law, rule or regulation or any action required by any governmental or regulatory authority or stock exchange that has, or may have, jurisdiction over the Investor, the Company or Parent, as the case may be (subject to providing reasonable advance notice to the other parties hereto where possible, and reasonably considering any comments of such other parties).

Section 3. Termination. The obligations of the parties hereto shall terminate automatically and immediately upon the earlier of (i) the end of the Standstill Period and (ii) five (5) years from the date of this Agreement.

Section 4. Modification or Amendment. Subject to the provisions of applicable Law, the parties may modify, amend or supplement this Agreement only by written agreement, executed and delivered by duly authorized officers of the respective parties.

Section 5. Waiver. Any party may (a) extend the time for the performance of any of the obligations or other acts of the other parties and (b) subject to the requirements of applicable Law, waive compliance with any of the agreements or conditions contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the party or parties to be bound thereby and specifically referencing this Agreement. The failure of any party to assert any rights or remedies shall not constitute a waiver of such rights or remedies.

Section 6. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given by delivery in person, by facsimile or by email (with affirmative confirmation of receipt by the receiving party), by registered or certified mail (with postage prepaid, return receipt requested) or by a nationally recognized courier service (with signed confirmation of

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receipt) to the respective parties at the following addresses (or at such other address for a party as shall be specified by like notice):

(a) if to the Company:

Rite Aid Corporation

30 Hunter Lane

Camp Hill, PA 17011

Attention: James J. Comitale

Facsimile: (717) 760-7867

Email: jcomitale@riteaid.com

with an additional copy (which shall not constitute notice) to:

Skadden, Arps, Slate, Meagher & Flom LLP

4 Times Square

New York, NY 10036

Attention: Paul T. Schnell

Marie L. Gibson

Facsimile: (212) 735-2000

Email: paul.schnell@skadden.com

marie.gibson@skadden.com

(b) if to Parent:

Albertsons Companies, Inc.

250 Parkcenter Boulevard

Boise, ID 83706

Attention: Robert A. Gordon

Facsimile: (208) 395-6575

Email: robert.gordon@Albertsons.com

with an additional copy (which shall not constitute notice) to:

Schulte Roth & Zabel LLP

919 Third Avenue

New York, NY 10022

Attention: Stuart D. Freedman

Michael Gilligan

Facsimile: (212) 593-5955

Email: stuart.freedman@srz.com

michael.gilligan@srz.com

(c) if to Investor:

Cerberus Capital Management, L.P.

875 Third Avenue, 11th Floor

New York, NY 10022

Attention: Lenard Tessler

Mark A. Neporent, Esq.

Lisa A. Gray, Esq.

Facsimile: (212) 755-3009

Email: ltessler@cerberuscapital.com

mneporent@cerberuscapital.com

lgray@cerberuschicago.com

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Any such notification shall be deemed delivered (i) upon receipt, if delivered personally, (ii) on the next Business Day, if sent by nationally recognized courier service for next Business Day delivery, or (iii) the Business Day received, if sent by facsimile, email or registered or certified mail (provided that any notice received by facsimile transmission, email or registered or certified mail at the addressee s location on any non-Business Day or any Business Day after 5:00 p.m. (addressee s local time) shall be deemed to have been received at 9:00 a.m. (addressee s local time) on the next Business Day).

Section 7. Severability. If any term or other provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner to the end that the transactions contemplated hereby are consummated as originally contemplated to the fullest extent possible.

Section 8. Entire Agreement; Assignment. This Agreement and the Merger Agreement constitute the entire agreement among the parties with respect to the subject matter hereof and supersede all prior and contemporaneous agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof and thereof. This Agreement shall not be assigned by operation of law or otherwise without the prior written consent of each of the other parties, and any assignment without such consent shall be null and void.

Section 9. Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

Section 10. Governing Law. This Agreement, and any Proceeding in any way arising out of or relating to this Agreement, the negotiation, execution or performance of this Agreement, the transactions contemplated hereby or the legal relationship of the parties hereto (whether at law or in equity, and whether in contract or in tort or otherwise), shall be governed by, and construed in accordance with, the internal laws of the State of Delaware (without giving effect to choice of law principles thereof).

Section 11. Headings. The descriptive headings contained in this Agreement and the table of contents hereof are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 12. Counterparts. This Agreement may be executed and delivered (including by facsimile transmission, email in portable documentation format (.pdf) form, or other electronic transmission) in one or more counterparts, and by the different parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

Section 13. Specific Performance. The parties agree that irreparable damage for which monetary damages, even if available, would not be an adequate remedy, would occur in the event that the parties do not perform the provisions of this Agreement in accordance with its specified terms or otherwise breach such provisions. The parties acknowledge and agree that the parties shall be entitled to an injunction, specific performance and other equitable relief to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in

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addition to any other remedy to which they are entitled at law or in equity. Each of the parties agrees that prior to the valid termination of this Agreement in accordance with Section 3, it will not oppose the granting of an injunction, specific performance and other equitable relief as provided herein on the basis that (a) either party has an adequate remedy at law or (b) an award of specific performance is not an appropriate remedy for any reason at law or equity. Any party seeking an injunction or injunctions to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to provide, furnish or post any bond or other security in connection with any such order or injunction, and each party hereby irrevocably waives any right it may have to require the provision, furnishing or posting of any such bond or other security.

Section 14. Jurisdiction. Each of the parties irrevocably (a) consents to submit itself to the exclusive jurisdiction of the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (unless the Delaware Court of Chancery shall decline to accept jurisdiction over a particular matter, in which case, in any Delaware state or federal court within the State of Delaware), in connection with any matter based upon or arising out of this Agreement or any of the transactions contemplated by this Agreement or the actions of the parties in the negotiation, administration, performance and enforcement hereof and thereof, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, (c) agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the courts of the State of Delaware, as described above, and (d) consents to service being made through the notice procedures set forth in Section 6. Each of the parties hereby agrees that service of any process, summons, notice or document by U.S. registered mail to the respective addresses set forth in Section 6 shall be effective service of process for any suit or proceeding in connection with this Agreement or the transactions contemplated hereby. Each party hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any Proceeding with respect to this Agreement, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason other than the failure to serve process in accordance with this Section 14, that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise), and to the fullest extent permitted by applicable Law, that the Proceeding in any such court is brought in an inconvenient forum, that the venue of such Proceeding is improper, or that this Agreement, or the subject matter hereof, may not be enforced in or by such courts and further irrevocably waives, to the fullest extent permitted by applicable Law, the benefit of any defense that would hinder, fetter or delay the levy, execution or collection of any amount to which the party is entitled pursuant to the final judgment of any court having jurisdiction. Each party agrees that a final judgment in any such Proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment.

Section 15. WAIVER OF JURY TRIAL. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THE ACTIONS OF ANY PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

Section 16. Interpretation. When reference is made in this Agreement to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated. Whenever the words include, includes or including are used in this Agreement, they shall be deemed to be followed by the words without limitation. The words hereof, herein, hereby, hereunder and hereinafter and

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words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, unless the context otherwise requires. Unless the context otherwise requires, the word or shall not be exclusive. References to dollars or $ are to United States of America dollars. Any capitalized terms used in any schedule or exhibit but not otherwise defined therein shall have the meaning given to them as set forth in this Agreement. Any reference in this Agreement to gender shall include all genders and the neuter. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted. Any agreement, instrument, statute, rule or regulation defined or referred to herein means such agreement, instrument, statute, rule or regulation as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver of consent and (in the case of statutes, rules or regulations) by succession or comparable successor statutes and references to all attachments thereto and instruments incorporated therein.

[Remainder of Page Intentionally Left Blank]

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

RITE AID CORPORATION

By:
Name:

Title:

[Signature Page to Standstill Agreement]

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ALBERTSONS COMPANIES, INC.

By:
Name:

Title:

[*Signature Page to Standstill Agreement*]

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CERBERUS CAPITAL MANAGEMENT, L.P.

By:
Name:

Title:

[*Signature Page to Standstill Agreement*]

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Annex G

Albertsons Companies, Inc.

200 West Street

New York, NY 10282-2198

[Albertsons Investor Holdings LLC

c/o Cerberus Capital Management, L.P.

875 Third Avenue, 11th Floor

New York, NY 10022]

[KIM ACI, LLC]

c/o [Kimco]

Re: Albertsons Companies, Inc. Lock-Up Agreement

Ladies and Gentlemen:

[In consideration of the agreement by Albertsons Investor Holdings LLC, a Delaware limited liability company (the Distributing Investor), to distribute the shares of Common Stock (the Shares) of Albertsons Companies, Inc., a Delaware corporation (the Company), held by the Distributing Investor to its members, including the undersigned, and][KIM ACI, LLC, a Delaware limited liability company, as a holder of shares of Common Stock (the Shares) of Albertsons Companies, Inc., a Delaware corporation (the Company),] in connection with the proposed merger of a subsidiary of the Company with and into [RANCH] (the Merger), the undersigned hereby agrees that, during the Lock-Up Period specified below, the undersigned will not offer, sell, contract to sell, pledge, grant any option to purchase, make any short sale or otherwise dispose of any shares of Common Stock of the Company, or any options or warrants to purchase any shares of Common Stock of the Company, or any securities convertible into, exchangeable for or that represent the right to receive shares of Common Stock of the Company, owned directly by the undersigned (including holding as a custodian) or with respect to which the undersigned has beneficial ownership within the rules and regulations of the Securities and Exchange Commission (the SEC) acquired on or prior to the closing date of the Merger (the Merger Date) (or from the Company in exchange for or with respect to such securities) (collectively, the Undersigned s Shares). The foregoing restriction is expressly agreed to preclude the undersigned from engaging in any hedging or other transaction which is designed to or which reasonably could be expected to lead to or result in a sale or disposition of the Undersigned s Shares even if such Shares would be disposed of by someone other than the undersigned. Such prohibited hedging or other transactions would include without limitation any short sale or any purchase, sale or grant of any right (including without limitation any put or call option or forward sale or similar contract) with respect to any of the Undersigned s Shares or with respect to any security that includes, relates to, or derives any significant part of its value from such Shares.

The first lock-up period (the First Lock-Up Period) will commence on the date of this Lock-Up Agreement and continue until six months after the Merger Date.

The second lock-up period (the Second Lock-Up Period) will commence upon the expiration of the First Lock-Up Period and continue until 12 months after the Merger Date.

The third lock-up period (the Third Lock-Up Period) will commence upon the expiration of the Second Lock-Up Period and continue until 18 months after the Merger Date.

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The fourth lock-up period (the Fourth Lock-Up Period and, together with the First Lock-Up Period, the Second Lock-Up Period and the Third Lock-Up Period, the Lock-Up Period) will commence upon the expiration of the Third Lock-Up Period if the Undersigned s Shares beneficially owned by the undersigned, together with any shares subject to a similar lock-up agreement beneficially owned by any of the undersigned s Affiliates, are at least 5% of the total number of issued and outstanding shares of Common Stock of the Company and will continue until such date as the Undersigned s Shares beneficially owned by the undersigned, together with any shares subject to a similar lock-up agreement beneficially owned by any of the undersigned s Affiliates, cease to be at least 5% of the total number of issued and outstanding shares of Common Stock of the Company. For purposes agreement, Affiliate shall have the meaning ascribed thereto in Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as in effect on the date hereof.

Notwithstanding the foregoing, the undersigned may transfer the Undersigned s Shares (i) as a *bona fide* gift or gifts, *provided* that the donee or donees thereof agree to be bound in writing by the restrictions set forth herein, (ii) to any trust for the direct or indirect benefit of the undersigned or the immediate family of the undersigned, *provided* that the trustee of the trust agrees to be bound in writing by the restrictions set forth herein, and *provided further* that any such transfer shall not involve a disposition for value, (iii) to any Affiliate of the undersigned or any investment fund or other entity controlled or managed by the undersigned or its Affiliates, (but in each case under this clause (iii), not including a portfolio company), *provided* that such person agrees to be bound in writing by the restrictions set forth herein, (iv) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (i) through (iii) above *provided* that such person agrees to be bound in writing by the restrictions set forth herein, (v) pursuant to an order of a court or regulatory agency, (vi) the pledge, hypothecation or other granting of a security interest in the Undersigned s Shares to one or more banks or financial institutions as *bona fide* collateral or security for any loan, advance or extension of credit and any transfer upon foreclosure upon such shares or thereafter or (vii) with the prior written consent of the Company. For purposes of this Lock-Up Agreement immediate family shall mean any relationship by blood, marriage or adoption, not more remote than first cousin. The undersigned now has, and, except as contemplated by clauses (i)-(vii) above, for the duration of this Lock-Up Agreement will have, good and marketable title to the Undersigned s Shares. The undersigned also agrees and consents to the entry of stop transfer instructions with the Company s transfer agent and registrar against the transfer of the Undersigned s Shares except in compliance with the foregoing restrictions.

Furthermore, notwithstanding the foregoing:

(a) during the Second Lock-Up Period, the undersigned will be permitted to sell up to one third of the number of the Undersigned s Shares that the undersigned beneficially owns as of the Merger Date (as adjusted to give effect to any stock split, stock distribution or similar transaction after the Merger Date, as so adjusted the Second Period Amount); *provided* that such shares may only be sold in a registered, underwritten offering made in accordance with the terms of the Registration Rights Agreement among the Company, the undersigned and certain other stockholders, dated the date hereof, as amended (the Registration Rights Agreement); *provided further* that the undersigned shall be permitted to sell additional shares in such underwritten offering to the extent that the managing underwriters of such registered, underwritten offering conclude that additional shares may be sold in such offering without adversely affecting the distribution (including the price) of the shares being offered by the undersigned and other holders; *provided further* that, to the extent the undersigned elects not to participate in an any such registered, underwritten offering or does not elect to sell the maximum number of shares permitted pursuant to this paragraph (but not more than the Second Period Amount), the undersigned may sell an equivalent number of shares in a non-underwritten registered shelf-takedown (*provided* that the Company is not required to participate in any due diligence or

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comfort letter process in connection with such takedown) or an unregistered offering pursuant to Rule 144 or another exemption from registration under the Securities Act of 1933, as amended (the Securities Act) (unless the holder is otherwise restricted, such as pursuant to a lock-up delivered to an underwriter or pursuant to the terms of the Registration Rights Agreement);

(b) during the Third Lock-Up Period, the undersigned will be permitted to sell up to two thirds of the number of the Undersigned s Shares that the undersigned beneficially owns as of the Merger Date minus the number shares in the Second Period Amount that the undersigned sold during the Second Lock-Up period or could have been sold pursuant to the third proviso of the preceding paragraph (as adjusted to give effect to any stock split, stock distribution or similar transaction after the Merger Date, as so adjusted, the Third Period Amount); *provided* that such shares may only be sold in a registered, underwritten offering made in accordance with the terms of the Registration Rights Agreement; *provided further* that the undersigned shall be permitted to sell additional shares in such underwritten offering to the extent that the managing underwriters of such registered, underwritten offering conclude that additional shares may be sold in such offering without adversely affecting the distribution (including the price) of the shares being offered by the undersigned and other holders; *provided further* that, to the extent the undersigned elects not to participate in an any such registered, underwritten offering or does not elect to sell the maximum number of shares permitted pursuant to this paragraph or the preceding paragraph (but not more than the Third Period Amount), the undersigned may sell an equivalent number of shares in a non-underwritten registered shelf-takedown (*provided* that the Company is not required to participate in any due diligence or comfort letter process in connection with such takedown) or an unregistered offering pursuant to Rule 144 or another exemption from registration under the Securities Act (unless the holder is otherwise restricted, such as pursuant to a lock-up delivered to an underwriter or pursuant to the terms of the Registration Rights Agreement); and

(c) during the Fourth Lock-Up Period, the undersigned will be permitted to sell any number of the Undersigned s Shares; *provided* that such shares may only be sold in a registered, underwritten offering made in accordance with the terms of the Registration Rights Agreement; *provided* that, to the extent the undersigned elects not to participate in an any registered, underwritten offering or does not elect to sell the maximum number of shares permitted pursuant to the preceding two paragraphs, the undersigned may sell an equivalent number of shares in a non-underwritten registered shelf-takedown (*provided* that the Company is not required to participate in any due diligence or comfort letter process in connection with such takedown) or an unregistered offering pursuant to Rule 144 or another exemption from the registration requirements under the Securities Act (unless the holder is otherwise restricted, such as pursuant to a lock-up delivered to an underwriter or pursuant to the terms of the Registration Rights Agreement).

In addition, to the extent that the undersigned is permitted to sell any number of the Undersigned s Shares without the requirement to sell in an underwritten offering pursuant to the preceding requirements, the undersigned may transfer such Undersigned s Shares as part of a distribution to direct or indirect members or partners of the undersigned, *provided* that the distributee agrees to be bound in writing by the restrictions set forth herein.

Notwithstanding anything to the contrary contained in paragraphs (a), (b) or (c) above, no sales may be made prior to the consummation of the second demand registration pursuant to the Registration Rights Agreement, except as part of such underwritten, marketed demand registration.

In the event that any holder of Common Stock subject to a similar agreement other than the undersigned is permitted by the Company to sell or otherwise transfer or dispose of any shares of Common Stock for value (whether in one or multiple releases), then the same percentage of shares of

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Common Stock held by the undersigned (the Pro-Rata Release) shall be immediately and fully released on the same terms from any remaining lock-up restrictions set forth herein; *provided* that such Pro-Rata Release shall not apply in the event of any underwritten public offering, whether or not such offering or sale is wholly or partially a secondary offering of the Company s Common Stock during the Lock-Up Period if the undersigned, to the extent the undersigned has a contractual right to demand or require the registration of the Undersigned s Shares or otherwise piggyback on a registration statement filed by the Company for the offer and sale of its Common Stock, is offered the opportunity to participate on a basis consistent with such contractual rights in such underwritten sale. The foregoing shall also not apply to any release of a lock-up entered into with the managing underwriter(s) of any underwritten offering.

[Remainder of the page left intentionally blank.]

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The undersigned understands that this Lock-Up Agreement is irrevocable and shall be binding upon the undersigned s heirs, legal representatives, successors, and assigns.

Very truly yours,

Exact Name of Stockholder

Authorized Signature

Title

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Annex H

AGREEMENT

This AGREEMENT (the "Agreement") is made as of [ ], 2018, by and between Albertsons Companies, Inc. (the "Company"), Rite Aid Corporation and [ ] (the "Stockholder"). The Company and the Stockholder are sometimes referred to herein collectively as the "Parties" and individually as a "Party".

WHEREAS, the Company has entered into that certain Agreement and Plan of Merger, dated as of February 18, 2018 (the "Merger Agreement"), by and among the Company, Rite Aid Corporation ("Ranch"), Ranch Acquisition Corp. ("Ranch Merger Sub") and Ranch Acquisition II LLC ("Ranch Merger Sub II"), pursuant to which, among other things, (i) Ranch Merger Sub will merge with and into Ranch (the "Merger"), with Ranch as the surviving corporation and wholly-owned direct subsidiary of Ranch Merger Sub II, (ii) immediately following the Merger, Ranch will merge with and into Ranch Merger Sub II (together with the Merger, the "Mergers"), with Ranch Merger Sub II as the surviving corporation and wholly-owned direct subsidiary of the Company, and (iii) stockholders of Ranch as of immediately prior to the consummation of the transactions contemplated by the Merger Agreement will receive shares of common stock of the Company ("Common Stock") as consideration for the Mergers; and

WHEREAS, as of immediately prior to the Merger, Albertsons Investor Holdings LLC distributed all of the Common Stock held by it to its members, such that the Stockholder became a direct holder of Common Stock.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the Parties, intending to be legally bound hereby, agree as follows:

1. Covenants of the Stockholders. The Stockholder hereby agrees, vis a vis the Company, that it and its affiliates that beneficially own (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission ("SEC") under the Securities and Exchange Act of 1934, as amended (the "Exchange Act")) Common Stock, shall not, directly or indirectly, in any manner, alone or in concert with others:

(a) Coordinate the exercise of voting rights, including by entering into any arrangement or agreement with respect to the voting of any Common Stock or any other securities or indebtedness of the Company, or the influence of management of the Company at any annual or special meeting of the holders of Common Stock or with respect to any solicitation of proxies or consents, in each case, with any Other Stockholder;

(b) Form or join in the formation of a "group" within the meaning Section 13(d)(3) of the Exchange Act with any Other Stockholder with respect to Common Stock or any other securities or indebtedness of the Company;

(c) Purchase any Common Stock from any Other Stockholder;

(d)

Publicly announce any intention, plan or arrangement inconsistent with the foregoing, or make any private statement or private disclosure regarding any such intention, plan or arrangement that would reasonably be expected to require the Company to make any disclosure relating to such intention, plan or arrangement;

(e) Otherwise take, or solicit, cause or encourage any Other Stockholder to take, any action inconsistent with any of the foregoing; or

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(f) Take any action challenging the validity or enforceability of this Section 1 or this Agreement, or request the Company or the Board of Directors of the Company to amend or waive any provision of this Section 1.

For purposes of this Agreement, (i) Other Stockholder shall mean Cerberus Capital Management, L.P., Schottenstein Stores Corporation, Klaff Realty, LP, Kimco Realty Corporation, Colony Financial, Lubert-Adler Partners, L.P.[1], and each of their respective affiliates and (ii) affiliate shall have the meaning set forth in Rule 12b-2 promulgated by the SEC under the Exchange Act and shall include all persons or entities that at any time during the term of this Agreement become affiliates of any person or entity referred to in this Agreement.

2. Termination. This Agreement shall remain in full force and effect until the earliest of (i) the date the Stockholder and its affiliates cease to beneficially own 5% of the outstanding Common Stock and (ii) five (5) years from the date of this Agreement.

3. Effect of Termination. Sections 3 through 16 shall survive the termination of this Agreement. No termination pursuant to Section 2 shall relieve any Party hereto from liability for any breach of this Agreement prior to such termination.

4. Modification or Amendment. Subject to the provisions of applicable law, the Parties may modify, amend or supplement this Agreement only by written agreement, executed and delivered by duly authorized officers of the respective Parties.

5. Waiver. Any Party may (a) extend the time for the performance of any of the obligations or other acts of the other Parties and (b) subject to the requirements of applicable law, waive compliance with any of the agreements or conditions contained herein. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party or Parties to be bound thereby and specifically referencing this Agreement. The failure of any Party to assert any rights or remedies shall not constitute a waiver of such rights or remedies.

6. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given by delivery in person, by facsimile or by email (with affirmative confirmation of receipt by the receiving Party), by registered or certified mail (with postage prepaid, return receipt requested) or by a nationally recognized courier service (with signed confirmation of receipt) to the respective Parties at the following addresses (or at such other address for a Party as shall be specified by like notice):

If to the Company, addressed as follows:

Albertsons Companies, Inc.

250 Parkcenter Blvd.

Boise, ID 83706

Attention: General Counsel

If to [ ], addressed as follows:

[ ]

[ ]

Attention: [ ]

Facsimile number: [ ]

[1] To reference each of these stockholders of ACI other than the entity executing the Agreement.

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With a copy to:

[ ]

[ ]

[ ]

Attention: [ ]

Facsimile number: [ ]

Any such notification shall be deemed delivered (i) upon receipt, if delivered personally, (ii) on the next business day, if sent by nationally recognized courier service for next business day delivery, or (iii) the business day received, if sent by facsimile, email or registered or certified mail (provided that any notice received by facsimile transmission, email or registered or certified mail at the addressee s location on any non-business day or any business day after 5:00 p.m. (addressee s local time) shall be deemed to have been received at 9:00 a.m. (addressee s local time) on the next business day).

7. Severability. If any term or other provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner to the end that the transactions contemplated hereby are consummated as originally contemplated to the fullest extent possible.

8. Entire Agreement; Assignment. This Agreement constitutes the entire agreement among the Parties with respect to the subject matter hereof and supersede all prior and contemporaneous agreements and undertakings, both written and oral, among the Parties, or any of them, with respect to the subject matter hereof and thereof. This Agreement shall not be assigned by operation of law or otherwise without the prior written consent of each of the other Parties, and any assignment without such consent shall be null and void.

9. Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each Party, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other person any rights, benefits or remedies of any nature whatsoever under or by reason of this Agreement.

10. Governing Law. This Agreement, and any proceeding in any way arising out of or relating to this Agreement, the negotiation, execution or performance of this Agreement, the transactions contemplated hereby or the legal relationship of the Parties hereto (whether at law or in equity, and whether in contract or in tort or otherwise), shall be governed by, and construed in accordance with, the internal laws of the State of Delaware (without giving effect to choice of law principles thereof).

11. Headings. The descriptive headings contained in this Agreement and the table of contents hereof are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

12. Counterparts. This Agreement may be executed and delivered (including by facsimile transmission, email in portable documentation format (.pdf) form, or other electronic transmission) in one or more counterparts, and by the different Parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

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13. Specific Performance. The Parties agree that irreparable damage for which monetary damages, even if available, would not be an adequate remedy, would occur in the event that the Parties do not perform the provisions of this Agreement in accordance with its specified terms or otherwise breach such provisions. The Parties acknowledge and agree that the Parties shall be entitled to an injunction, specific performance and other equitable relief to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions hereof, this being in addition to any other remedy to which they are entitled at law or in equity. Each of the Parties agrees that prior to the valid termination of this Agreement in accordance with Section 2, it will not oppose the granting of an injunction, specific performance and other equitable relief as provided herein on the basis that (a) either Party has an adequate remedy at law or (b) an award of specific performance is not an appropriate remedy for any reason at law or equity. Any Party seeking an injunction or injunctions to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to provide, furnish or post any bond or other security in connection with any such order or injunction, and each Party hereby irrevocably waives any right it may have to require the provision, furnishing or posting of any such bond or other security.

14. Jurisdiction. Each of the Parties irrevocably (a) consents to submit itself to the exclusive jurisdiction of the Delaware Court of Chancery and any state appellate court therefrom within the State of Delaware (unless the Delaware Court of Chancery shall decline to accept jurisdiction over a particular matter, in which case, in any Delaware state or federal court within the State of Delaware), in connection with any matter based upon or arising out of this Agreement or any of the transactions contemplated by this Agreement or the actions of the Parties in the negotiation, administration, performance and enforcement hereof and thereof, (b) agrees that it will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any such court, (c) agrees that it will not bring any action relating to this Agreement or any of the transactions contemplated by this Agreement in any court other than the courts of the State of Delaware, as described above, and (d) consents to service being made through the notice procedures set forth in I.A.6. Each of the Parties hereby agrees that service of any process, summons, notice or document by U.S. registered mail to the respective addresses set forth in I.A.6 shall be effective service of process for any suit or proceeding in connection with this Agreement or the transactions contemplated hereby. Each Party hereby irrevocably waives, and agrees not to assert, by way of motion, as a defense, counterclaim or otherwise, in any proceeding with respect to this Agreement, any claim that it is not personally subject to the jurisdiction of the above-named courts for any reason other than the failure to serve process in accordance with this I.A.14, that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise), and to the fullest extent permitted by applicable law, that the proceeding in any such court is brought in an inconvenient forum, that the venue of such proceeding is improper, or that this Agreement, or the subject matter hereof, may not be enforced in or by such courts and further irrevocably waives, to the fullest extent permitted by applicable law, the benefit of any defense that would hinder, fetter or delay the levy, execution or collection of any amount to which the Party is entitled pursuant to the final judgment of any court having jurisdiction. Each Party agrees that a final judgment in any such proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment.

15. WAIVER OF JURY TRIAL. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) DIRECTLY OR INDIRECTLY ARISING OUT OF

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OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THE ACTIONS OF ANY PARTY IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE AND ENFORCEMENT HEREOF.

16. Interpretation. When reference is made in this Agreement to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated. Whenever the words include, includes or including are used in this Agreement, they shall be deemed to be followed by the words without limitation. The words hereof, herein, hereby, hereunder, hereinafter and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not to any particular provision of this Agreement, unless the context otherwise requires. Unless the context otherwise requires, the word or shall not be exclusive. References to dollars or $ are to United States of America dollars. Any capitalized terms used in any schedule or exhibit but not otherwise defined therein shall have the meaning given to them as set forth in this Agreement. Any reference in this Agreement to gender shall include all genders and the neuter. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting or causing any instrument to be drafted. Any agreement, instrument, statute, rule or regulation defined or referred to herein means such agreement, instrument, statute, rule or regulation as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver of consent and (in the case of statutes, rules or regulations) by succession or comparable successor statutes and references to all attachments thereto and instruments incorporated therein.

[*Remainder of Page Intentionally Left Blank. Signature Page Follows*]

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IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first above written.

ALBERTSONS COMPANIES, INC.

By:
Name:

Title:

RITE AID CORPORATION

By:
Name:

Title:

STOCKHOLDER:
[ ]

By:
Name:

Title:

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RITE AID CORPORATION

ATTN: BYRON PURCELL

30 HUNTER LANE

CAMP HILL, PA 17011

VOTE BY INTERNET - www.proxyvote.com

Use the Internet to transmit your voting instructions and for electronic delivery of information. Vote by 11:59 P.M. ET on August, 8, 2018. Have your proxy card in hand when you access the web site and follow the instructions to obtain your records and to create an electronic voting instruction form.

ELECTRONIC DELIVERY OF FUTURE PROXY MATERIALS

If you would like to reduce the costs incurred by our company in mailing proxy materials, you can consent to receiving all future proxy statements, proxy cards and annual reports electronically via e-mail or the Internet. To sign up for electronic delivery, please follow the instructions above to vote using the Internet and, when prompted, indicate that you agree to receive or access proxy materials electronically in future years.

VOTE BY PHONE - 1-800-690-6903

Use any touch-tone telephone to transmit your voting instructions. Vote by 11:59 P.M. ET on August, 8, 2018. Have your proxy card in hand when you call and then follow the instructions.

VOTE BY MAIL

Mark, sign and date your proxy card and return it in the postage-paid envelope we have provided or return it to Vote Processing, c/o Broadridge, 51 Mercedes Way, Edgewood, NY 11717.

VOTE, MARK BLOCKS BELOW IN BLUE OR BLACK INK AS FOLLOWS: KEEP THIS PORTION FOR YOUR RECO

DETACH AND RETURN THIS PORTION ON

THIS PROXY CARD IS VALID ONLY WHEN SIGNED AND DATED.

The Board of Directors unanimously recommends

that you vote FOR Proposals 1, 2 and 3.	**For**	**Against**	**Abstain**
1 The proposal to adopt the Agreement and Plan of Merger, dated as of February 18, 2018 (the Merger Agreement), among Albertsons Companies, Inc., Ranch Acquisition Corp., Ranch Acquisition II LLC and Rite Aid Corporation (Rite Aid), as it may be amended from time to time.			
2 The proposal to approve, by means of a non-binding, advisory vote, compensation that will or may become payable to Rite Aid s named executive officers in connection with the merger contemplated by the Merger Agreement.			
3 The proposal to approve one or more adjournments of the Special Meeting to a later date or dates, if necessary or appropriate, to solicit additional proxies if there are insufficient votes to adopt the Merger Agreement at the time of the Special Meeting.			

For address change/comments, mark here.

(see reverse for instructions)	**Yes**	**No**
Please indicate if you plan to attend this meeting		

Please sign exactly as your name(s) appear(s) hereon. When signing as attorney, executor, administrator, or other fiduciary, please give full title as such. Joint owners should each sign personally. In order for this proxy to be valid, it must be signed. If a corporation or partnership, please sign in full corporate or partnership name by authorized officer.

NOTE: In their discretion, the proxies are also authorized to vote on any other business that may properly come before the Special Meeting or any adjournment or postponement of the Special Meeting.

Signature [PLEASE SIGN WITHIN BOX]	Date	Signature (Joint Owners)	Date

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Important Notice Regarding the Availability of Proxy Materials for the Special Meeting: The Notice and Proxy Statement are available at www.proxyvote.com

RITE AID CORPORATION

Special Meeting of Stockholders

August 9, 2018 at 8:30 a.m., Eastern Time

This proxy is solicited by the Board of Directors

The stockholder(s) hereby appoint John T. Standley, Darren W. Karst and James J. Comitale, or any of them, as proxies, each with the power to appoint his substitute, and hereby authorize(s) them to represent and to vote, as designated on the reverse side of this ballot, all of the shares of common stock of RITE AID CORPORATION that the stockholder(s) is/are entitled to vote at the Special Meeting of Stockholders to be held at the office of Skadden, Arps, Slate, Meagher & Flom LLP, 4 Times Square, New York, NY 10036, on August 9, 2018 at 8:30 a.m., Eastern Time and any adjournment or postponement thereof.

THIS PROXY CARD, WHEN PROPERLY EXECUTED, WILL BE VOTED AS SPECIFIED, OR, IF NO SPECIFICATIONS ARE MADE, WILL BE VOTED IN ACCORDANCE WITH THE BOARD OF DIRECTORS RECOMMENDATIONS. IF ANY OTHER MATTER IS PROPERLY PRESENTED AT THE SPECIAL MEETING OF STOCKHOLDERS, THIS PROXY CARD WILL BE VOTED IN THE NAMED PROXIES DISCRETION ON SUCH MATTER.

Address Change/Comments:

(If you noted any Address Changes and/or Comments above, please mark corresponding box on the reverse side.)

Continued and to be signed on reverse side

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